January 27, 2010

Via FedEx
The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Financial Crisis Inquiry Commission Hearing on January 14, 2010

Dear Chairman Bair:

On January 20, 2010, Chairman Angelides and Vice Chairman Thomas sent you a letter thanking you for testifying at the January 14, 2010 hearing and informing you that the staff of the FCIC might be contacting you to follow up on certain areas of your testimony and to submit written questions and requests for information related to your testimony. During the hearing, some of the Commissioners asked you to answer certain questions in writing, which are listed below. Please provide your answers and any additional information requested by February 27, 2010.

1. Chairman Angelides asked if the FDIC performed an internal review, audit or investigation regarding any failures of regulatory oversight by the FDIC in light of the financial crisis. You stated that the FDIC made a number of changes and would provide a written description. Please provide that written description. In addition, you stated that the FDIC always investigates why any bank failed, including a review of the supervisory process, and prepares a material loss review. Please provide the material loss reviews for all banks that failed from 2007 to the present.

2. For financial institutions that did not fail because they received government assistance, please provide any document similar to the material loss review that is prepared for failed banks.

3. How does the administration's recent proposal to raise $90 billion from the banking industry impact the ability of the FDIC to raise sufficient funds to resolve failed institutions?

4. Please explain how the mark-to-market accounting rule should be addressed, if at all, in terms of its impact on financial reporting and regulatory capital.

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5. You testified that you believed the only way to deal with abuses in the mortgage lending system on a system-wide basis, given that banks and nonbanks were involved in the process, was to make changes to the HOEPA rules, the consumer protection rules that gave the Fed the authority to apply rules against abusive lending across-the-board to both banks and nonbanks.
    a. What changes would you suggest making to the HOEPA rules?
    b. Would you support giving concurrent jurisdiction to the state regulatory agencies to enforce the HOEPA rules?
    c. What effort has FDIC made to create a more stringent HOEPA rule enforcement program?

6. Illinois Attorney General Lisa Madigan and Colorado Attorney General John W. Suthers testified that the federal government had impeded their attempts to investigate mortgage fraud. Attorney General Suthers in his written remarks before the commission stated, "with respect to the few laws we did have back in 2005, we were largely powerless to enforce those laws against national banks and their lending affiliates and subsidiaries due to the aggressive stance federal regulators took to preempt state law, even with respect to predatory lending and deceptive advertising." Attorney General Madigan also testified that, "in fact, in response to aggressive actions at the state level, federal regulators took unprecedented steps to shield national lenders and their subsidiaries from state enforcement and from the growing number of state anti-predatory lending laws on the books." In her oral testimony, Attorney General Madigan went on to say, "in the years preceding the crisis, federal regulators often showed no interest in exercising their regulatory authority, or worse, actively hampered state authority." In light of these comments by the chief law enforcement officers in Illinois and Colorado, what steps will the FDIC take to ensure that cooperative state-federal investigative efforts will be set in place at the FDIC?

7. You testified that the FDIC permitted institutions to rely on ratings for capital requirements but that going forward you believed that regulators on an interagency basis would be proposing new capital rules that would eliminate the ability of an institution to rely on a rating for structured finance products unless they actually identify the assets underlying that structured product and do their own analysis of the credit quality of the assets. Please provide the current status of the proposed new capital rules as it relates to reliance on ratings for any asset held by an institution.

8. Would you please provide the numbers of banks that were on the FDIC's watch list, by quarter, from 2005 through the present?

9. How many of the bank failures from 2007 to the present were related to subprime loans or securities?

10. Have you been able to determine whether or not Mr. Kyle Bass ever brought to the attention of the FDIC any evidence of the fundamental weaknesses in securitized assets based on subprime mortgages?

The Commissioners and staff of the FCIC sincerely appreciate the FDIC's continued cooperation with this inquiry. If you have any questions or concerns, please do not hesitate to contact Chris Seefer at (202) 292-2799, or cseefer@fcic.gov.

Sincerely,

Thomas Greene
Executive Director

cc: Phil Angelides, Chairman, Financial Crisis Inquiry Commission

Bill Thomas, Vice Chairman, Financial Crisis Inquiry Commission

FDIC
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429
Office of Legislative Affairs

March 9, 2010

Mr. Thomas Greene
Executive Director
Financial Crisis Inquiry Commission
1717 Pennsylvania Avenue, N.W., Suite 800
Washington, D.C. 20006

Dear Mr. Greene:

Thank you for the opportunity to respond to the questions you submitted subsequent to testimony by Chairman Bair at the Financial Crisis Inquiry Commission's January 14, 2010 hearing.

Enclosed is the FDIC's response to the questions. Your interest in this matter is appreciated. If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

Paul Nash

Paul Nash
Deputy to the Chairman for External Affairs

Enclosure

Response to questions from
the Financial Crisis Inquiry Commission
by the Federal Deposit Insurance Corporation

Q1: Chairman Angelides asked if the FDIC performed an internal review audit or investigation regarding any failures of regulatory oversight by the FDIC in light of the financial crisis. You (Chairman Bair) stated that the FDIC made a number of changes and would provide a written description. In addition, you stated that the FDIC always investigates why any bank failed, including a review of the supervisory process, and prepares a material loss review. Please provide the material loss reviews for all banks that failed from 2007 to present.

A1: The Federal Deposit Insurance Corporation has initiated or is in the process of developing the following Supervision Program Enhancements:

- In June 2009, DSC issued RD Memorandum, *Post-Material Loss Review Memorandum (09-023).* DSC implemented a Post Material Loss Review Process to provide guidance for conducting an internal analysis following a material loss at an FDIC supervised financial institution. Each Regional Director is required to conduct an analysis and complete a Post-Material Loss Review Memorandum (MLR Memo), which solicits and incorporates input from personnel involved in the examination of the institution. This process encourages an open dialogue to communicate lessons learned and recommendations to enhance our supervisory program. The recommendations included in the MLR Memos are being tracked and routed to the appropriate section within DSC for follow-up and resolution.

- In August of 2009, DSC issued RD Memorandum, *Deposit Insurance Application Processing and De Novo Institution Supervision and Examination Guidance* (2009-035). Recent failures of de novo institutions demonstrate that unseasoned institutions can pose a significant risk to the Deposit Insurance Fund during an economic downturn indicating that enhanced supervision and monitoring is warranted. This memorandum supplements existing guidance for processing deposit insurance applications and requests for changes in business plans by de novo institutions and provides enhanced guidance regarding supervision and examination procedures for de novo institutions. Among the enhancements, the guidance includes:

    - Revised visitation and examination scheduling requiring a limited-scope risk examination within the first six months of operation and a full-scope risk examination within the first twelve months of operation;
    - Extended de novo period from three to seven years;
    - Required approval for any proposed major deviation or material change from the submitted business plan prior to consummation of the change;
    - A business plan and pro forma financial statements for operating years four through seven;
    - A Community Reinvestment Act plan; and
    - Notification of plans to establish a loan production office.

- In September 2009, DSC issued RD Memorandum, *Issuing Examination Letters to Troubled Institutions (09-042).* DSC issued this guidance to prevent misunderstandings as to the FDIC's expectations for newly identified composite "3", "4", and "5" rated institutions, and to prevent the implementation of imprudent strategies (material growth or shifts in balance sheet composition) between the close of an examination and the issuance of an enforcement action. The guidance formalized the format and basic content for the letters to be issued.

