CENTER FOR CAPITAL MARKETS
COMPETITIVENESS.

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Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218, Mail Stop 9W-11
Washington, DC 202219

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Robert E. Feldman
Executive Sectary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances

To Whom It May Concern:

The U.S. Chamber of Commerce's Center for Capital Markets Competitiveness ("CCMC") appreciates the opportunity to comment on the Interim Final Rule, "Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances" (the "IFR") issued by the Office of the Comptroller of the Currency (the "OCC"), the Board of Governors of the Federal Reserve System (the "Board"), and the Federal Deposit Insurance Corporation (the "FDIC") (collectively, the "Agencies").

I. Accounting Standard and Capital Relief Overview

Accounting Standards Update No. 2016-13, Financial Instruments—Credit Losses, Topic 326, Measurement of Credit Losses on Financial Instruments ("CECL"), developed by the Financial Accounting Standards Board ("FASB"), is intended to require lenders to maintain credit loss reserves that reflect the present value of cash flows that an entity expects to collect on loans and other credit instruments. The standard became effective January 2020 (excluding smaller reporting companies, as defined by the Securities and Exchange Commission), and will be effective January 2023 for all other public business entities and private and all other entities.[1]

The Interim Final Rule provides banking organizations that implement CECL before the end of 2020 the option to delay for two years the recognition of an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period. During the transition period, the capital offset will be phased out. The IFR provides banking organizations the option to elect the three-year transition option contained in the 2019 CECL rule[2] or the five-year transition contained in the IFR.

The capital offset provided during the transition period is based on a methodology using the estimated amount of the increase in the allowance for credit loss ("ACL") that can be attributed to the adoption of CECL, relative to the increase in allowance for loan lease losses ("ALLL") that would occur for banking organizations operating under the incurred loss methodology. The IFR permits banking organizations to defer the actual increase in credit loss reserves measured at adoption of CECL ("day one impacts") but requires firms to use a standardized 25 percent scaling factor as an approximation of the impact of differences in credit loss allowances reflected under CECL versus the incurred loss methodology during the two year period post-adoption.

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[1] Financial Accounting Standards Board Media Advisory, "FASB Approves Proposed Effective Date Delays at October 16 Meeting," (October 18, 2019), available at https://www.fasb.org/cs/ContentServer?c=FASBContent_C&cid=1176173615325&d=&pagename=FASB%2FFASBContent_C%2FNewsPage

[2] Regulatory Capital Rule: Implementation of Transition of the Current Expected Credit Losses Methodology for Allowances and Related Adjustments to the Regulatory Capital Rule and Conforming Amendments to Other Regulations (published February 14, 2019), available at https://www.occ.treas.gov/news-issuances/federal-register/2019/84fr4222.pdf

II. The Capital Offset Should be Increased in the Short-Term

The Interim Final Rule is critical for addressing the immediate economic crisis resulting from government orders to close businesses and other steps being taken to protect the health of their employees and customers during the COVID-19 pandemic. The Chamber's guiding principle for policymaking during this pandemic is simple: no family and no business should go bankrupt just because of the temporary disruption of income caused during the pandemic. Fortunately, our nation's financial institutions have proven resilient, positioning them to be an important component of our economy's recovery.

The Chamber believes the Agencies should increase the capital offset during the economic downturn and throughout the economic recovery. The capital offset in the IFR provides financial institutions more flexibility to keep businesses and households afloat and to support America's economic recovery. However, the 25% scaling factor in the capital offset was calculated well before the current crisis and could not have accounted for the increased reserving required under CECL in this economic environment. Therefore, the Chamber believes it is appropriate for the Agencies to increase this scaling factor so financial institutions can provide credit to support America's economic recovery. The Chamber argued for a capital offset to mitigate the regulatory capital complications of CECL before the onset of the crisis and believes the IFR's approach is instructive for mitigating our longstanding and long-term concerns about credit availability.

III. A Capital Offset Should be made Permanent

Since the Agencies needed to step in to resolve the credit availability restrictions of CECL when interacting with regulatory capital requirements during the onset of the current crisis, it begs the question of whether the Agencies will have to provide similar relief every time the economy constricts. A simpler approach would be to permanently instate an appropriate capital offset. The very need for this type of relief clearly exhibits the need to recalibrate capital levels – both through times of economic prosperity and decline. Perhaps the most efficient approach would be to make the offset included in the IFR permanent, even if the Agencies reserve the right to continue to evaluate whether it should be further modified. This would send a critical signal to financial institutions and others that they can make business decisions with the understanding that a meaningful offset will continue beyond the immediate near term, even if that offset may be slightly adjusted.

For years, financial institutions and other market participants have predicted that CECL, when interacting with regulatory capital requirements, would constrict lending during a downturn due to its procyclical nature. Now that the economy has been impacted by COVID-19, the predictions have come to fruition. The Chamber has previously noted that "CECL, in requiring estimates that forecast future economic trends, would in fact have a negative and real impact on lending nationwide."[3] The negative impacts are playing out in real time as financial institutions are required to build reserves at historically unprecedented rates at the height of a recession and, but for the capital offset provided by the IFR, many banks would likely be forced to significantly constrain lending activities to meet the higher capital requirements imposed after the last recession.

The Fiscal Year 2020 Omnibus Appropriations Act directed the U.S. Department of the Treasury, in consultation with the Agencies, to "conduct a study on the need, if any, for changes to regulatory capital requirements necessitated by CECL…" The Chamber believes there is ample evidence for the need to change regulatory capital requirements. We are eager to review the findings of this report and hope they will be informative to the Agencies establishing a permanent capital offset.

The Agencies are uniquely positioned to mitigate unintended consequences of CECL on lending without undermining the independence of FASB. The Agencies implement accounting standards for covered financial institutions, and just as with any regulatory requirement, the broader context of the impact on the individual entity, as well as the broader economy, should be considered. The Chamber noted in a letter in August 2019 that we "expect policymakers to, at minimum, work together to understand how this new accounting standard will interact with financial regulations imposed on credit providers such as banks." The capital offset described in IFR, while not perfect, moves to mitigate the Chamber's concerns about the availability of credit.

The Chamber appreciates your consideration of our views. We believe a permanent adjustment to regulatory capital requirements, such as the capital offset described in the IFR, is important for credit availability in all economic conditions. We also believe strongly in the independence of FASB and the standard setting

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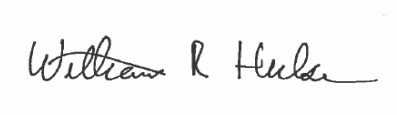
[3] Joint Trade Association Letter to U.S. Securities and Exchange Commission and the Financial Accounting Standards Board (March 5, 2019), available at http://www.centerforcapitalmarkets.com/wp-content/uploads/2019/03/3.5.19_Comments_JointTrades_SEC_FASB_CECL.pdf?#

process. The Agencies have exclusive authority over regulatory capital requirements and should use their discretion to provide for the appropriate availability of credit in line with applicable safety and soundness principles.

Very Respectfully,



Bill Hulse

Cc: Bimal Patel, Assistant Secretary for Financial Institutions, U.S. Department of the Treasury