- In April of 2009, DSC issued RD Memorandum, *Revised Large Insured Depository Institution (LIDI) Program Procedures (09-017).* The LIDI procedures were revised to provide a comprehensive forward looking assessment of risk profiles of institutions with total assets of at least $10 billion.

- In January 2010, DSC issued RD Memorandum, *Matters Requiring Board Attention (10-003) (MRBA).* The Memo guidance to establish parameters for including comments regarding material issues and recommendations that require attention by the bank's directorate within the report of examination. Comments addressed to the directorate should prompt the institution to take steps that will help identify emerging problems and correct deficiencies before the condition of the bank deteriorates. In the case where the condition of the bank has already deteriorated, comments should prompt the Board to take immediate action to correct deficiencies. It is expected that a response to MRBA items will be requested and obtained from the institution. To assist in proper and timely follow-up of MRBA and other examination findings, the Regions track these supervisory issues.

- In March 2008, DSC conducted a horizontal review of commercial real estate (CRE) lending practices. As problems emerged in CRE lending, DSC management found it necessary to visit a representative sample of institutions with concentrated Acquisition, Development and Construction (ADC) and CRE exposures around the country. DSC visited 27 institutions. The purpose of the project was to assess the current and prospective risk posed by significant concentrations of construction and development (C&D) loans at select FDIC-supervised institutions. In a number of markets around the country, construction and real estate development activity had been adversely affected by the housing market slowdown, and banks with large exposures to C&D lending were expected to be impacted. At year-end 2007, non-current C&D loans for all insured institutions were at their highest level since 1995. Conditions were expected to deteriorate further as the abundant supply of housing affected developers' ability to sell units.

  The project's methodology consisted of on-site bank visitations focusing on examiner file reviews and a holistic assessment of credit risk management in the C&D lending field. The visitations (spanning one to two weeks at the institutions with several FDIC examiners) provided the FDIC with significant insight into how banks are managing concentrations of risk, and the current environment for several formerly "hot markets." The project's findings were used to identify the need to accelerate full-scope examinations, reevaluate banks' CAMELS (Capital, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk) ratings and deposit insurance assessment categories, and/or modify our supervisory approach for institutions with outsized C&D exposures.

- In November and December 2008, examiners conducted on-site visitations of certain banks in Georgia, Florida, and California with high ADC concentrations. The serious decline in the economy, capital markets, and real estate market caused FDIC management to commission this ad hoc visitation program. Ratings were downgraded and corrective programs initiated as appropriate.

- The FDIC issued a Financial Institution Letter (FIL) on March 17, 2008, titled *Managing Commercial Real Estate Concentrations in a Challenging Environment* (2008 CRE FIL). The 2008 CRE FIL re-emphasized the importance of strong capital and loan loss allowance levels and robust credit risk management practices and recommended several risk management processes to help institutions manage CRE and ADC concentrations. This FIL also articulated the FDIC's concern about interest reserves for ADC loans, stating that examiners have noted an inappropriate use of interest reserves when the underlying real estate project is not performing as expected.

  DSC issued this FIL because it was clear that significant risks were emerging in CRE lending, especially ADC lending. The purpose was to refocus banks on CRE credit risk management, bolster their workout departments for impending increases in problem CRE loans, consider getting new appraisals when needed, and to keep making CRE and ADC credit prudently available in their markets. This issuance was a warning about emerging CRE problems.

- In July 2008, DSC developed a comprehensive CRE guidance repository in a Regional Director memorandum which updates and re-emphasizes CRE loan examination procedures in view of more challenging market conditions, particularly in ADC lending.

- In August 2008, DSC issued a FIL entitled *Liquidity Risk Management*. The FIL provides guidance on the importance of contingency funding plans, pro-forma cash flow analysis, and low probability/high impact event risk. The FIL directs examiners to assess institutions' adherence to the guidance when analyzing liquidity.

- In August 2008, DSC issued revised examination instructions to collect information on market conditions and practices at banks potentially exposed to significant CRE concentration risk. These data will provide real-time information relating to CRE markets across the country and FDIC-supervised institutions operating in those markets and will be available for supervisory purposes.

- In September 2008, DSC made available to examiners data resources subscribed to through our library, providing detailed information on commercial and residential real estate markets and transactions. These data, which include estimated property values, comparable sales, leasing rates, capitalization rates, vacancy rates, title/deed documents, and other related information, may aid examiner analysis of market conditions during examinations of banks with significant CRE concentrations.

- While deteriorating commercial real estate conditions are driving much of the increase in problem bank activity, the FDIC is adjusting its industry stress testing efforts to better capture the impact of potential further deterioration in commercial real estate conditions.

- In response to the evolving financial crisis, DSC initiated and developed a phased training approach to reinforce and enhance our supervisory program as follows:

  In May 2009, the FDIC implemented the *Back 2 Basics* initiative. The *Back 2 Basics* training program is a collection of online courses including printable self-study materials and downloadable simulations. The goal is to ensure that examiners are fully equipped to deal with the challenges of the current and future financial environment. *Back 2 Basics* covers a broad range of risk management and consumer compliance topics.

  In July 2009, the FDIC conducted a Risk Analysis Center (RAC) presentation entitled, *Forward Looking Supervision – Lessons from the Crisis.* This presentation discussed the results of recent OIG Material Loss Reviews, including common risk characteristics noted at problem and failed institutions. The Federal Deposit Insurance Corporation's Division of Supervision and Consumer Protection (DSC) Director Sandra Thompson identified lessons learned and stressed the importance of considering high risk practices as well as financial condition in assessing risk and assigning ratings. The importance of the development and implementation of timely and effective corrective programs also was stressed.

  In January 2010, DSC implemented mandatory division-wide training entitled, *Assessing A Bank's Risk Profile Using Forward Looking Supervision* that is expected to be completed by March 31, 2010. Leveraging on the RAC presentation, the training expands on those topics, emphasizing a forward looking approach to examination analysis and ratings assessment based upon the lessons learned from recent institution failures. The objective of the training is to emphasize the analysis of risk management practices and the implementation of appropriate and timely corrective action. The forward looking supervision concepts will be incorporated into all DSC core examiner training.

- DSC examiners authored an article titled *Managing Commercial Real Estate Concentrations* in the Winter 2007 edition of *Supervisory Insights Journal (SIJ)*. The *SIJ* article was prepared in response to rapid CRE loan growth in the banking industry and a significant number of questions from bankers about how they should interpret the December 2006 CRE guidance entitled, *Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices*. The article recognized the rising concentration of CRE lending and the need for more outreach information to the industry. It clarified certain points in the guidance and provided information on what examiners would expect to see when they conduct their CRE reviews.

- DSC examiners authored an article titled *A Primer on the Use of Interest Reserves* in the Summer 2008 edition of *SIJ*. This article focuses on the use of interest reserves in ADC lending, examines the risks this underwriting practice presents, and reviews regulatory guidance on the use of interest reserves. The article identifies conditions that should alert

lenders to potential problems at each stage of the ADC cycle and reinforces the importance of evaluating the appropriateness of interest reserves when ADC projects become troubled.

- In May 2007, DSC launched a time-limited 'call program' for financial institutions displaying certain risks in their residential lending activities, including: 1) institutions with 100 percent or more of capital exposed to construction and development and 2) institutions with 25 percent or more of capital exposed to subprime mortgage loans. The program entailed FDIC supervisory staff contacting the management of financial institutions with high-risk residential lending profiles. The purpose of the program was to identify risk-management problems and initiate appropriate supervisory responses in a shorter timeframe than the normal examination cycle would allow.

  This call program was precipitated by the findings of the FDIC's regional and national risk committees' identification of continuing increased risks associated with residential construction financing activities, subprime mortgage lending, and deterioration in certain market. The FDIC's regional risk committees (RRC):

  - assess regional economic and banking trends,
  - identify existing and emerging risks,
  - evaluate their implications for insured institutions,
  - develop and monitor supervisory strategies, and
  - communicate findings to the national risk committee (NRC).

  The NRC in turn uses the RRC findings and analysis to identify and evaluate ongoing and emerging risks to the banking industry and the deposit insurance fund.

- In April 2009, DSC issued a FIL clarifying existing supervisory guidance on the purchase and holding of complex structured credit products entitled, *Risk Management of Investments in Structured Credit Products*, FIL-20-2009. The FIL focuses on the various supervisory concerns related to these securities, such as, pre-purchase analysis, suitability determination, risk limits, credit ratings, valuation, ongoing due diligence, adverse classification and capital treatment.

The following is a list of interagency and FDIC guidance that has been issued in response to emerging credit and other issues:

Commercial Real Estate and Small Business Lending Guidance

- Interagency Statement on Meeting the Credit Needs of Credit Worthy Small Business Borrowers (FIL-5-2010).
- Supervising Institutions with Commercial Real Estate Concentrations (RD Memo 2008-021)
- Managing Commercial Real Estate Concentrations in a Challenging Environment (FIL-22-2008)
- FDIC Q&A on 2006 CRE Guidance (RD memo 2007-013)
- Commercial Real Estate Lending Joint Guidance (FIL-104-2006)
- Interagency Guidance - Concentrations in Commercial Real Estate Lending, Sound Risk Management Practices (RD memo 2006-038)

- Commercial Real Estate Review Package (RD memo 2003-059)
- Policy Statement on Prudent Commercial Real Estate Loan Workouts (RD Memo 2009-49)
- Environmental Liability (FIL-98-2006)

Residential Real Estate Lending Guidance

- Interagency FAQs on Residential Tract Development (FIL-90-2005)
- Guidance on High LTV Residential RE Lending (FIL-94-1999)
- Statement on Loss Mitigation Strategies for Servicers of Residential Mortgages, FIL-76-2007, September 4, 2007
- Servicing for Mortgage Loans: Supplemental Information for Loss Mitigation Strategies, FIL-77-2007, September 4, 2007
- Statement on Working with Mortgage Borrowers, FIL-35-2007, April 17, 2007
- Statement on Subprime Mortgage Lending, FIL-62-2007, July 10, 2007
- Interagency Guidance on Nontraditional Mortgage Product Risks and Addendum to Credit Risk Management Guidance for Home Equity Lending , FIL-86-2006, October 5, 2006
- Credit Risk Management Guidance for Home Equity Lending, FIL-45-2005, May 2005

Appraisals and Valuation Guidance

- Re-appraising/Re-evaluating Real Property (RD Memo 2009-011)
- Revisions to the Uniform Standards of Professional Appraisal Practice (FIL-53-2006)
- Classification Treatment for High Loan-to-Value (LTV) Residential Refinance Loans (FIL-19-2009)
- Appraisal Regulations Frequently Asked Questions (FIL-20-2005)
- Appraiser Independence Statement (FIL 84-2003)

Other Credit Related Guidance

- Unfair or Deceptive Acts or Practices Under Section 5 of the Federal Trade Commission Act , FIL-26-2004, March 2004
- Unfair or Deceptive Acts or Practices: Applicability of the Federal Trade Commission Act , FIL-57-2002, May 2002
- Proposed Correspondent Concentration Risks Guidance Agencies Request Comment, FIL-55-2009, September 25, 2009

Liquidity/Funding Guidance

- The Use of Volatile or Special Funding Sources by Financial Institutions That are in a Weakened Condition, FIL-13-2009, March 3, 2009
- Liquidity Risk Management, FIL-84-2008, August 26, 2008
- Interest Rate Restrictions on Institutions That are Less Than Well Capitalized, FIL-25-2009, May 29, 2009

Other Guidance

- Deposit Insurance Application Processing and De Novo Institution Supervision and Examination Guidance, RD Memo, August 26, 2009
- Third-Party Risk Guidance for Managing Third-Party Risk, FIL-44-2008, June 6, 2008

- Enhanced Supervisory Procedures for Newly Insured FDIC-Supervised Depository Institutions, FIL-50-2009, August 28, 2009
- Risk Management of Investments in Structured Credit Products, FIL-20-2009, April 30, 2009

Material Loss Reviews (MLR)

Under the requirements of Section 38(k) of the Federal Deposit Insurance Act, a MLR is required when losses exceed either the greater of $25 million or 2 percent of an institution's total assets at the time the FDIC is appointed receiver.

Attached is a list of the material loss reviews of the banks that failed from 2007 to present, which includes the web address for each report.

Q2: For financial institutions that did not fail because they received government assistance, please provide any document similar to the material loss review that is prepared for failed banks.

A2: The FDIC's Office of Inspector General does not produce a material loss review or similar type of public investigation for institutions that are open and operating. Instead, open banks (including those that received federal financial stability assistance) are monitored under our normal supervisory process that consists of on-site examinations and visitations, off-site surveillance, and various communication with bank management and other regulatory agencies.

Q3: How does the administration's recent proposal to raise $90 billion from the banking industry impact the ability of the FDIC to raise sufficient funds to resolve failed institutions?

A3: We expect that the administration's proposed Financial Responsibility Fee would have only a minimal effect on institutions' ability to pay deposit insurance premiums, particularly as it would be spread out over a number of years. Overall, the FDIC expects to be able to raise sufficient funds to resolve failed institutions. The FDIC has the legal authority to collect deposit insurance assessments from insured institutions and we will continue to do so in order to restore the Deposit Insurance Fund (DIF). To ensure that the FDIC has sufficient cash on hand to handle projected bank failures, most institutions recently pre-paid their next three years' insurance premiums . Although the FDIC believes that it is important that the DIF remain industry-funded, we also have access to a $100 billion credit line at Treasury, which, temporarily, can be expanded to $500 billion, in case of emergency. This borrowing authority gives the FDIC sufficient cushion against unforeseen circumstances and the mechanics are already in place to implement this option quickly if that should become necessary

Q4. Please explain how the mark-to-market accounting rule should be addressed, if at all, in terms of its impact on financial reporting and regulatory capital.

A4. The Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) are jointly undertaking a project to replace their respective financial instruments standards with converged standards on accounting for financial instruments. The FASB's comprehensive standard would address not only classification and measurement, which would encompass any "mark-to-market accounting," but it also would provide recognition, impairment, and hedge accounting guidance.

The FASB tentatively decided in July 2009 to propose that all financial instruments be reported on the balance sheet at fair value, except for certain liabilities that could be measured at amortized cost. For loans and debt securities where an institution's strategy is to hold them for the collection of contractual payments rather than for sale to or settlement with a third party, changes in fair value other than credit losses would be recognized in other comprehensive income rather than earnings. For other financial instruments reported at fair value, all changes in fair value would be recognized in earnings. The FASB's project plan currently calls for the issuance of its proposed comprehensive standard on financial instrument accounting for public comment in "early 2010."

We strongly oppose an expansion of the required use of fair value accounting in the financial statements beyond where it is currently required or permitted, particularly for non-traded, illiquid financial instruments whose fair value cannot be reliably measured. We do not believe that a bank holding loans, similar banking assets, or deposits for the long-term should be required to measure them at fair value on the balance sheet. Requiring all financial instruments to be reported at fair value, as the FASB has tentatively decided, would be particularly costly and burdensome for the thousands of community banks in the U.S. Moreover, we are concerned that, given the assumptions and judgments that must be made in arriving at fair value estimates for assets lacking quoted prices in active markets, an expansion of fair value accounting to additional categories of generally illiquid assets could reduce the reliability of institutions' reported capital. Revisions to impairment accounting that would enable institutions to take a more forward-looking approach to the recognition of credit losses and the establishment of loan loss allowances would be a more appropriate way to improve financial reporting.

Compared to the FASB's tentative decision, the approach that the IASB has taken in its recently issued International Financial Reporting Standard (IFRS) 9 *Financial Instruments*, which first considers an entity's business model, appears to provide a more reasonable method for classifying and measuring financial assets. Under IFRS 9, a financial asset is measured at amortized cost if it is held as part of a business model whose objective is hold assets in order to collect contractual cash flows and if the asset's contractual terms require payments on specified dates solely of principal and interest. Otherwise, the financial asset is measured at fair value.

We have been closely monitoring the FASB's work on its financial instruments project and have advised the FASB of our opposition to their tentative decision to require fair value accounting for all financial instruments. When the FASB issues the exposure draft of its proposed financial instruments accounting standard, we expect to join with the other federal financial institution regulatory agencies in submitting a comment letter to the FASB to formally express our views on its proposal and influence the outcome of the final standard.

The Basel Committee on Banking Supervision, of which we are a member, is requesting comments through April 16, 2010, on proposals that aim to strengthen the resiliency of the banking sector through new regulatory capital and liquidity standards. The Basel Committee has proposed improvements to the quality and consistency of capital, including key changes to the definition of regulatory capital. These changes also address regulatory adjustments to capital for such items as unrealized losses. Because banks' financial statements are the starting point for the measurement of regulatory capital, the Basel Committee's decisions on its capital proposals and the U.S. agencies' deliberations on how they should be implemented in the U.S. will need to be informed by the accounting standard-setters' ongoing work on accounting for financial instruments.

Q5. You testified that you believed the only way to deal with abuses in the mortgage lending system on a system-wide basis, given that banks and nonbanks were involved in the process, was to make changes to the HOEPA rules, the consumer protection rules that gave the Fed the authority to apply rules against abusive lending across-the-board to both banks and nonbanks.

a. What changes would you suggest making to the HOEPA rules?

A5a: As I mentioned in my testimony, HOEPA gives the Federal Reserve Board of Governors (FRB) the sole authority to promulgate rules prohibiting acts or practices with respect to any mortgage loan that it finds to be unfair, deceptive, or designed to evade the provisions of HOEPA, and acts or practices with respect to mortgage refinancings that it finds to be associated with abusive lending practices, or that are otherwise not in the interest of the borrower. These prohibitions would apply to all mortgage lenders, not just banks.

Ability to Repay: Though the FRB recently used its HOEPA rulemaking authority to establish an "ability to repay" standard in connection with higher-priced mortgage loans and high cost mortgages, that standard should be required for all mortgages, including interest-only and negative amortization mortgages and Home Equity Lines of Credit (HELOCs). The FRB should require that interest-only and negative amortization mortgages be underwritten to qualify the borrower to pay a fully amortizing payment. Otherwise, the consequences we have seen during this crisis will recur. Similarly, the FRB should prohibit creditors from making HELOCs without taking into account the consumer's ability to repay, based on the fully drawn line, or without taking into account the consumer's other obligations

Yield Spread Premiums: The FRB also should use its HOEPA rulemaking authority to ban yield spread premiums (YSPs). The FRB's proposed HOEPA rule in 2007 would have prohibited creditors from paying mortgage brokers more than the consumer had previously agreed in writing that the mortgage broker would receive. In the FDIC's comment letter to that proposal, we strongly urged the FRB to ban YSPs altogether. Instead, the FRB withdrew the proposed provisions relating to broker compensation in the 2008 HOEPA final rule. In 2009, the FRB proposed using its HOEPA rulemaking authority to ban YSPs. The FRB has yet to issue a final rule, but again the FDIC has strongly urged the FRB to ban YSPs in our comment letter to the

2009 proposal. Other compensation options for loan originators, including flat fees or fees based on the total principal amount of the mortgage, will assist borrowers in avoiding the inherent conflict of interest created for loan originators when they are paid more at the ultimate expense of the borrower. Compensation options other than YSPs also will be more transparent and understandable to borrowers than the traditional premium embedded in the interest rate offered.

Steering: The FRB should prohibit loan originators from directing or "steering" consumers to a particular creditor's loan products if the loan originator would receive additional compensation, but where the loan may not be in the consumer's interest. This will help protect consumers from receiving more expensive loans than they qualified for, which was quite common in the years leading up to the current mortgage crisis.

Credit Insurance: The FRB should require creditors to ensure that consumers satisfy certain eligibility requirements at the time of enrollment in a credit insurance product. This requirement would help prevent borrowers from unwittingly purchasing products that are ultimately of no benefit because eligibility criteria were not met. The FRB also should prohibit creditors from offering credit insurance or similar products at or before the time of consummation of a higher-priced mortgage loan. Such a prohibition would not restrain a creditor from offering these products after consummation. However, it would prevent the more egregious sales tactics that may lead financially unsophisticated consumers to believe that the product is required in order to qualify for the loan.

Q5b. Would you support giving concurrent jurisdiction to the state regulatory agencies to enforce the HOEPA rules?

A5b: Currently, section 130(e) of the Truth in Lending Act (TILA) gives state Attorneys General the authority to bring actions to enforce violations of the prohibitions against certain high cost mortgages under HOEPA and enhanced damages are available under section 129(l)(2) of TILA. A state's Attorney General is generally required to provide prior notice and a copy of the complaint to the federal agency responsible for administrative enforcement and that agency may intervene in the action. To enhance enforcement of federal consumer protection laws, TILA enforcement provisions could be expanded to allow state Attorneys General, state banking regulators, and other appropriate state authorities to bring actions against non-bank financial service providers for violations of TILA provisions beyond those covering high-cost HOEPA loans. Expanding TILA enforcement for non-bank financial service providers would give additional tools to state authorities, assist in maintaining minimum standards that apply to all financial service providers, and help provide a more level playing field for consumers and all lenders.

Q5c: What effort has FDIC made to create a more stringent HOEPA rule enforcement program?

A5c: Under the Federal Deposit Insurance Act, the FDIC pursues enforcement actions against insured depository institutions, their directors and officers, employees and other institution

affiliated parties, where warranted, including third parties and independent contractors such as accountants, attorneys, and appraisers. The FDIC employs specialized examiners in risk management and consumer compliance who regularly examine insured depository institutions to ensure compliance with state and federal laws and regulations, including all consumer protection laws, such as TILA, as amended by HOEPA. When FDIC examiners find violations of law, unsafe and unsound practices, or mismanagement in banks' consumer protection responsibilities, the FDIC requires immediate corrective action. As soon as the FRB issued the latest HOEPA regulations in 2008, some of which took effect in October 2009, the FDIC began providing guidance and training to its examiners so they could cite violations where appropriate. The FDIC also has been providing guidance to state nonmember banks to help them comply with the new HOEPA regulations. The FDIC is prepared to pursue enforcement actions against the entities that it supervises for any violations of the new HOEPA regulations, in addition to any other consumer protection laws and regulations.

Q6. Illinois Attorney General Lisa Madigan and Colorado Attorney General John W. Suthers testified that the federal government had impeded their attempts to investigate mortgage fraud. Attorney General Suthers in his written remarks before the commission stated, "with respect to the few laws we did have back in 2005, we were largely powerless to enforce those laws against national banks and their lending affiliates and subsidiaries due to the aggressive stance federal regulators took to preempt state law, even with respect to predatory lending and deceptive advertising." Attorney General Madigan also testified that, "in fact, in response to aggressive actions at the state level, federal regulators took unprecedented steps to shield national lenders and their subsidiaries from state enforcement and from the growing number of state anti-predatory lending laws on the books." In her oral testimony, Attorney General Madigan went on to say, "in the years preceding the crisis, federal regulators often showed no interest in exercising their regulatory authority, or worse actively hampered state authority." In light of these comments by the chief law enforcement officers Illinois and Colorado, what steps will the FDIC take to ensure that cooperative state-federal investigative efforts will be set in place at the FDIC?

A6: The FDIC, as the primary federal regulatory of state chartered, nonmember banks and other insured depository institutions, cooperates and closely coordinates with appropriate state and federal agencies as part of its supervisory and enforcement processes to ensure compliance with consumer protection and other laws, combat predatory lending and unfair or deceptive acts, and practices and facilitate the prosecution of mortgage fraud and other criminal activity.

Regulatory Gaps and Federal Preemption. Colorado Attorney General Suthers and Illinois Attorney General Madigan testified about the difficulties encountered in their attempts to address predatory lending, deceptive advertising, foreclosure relief scams and payday lending by state licensed, nonbank mortgage loan originators and other nonbank providers of financial products and services that are outside of the traditional banking regulatory system. In addition, Attorneys General Suthers and Madigan testified about the adverse effect of aggressive federal preemption stances on state consumer financial protection laws.

The FDIC also has pointed out these regulatory gaps and the opportunities they create for regulatory arbitrage. In previous testimony in support of a single primary federal consumer products regulator along the lines of the proposed Consumer Financial Protection Agency, the FDIC has noted that such a regulator should eliminate gaps between insured depository institutions and nonbank providers of financial products and services by establishing consistent consumer protection standards across the board. In addition, such a regulator should eliminate or minimize opportunities for regulatory arbitrage created by federal preemption of state law.

Although framed by its supporters as a way to affect cost efficiencies, federal preemption of sound state laws, in particular, state consumer protection laws, encouraged regulatory arbitrage resulting in a "race to the bottom." It produced a "ceiling" for consumer protection rather than a "floor." The FDIC's view is that creating a floor for consumer protection by allowing more protective consumer laws to apply to all providers of financial products and services, based either on appropriate state or federal law, would significantly improve consumer protection.

FDIC Policy and Practice of Coordination with Other Agencies. In all cases, it is the FDIC policy to contact and coordinate with appropriate state, as well as other appropriate federal agencies, in connection with contemplated administrative enforcement action, including actions addressing financial consumer protection. The FDIC notifies and specifically solicits the opinion of the state supervisory authority concerning potential enforcement action to address problems that are generally identified during the examination process. Consistent with this overall policy, FDIC policy on addressing predatory lending specifically provides for supervisory action, including coordinated or joint enforcement action with appropriate state and other federal agencies.

Past joint enforcement actions with states have included issuance by the FDIC and the Division of Banks of the Commonwealth of Massachusetts of a joint Cease and Desist Order in 2004. The Order required corrective action to address significant residential mortgage loan processing problems of a state chartered nonmember bank and its affiliate, including restitution to consumers. Commerce Bank & Trust Company and its affiliate 1-800-East-West Mortgage Company FDIC-04-093b. The FDIC has taken similar consumer protection and other enforcement actions with other state regulators, including the State of Illinois Office of Banks and Real Estate. See e.g. First American Bank, Carpentersville, Illinois FDIC-03-190b (joint Cease and Desist Order).

Where the FDIC suspects a pattern of practice of lending discrimination, the FDIC refers such matters to the Department of Justice. Where mortgage fraud or other criminal activity is suspected, criminal referrals are made and the FDIC works with U.S. Attorneys offices and State Attorney General to facilitate successful prosecutions. The FDIC also actively participates in the federal interagency Bank Fraud Working Group.

In addressing unfair or deceptive acts or practices (UDAP) under Section 5 of the FTC Act, the FDIC takes enforcement action on a case by case basis, including coordinated action with the Federal Trade Commission, resulting in the imposition of substantial civil penalties and restitution to affected consumers.

Q7: You testified that the FDIC permitted institutions to rely on ratings for capital requirements but that going forward you believed that regulators on an interagency basis would be proposing new capital rules that would eliminate the ability of an institution to rely on a rating for structured finance products unless they actually identify the assets underlying that structured product and do their own analysis of the credit quality of the assets. Please provide the current status of the proposed new capital rules as it relates to reliance on ratings for any asset held by an institution.

A7: The FDIC and the other financial regulatory agencies are considering U.S. implementation of recent recommendations by the Basel Committee for operational requirements that a banking organization would have to meet to use credit ratings for determining the risk-based capital requirements for securitization and resecuritization exposures. Such requirements, which we believe are appropriate, call for banks to demonstrate a comprehensive understanding of the risks of a structured finance product, irrespective of the external rating assigned to the product. This would include an understanding of both the structural features of the product and risk characteristics of the underlying assets. A banking organization also would be required to monitor performance information of the underlying assets on an on-going basis. Such requirements for securitizations, or for other rated exposures, would be designed to ensure banks do not buy securities whose risks they do not understand based solely on a rating. The agencies are reviewing these potential requirements as part of their consideration of implementing Basel II's Standardized approach in the U.S., and in the context of potential changes to other existing capital regulations. We favor moving forward expeditiously with the Standardized Approach and the needed improvements to ratings based capital calculations.

Q8. Would you please provide the number of banks that were on the FDIC's watch list, by quarter, from 2005 to present?

A8. Federal regulators assign a composite rating to each financial institution, based upon an evaluation of financial and operational criteria. The rating is based on a scale of 1 to 5 in ascending order of supervisory concern. "Problem" institutions are those institutions with financial, operational, or managerial weaknesses that threaten their continued financial viability. Depending upon the degree of risk and supervisory concern, they are rated either a "4" or "5." The number of problem institutions from the first quarter 2005 through the third quarter 2009 (the most recently available) is contained below.

FDIC-INSURED PROBLEM INSTITUTIONS
(Number and Total Assets by Quarter)

DATE	NUMBER	TOTAL ASSETS ($ Millions)
09/09	552	345,931
06/09	416	299,837
03/09	305	220,047
12/08	252	159,405

09/08	171	115,639
06/08	117	78,343
03/08	90	26,311
12/07	76	22,189
09/07	65	18,515
06/07	61	23,782
03/07	53	21,445
12/06	50	8,265
09/06	47	3,983
06/06	50	5,539
03/06	48	5,416
12/05	52	6,607
09/05	68	20,865
06/05	74	21,748
03/05	80	28,186

Q9. How many of the bank failures from 2007 to the present were related to subprime loans or securities?

A9. According to the information the FDIC has collected, the percentage of failing banks having an element of subprime lending has declined each year from 2007 through 2009. Of the three bank failures in 2007, two were involved in subprime lending. In 2008, eight out of 25 failures or 32 percent of the failures had an element of subprime lending. In 2009, there were 140 institutions that failed of which eight had subprime loans as a factor, or 5.7 percent.

Throughout the period covered by the information here, the most common element has been poor management, closely followed by poor economic conditions. Poor management is nearly always considered a contributing factor when a bank fails since management is ultimately responsible for choices or lack of oversight that lead to failure. Poor economic conditions also are a contributing factor in almost all cases since late 2008 when the financial markets stopped functioning and the country slipped into a recession.

In summary, there have been 183 failures since January 1, 2007, of which 18 are believed to involve subprime lending issues as one of the factors in failure.

2007 - 3 failures - 2 involving subprime lending issues as a factor in failure

2008 - 25 failures - 8 involving subprime lending issues as a factor in failure

2009 - 140 failures - 8 involving subprime lending issues as a factor in failure

2010 (as of 2/18) - 15 failures - none involving subprime lending issues as a factor in failure

Q10. Have you been able to determine whether or not Mr. Kyle Bass ever brought to the attention of the FDIC any evidence of the fundamental weaknesses in securitizing assets based on subprime mortgages?

A10. Consistent with the Chairman's remarks at the January 14, 2010 hearing, the FDIC is not aware of any contact with this individual.

Attachment

Material Loss Reviews (from FDIC OIG http://www.fdicoig.gov/MLR.shtml)

Date	Bank	State	PDF link
01-22-10	Millennium State Bank of Texas	TX	http://www.fdicoig.gov/reports10/10-016.pdf
01-21-10	Mirae Bank	CA	http://www.fdicoig.gov/reports10/10-015.pdf
01-21-10	Bank of Wyoming	WY	http://www.fdicoig.gov/reports10/10-014.pdf
01-06-10	Cooperative Bank	NC	http://www.fdicoig.gov/reports10/10-013.pdf
01-06-10	Southern Community Bank	GA	http://www.fdicoig.gov/reports10/10-012.pdf
01-06-10	MetroPacific Bank	CA	http://www.fdicoig.gov/reports10/10-011.pdf
12-16-09	Bank of Lincolnwood	IL	http://www.fdicoig.gov/reports10/10-010.pdf
12-04-09	America West Bank	UT	http://www.fdicoig.gov/reports10/10-009.pdf
12-04-09	Great Basin Bank of Nevada	NV	http://www.fdicoig.gov/reports10/10-008.pdf
12-04-09	Strategic Capital Bank	IL	http://www.fdicoig.gov/reports10/10-007.pdf
12-02-09	American Southern Bank	GA	http://www.fdicoig.gov/reports10/10-006.pdf
12-02-09	Westsound Bank	WA	http://www.fdicoig.gov/reports10/10-005.pdf
11-05-09	First Bank of Beverly Hills	CA	http://www.fdicoig.gov/reports10/10-004.pdf
10-23-09	New Frontier Bank	CO	http://www.fdicoig.gov/reports10/10-003.pdf
10-23-09	Cape Fear Bank	NC	http://www.fdicoig.gov/reports10/10-002.pdf
10-05-09	FirstCity Bank	GA	http://www.fdicoig.gov/reports10/10-001.pdf
09-18-09	Security Savings Bank	NV	http://www.fdicoig.gov/reports09/09-029.pdf
09-18-09	Freedom Bank of Georgia	GA	http://www.fdicoig.gov/reports09/09-027.pdf
09-18-09	Heritage Community Bank	IL	http://www.fdicoig.gov/reports09/09-027.pdf
09-04-09	Sherman County Bank	NE	http://www.fdicoig.gov/reports09/09-026.pdf
09-04-09	Corn Belt Bank and Trust Company	IL	http://www.fdicoig.gov/reports09/09-025.pdf
09-03-09	FirstBank Financial Services	GA	http://www.fdicoig.gov/reports09/09-

			024.pdf
09-01-09	Silver Falls Bank	OR	http://www.fdicoig.gov/reports09/09-023.pdf
09-01-09	Alliance Bank	CA	http://www.fdicoig.gov/reports09/09-022.pdf
08-24-09	MagnetBank	UT	http://www.fdicoig.gov/reports09/09-021.pdf
08-11-09	1st Centennial Bank	CA	http://www.fdicoig.gov/reports09/09-019.pdf
08-05-09	Haven Trust Bank	GA	http://www.fdicoig.gov/reports09/09-017.pdf
08-04-09	Bank of Clark County	WA	http://www.fdicoig.gov/reports09/09-018.pdf
08-03-09	The Community Bank	GA	http://www.fdicoig.gov/reports09/09-016.pdf

October 1, 2010

Via Email & Mail
The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Financial Crisis Inquiry Commission Hearing on September 2, 2010

Dear Chairman Bair:

Thank you for testifying on September 2, 2010 in front of the Financial Crisis Inquiry Commission and agreeing to provide additional assistance. Toward that end, please provide written responses to the following additional questions and any additional information by October 15, 2010.[1]

1. During the hearing you mentioned the receivership staff at Washington Mutual had provided you with a "walkthrough" of the bailout's effect on Washington Mutual's capital structure. What is an FDIC "walkthrough" and how did this help you analyze the bailout's effect on Washington Mutual's capital structure? Please provide documentation on the "walkthrough".

2. During the hearing you mentioned the FDIC had conducted an analysis of the additional capital that would be required for bank holding companies to meet capital standards requirements of banks. Please provide this analysis.

3. Please provide written analysis of the level of pre-crisis "true loss absorbing capital" you mentioned during your testimony.

[1] The answers you provide to the questions in this letter are a continuation of your testimony and under the same oath you took before testifying on September 2, 2010. Further, please be advised that according to section 1001 of Title 18 of the United States Code, "Whoever, in any matter within the jurisdiction of any department or agency often United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

1717 Pennsylvania Avenue, NW, Suite 800 • Washington, DC 20006-4614
202.292.2799 • 202.632.1604 Fax

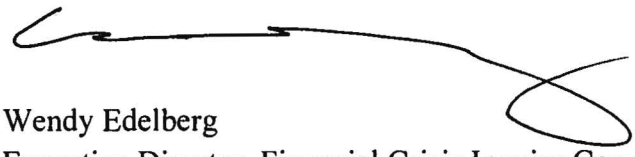
4. Did the FDIC feel pressure to invoke the systemic risk exemption for IndyMac or WaMu? Please describe why or why not.

5. Please provide the FDIC's analysis of the predicted number of FDIC-insured depository institutions that would be expected to fail following a failure of Lehman Brothers.

6. During the hearing you had mentioned that after Fannie and Freddie were placed in conservatorship the FDIC conducted analysis for the Treasury regarding how many banks would likely have failed due to holding Fannie and Freddie preference shares. Please provide this analysis and also indicate how many banks actually failed due to their Fannie or Freddie holdings, along with the name, location, asset size and the fall in value of those shares.

The FCIC appreciates your cooperation in providing the information requested. Please do not hesitate to contact Sarah Knaus at (202) 292-1394 or sknaus@fcic.gov if you have any questions or concerns.

Sincerely,



Wendy Edelberg
Executive Director, Financial Crisis Inquiry Commission

cc: Phil Angelides, Chairman, Financial Crisis Inquiry Commission
Bill Thomas, Vice Chairman, Financial Crisis Inquiry Commission

Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

Office of Legislative Affairs

October 28, 2010

Ms. Wendy Edelberg
Executive Director
Financial Crisis Inquiry Commission
1717 Pennsylvania Avenue N.W., Suite 800
Washington, D.C. 20006

Dear Ms. Edelberg:

Thank you for your letter that includes follow-up questions from the Financial Crisis Inquiry Commission Hearing on September 2, 2010. We welcome the opportunity to respond to these questions, and our responses are enclosed.

If you have further questions, the Office of Legislative Affairs can be reached at (202) 898-7055.

Sincerely,

Paul Nash

Paul Nash
Deputy to the Chairman for External Affairs

Enclosure

Follow-Up Questions to
the Financial Crisis Inquiry Commission Hearing
on September 2, 2010

Q1: During the hearing you mentioned the receivership staff at Washington Mutual had provided you with a "walkthrough" of the bailout's effect on Washington Mutual's capital structure. What is an FDIC "walkthrough" and how did this help you analyze the bailout's effect on Washington Mutual's capital structure? Please provide documentation on the "walkthrough".

A1: Shortly after the hearing, our staff exchanged messages with Commissioner Hennessey to follow up on Chairman Bair's offer to provide a briefing by staff to walk him through the steps the FDIC took in resolving Washington Mutual. As Chairman Bair noted during the hearing, the resolution process used for Washington Mutual is the same process taken for all insured depository institutions. Our briefing also can provide further clarification and explanation about our role as the back-up regulator of Washington Mutual and our efforts to work with its primary federal regulator – the Office of Thrift Supervision – and the bank in addressing its capital needs.

Q2: During the hearing you mentioned the FDIC had conducted an analysis of the additional capital that would be required for bank holding companies to meet capital standards requirements of banks. Please provide this analysis.

A2: As indicated in page 2 of Attachment A, we estimated that U.S. Bank Holding Companies (BHCs) in aggregate held approximately $163 billion in instruments designated as tier 1 capital for BHCs, but which did not meet insured bank capital standards. These bank-ineligible capital instruments are reported in the column titled "Collins restricted items," and primarily consist of trust preferred securities.

Section 171 of the Dodd-Frank Act (the Collins Amendment) requires that the generally applicable capital requirements for insured banks shall be a floor for any capital requirements the agencies may require, including the capital requirements for BHCs. This means specifically that, as a general rule, capital instruments that are impermissible to meet a regulatory capital requirement for an insured bank (the Collins-restricted items referenced above) also would not be permitted to meet that capital requirement for BHCs.

Section 171 grandfathers capital instruments issued before May 19, 2010 by depository institution holding companies that had less than $15 billion in total consolidated assets as of year-end 2009. BHCs subject to the Federal Reserve's Small Bank Holding Company Policy Statement are completely exempt from any requirement contained in Section 171. Otherwise, Section 171 requires BHCs' tier 1 capital recognition of the restricted items identified in the table to be phased out over a period of three years beginning January 1, 2013. An agreement announced recently by the Basel Committee on Banking Supervision also requires the phase-out of tier 1 capital recognition of Trust Preferred Securities.

The FDIC strongly supports the provisions of Section 171 including the phase-out of bank-ineligible capital instruments from the tier 1 capital of BHCs. Undue reliance on Trust Preferred Securities, which are not true loss absorbing capital, greatly weakened the capital strength of U.S. banking organizations during the crisis and increased the FDIC's losses. Additional context on this issue is provided in Attachments B and C.

Q3: Please provide written analysis of the level of pre-crisis "true loss absorbing capital" you mentioned during your testimony.

A3: "True loss absorbing capital" is regulatory capital in the form of common equity. As the financial crisis demonstrated, certain other forms of capital that qualified as tier 1 capital at bank holding companies, such as trust preferred securities, were not fully loss absorbing. (In the case of trust preferred securities, dividends can be deferred and accumulated for up to 20 quarters before the securities default; unlike equity, dividends that are deferred cumulate over time and must eventually be paid.)

Under the Basel Accord of 1988 (Basel I), a bank must hold a minimum amount of tier 1 capital equal to 4 percent of total risk-weighted assets. Basel I also requires that common equity be a predominant component of tier 1 capital. Although Basel I does not define "predominant," many bank regulators generally expect common equity to comprise an amount approximating half the minimum tier 1 capital requirement; this explains the Basel Committee's reference to 2 percent common equity as the minimum common equity requirement under Basel I.

U.S. regulators currently require tier 1 capital of at least 6 percent of risk-weighted assets for an insured bank to be well capitalized. This must be predominantly common equity, which implies that the minimum for common equity in the United States is 3 percent. However, no absolute requirement exists for common equity as a component of tier 1 capital.

The Basel III proposal raises common equity to at least 4.5 percent of assets, weighted according to their risk level, with an additional capital conservation buffer of 2.5 percent to withstand future stresses (a total of 7 percent tier 1 common equity to total risk- weighted assets). Basel III also increases the total tier 1 capital ratio to at least 6 percent, plus the 2.5 percent capital conservation buffer, or 8.5 percent. The new tier 1 minimum ratio of 6 percent would include 4.5 percent common equity (that is, common equity would make up 75 percent of tier 1 capital).

Attachment D contains, among other things, tables showing the distribution of loss absorbing equity for banks and bank holding companies (Tables 1 and 4 of Attachment D). As indicated in Table 1, the vast majority of insured banks by number have loss absorbing equity greater than 10 percent of risk weighted assets. In sharp contrast, Table 4 shows much lower levels of loss-absorbing equity for BHCs. This is attributable to the heavy reliance by many BHCs on Trust Preferred Securities to satisfy regulatory capital requirements.

Q4. Did the FDIC feel pressure to invoke the systemic risk exemption for IndyMac or WaMu? Please describe why or why not.

A4: Since 1991 the Federal Deposit Insurance Act (FDI Act), as a general matter, requires the FDIC to exercise its resolution authority over insured depository institutions in the method least costly to the Deposit Insurance Fund (DIF) except in cases where a systemic determination is made. Such a determination can only be made by the FDIC's Board of Directors, in concurrence with the Board of Governors of the Federal Reserve System, with a subsequent determination by the Secretary of the Treasury, following consultation with the President. 12 USC 1823(c)(4)(G).[1]

FDIC staff considered whether a systemic risk determination was appropriate in the case of IndyMac, FSB (IndyMac), and Washington Mutual Bank (WaMu). Ultimately, however, because an orderly least cost resolution was feasible, such a determination was not needed. A systemic risk determination was not invoked for IndyMac or WaMu.

IndyMac

The FDIC accepted appointment by the Office of Thrift Supervision (OTS) as conservator of IndyMac on July 11, 2008.[2] A conservator assumes responsibility for operating an insured institution on an interim basis in accordance with applicable federal and state laws. The FDIC operated IndyMac Federal Bank, FSB, until March 19, 2009, when the FDIC completed its sale to OneWest Bank, FSB. The conservatorship allowed the FDIC the time necessary for winding down the institution and completing its sale.

WaMu

JPMorgan Chase acquired the banking operations of WaMu in a transaction facilitated by the FDIC. All depositors were fully protected and the DIF did not incur any loss due to the failure of WaMu.

Q5. Please provide the FDIC's analysis of the predicted number of FDIC-insured depository institutions that would be expected to fail following a failure of Lehman Brothers.

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[1] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) retains the systemic risk exception as described above, but provides that this exception be made only with respect to an insured depository institution for which the FDIC has been appointed receiver. [I'll provide cite].

[2] Under the FDI Act, the primary federal regulator (in the case of IndyMac, the OTS) has the authority to appoint the FDIC conservator for an insured depository institution. The FDIC is not required to accept such appointment, but did in the case of IndyMac. 12 USC 1821(c)(2) (A)(i).

A5: The FDIC does not have access to the information that would be required to make such a determination. For example, the FDIC does not know the identity of purchasers of Lehman Brothers bonds or securities. The uncertainty over which institutions could be affected by the failure of Lehman Brothers and which institutions could be in a similar situation as Lehman Brothers resulted in disruptions to liquidity markets that extended beyond the immediate holders of Lehman Brothers debt or other securities. The extent of the market disruption ultimately led to actions by the Federal Reserve and the FDIC, among others, to restore stability and reestablish funding channels.

Q6: During the hearing you had mentioned that after Fannie and Freddie were placed in conservatorship, the FDIC conducted analysis for the Treasury regarding how many banks would likely have failed due to holding Fannie and Freddie preference shares. Please provide this analysis and also indicate how many banks actually failed due to their Fannie or Freddie holdings, along with the name, location, asset size and the fall in value of those shares.

A6 During the weekend that Fannie and Freddie were placed into conservatorship, the FDIC performed an analysis of insured institutions to determine which institutions would be most vulnerable to sudden and significant capital depletion, and thus pose an elevated risk to the Deposit Insurance Fund. This determination was made by adjusting the leverage ratio to include a deduction for the reported amount of GSE preferred stock. Any institution with an adjusted leverage ratio that resulted in a capital position of less than well-capitalized (i.e., adequately capitalized, undercapitalized, significantly undercapitalized, or critically undercapitalized), was placed on a list of institutions with elevated risk exposure. We determined that 35 institutions were at heightened risk of capital depletion from their exposure to GSE preferred stock. Of the 35 banks the FDIC identified in September 2008, ten have failed (see list below). Of those 10 failures, the National Bank of Commerce failure can be attributed solely to the Bank's GSE exposure. The other 9 failures were due primarily to significant loan or other asset quality issues that the GSE debt exposure exacerbated. Six of the ten banks were part of the holding company FBOP Corporation system failure that occurred in October 2009.

CERT	Name	City	State	Total Bank Assets (6/30/08)	Est. GSE Exposure (6/30/08)	Failure Date
19733	National Bank of Commerce	Berkeley	IL	$445 Million	$72 Million	16-Jan-09
27837	Cooperative Bank	Wilmington	NC	$973 Million	$10 Million	19-Jun-09
22868	Venture Bank	Lacey	WA	$1.2 Billion	$43 Million	11-Sep-09
34659	California National Bank	Los Angeles	CA	$6.7 Billion	$396 Million	30-Oct-09
23594	San Diego National Bank	San Diego	CA	$2.9 Billion	$161 Million	30-Oct-09
32218	Bank USA, National Association	Phoenix	AZ	$196 Million	$11 Million	30-Oct-09
25222	Citizens National Bank	Teague	TX	$111 Million	$6 Million	30-Oct-09
18776	North Houston Bank	Houston	TX	$465 Million	$47 Million	30-Oct-09
33782	Madisonville State Bank	Madisonville	TX	$262 Million	$26 Million	30-Oct-09
27096	The Park Avenue Bank	New York	NY	$469 Million	$2 Million	12-Mar-10

ATTACHMENT A

Capital Analysis
Potential Impact of Collins Amendment

June 2010

Discussion Draft

Impact of Proposed Amendment

- Requires Bank Holding Companies' capital requirements to be no less stringent than bank requirements

- Potentially excluded from BHC tier 1 capital:
  - Trust preferred securities (HC-R memo item 8d)
  - Cumulative preferred shares (HC-R memo item 8c)
  - Mandatory convertible securities (HC-R item 6c)
  - Other cumulative preferred share (HC-R memo item 3d)

- For analysis we assumed all trust preferred securities would be excluded from both tier 1 and tier 2 capital; in practice much would be included in tier 2

- Scope and Limitations:

  - Analysis is a proxy given the items listed in the Y9C and was limited due to reporting issues

  - Data for largest banks as well as all BHCs filing Y9s

Estimate of Industry Exposure to Collins Items

Asset Range	All BHCs	Reporting Collins Items	Collins Restricted Items	Mandatory Convertible (6c)	TPS (memo 8d)	Cum. Perp. Preferred (memo 8c)	Other Cum. Preferred (memo 3d)
Over $100 billion	23	19	$136.0	$22.5	$107.0	$4.4	$4.6
$10 to $100 billion	52	45	$11.8	$0.0	$11.7	$0.0	$0.1
$1 to $10 billion	393	278	$11.5	$0.1	$10.3	$1.0	$0.2
Less than $1 billion	553	308	$3.5	$0.1	$3.3	$0.2	$0.0
All BHCs	1,021	650	$162.9	$22.6	$132.2	$5.6	$4.9

- Of the 1,021 bank holding companies reporting preliminary Y9 data as of 1Q10, roughly 650 reported at least one of the three items to be excluded from tier 1 per the Collins amendment

- These items totaled $163 billion; trust-preferred securities comprised the majority at roughly $132 billion

Preliminary Results – Holding Companies Affected

Asset Range	Currently Below:		Would be Below:	
	4% Lev	4, 4, or 8%	4% Lev	4,4, or 8%
Over $100 billion	3	3	3	3
$10 to $100 billion	3	3	3	4
$1 to $10 billion	17	20	32	33
Less than $1 billion	39	50	60	78
All BHCs	62	76	98	**118**

The banks currently below the thresholds are included in the "would be below" threshold totals.

- These results assume no transitional relief or phase-in period.
- Impact would be mitigated by such arrangements.

Largest Banking Companies as of 1Q 2010

SCAP	Tier 1 Capital ($)	TARP Funds Outst. ($)	Restricted Items ($)	Current			Excludes Restricted Items		
				Leverage Ratio	Tier 1 Risk Based	Total Risk Based	Leverage Ratio	Tier 1 Risk Based	Total Risk Based
Bank of America	155.4	0	21.8	6.46%	10.23%	14.47%	5.55%	8.79%	14.47%
Citigroup	120.1	25.0	21.6	6.16%	11.28%	14.88%	5.05%	9.26%	14.88%
JPMC	131.4	0	19.6	6.63%	11.45%	15.11%	5.64%	9.75%	15.08%
Wells	98.3	0	19.3	8.34%	9.93%	13.90%	6.70%	7.98%	13.90%
Goldman Sachs	68.5	0	12.7	8.14%	15.02%	17.99%	6.63%	12.23%	17.39%
Morgan Stanley	50.1	0	10.5	6.10%	15.10%	16.09%	**4.83%**	11.95%	16.09%
USB	23.3	0	4.5	8.56%	9.95%	13.18%	6.90%	8.01%	13.18%
Capital One	11.5	0	3.6	6.04%	9.57%	16.90%	**4.13%**	6.54%	16.90%
BB&T	13.7	0	3.5	8.67%	11.63%	15.89%	6.44%	8.65%	15.89%
PNC	22.9	0	3.5	8.84%	10.25%	13.88%	7.49%	8.69%	13.88%
GMAC (Ally)	22.1	*	2.8	12.49%	14.88%	16.42%	10.92%	13.01%	16.26%
Fifth Third	13.3	3.4	2.8	12.00%	13.40%	17.55%	9.51%	10.62%	17.55%
SunTrust	17.9	4.9	2.4	10.95%	13.13%	16.68%	9.51%	11.40%	16.68%
KeyCorp	10.8	2.5	1.8	11.60%	12.92%	17.07%	9.67%	10.77%	17.07%
BoNY Mellon	13.4	0	1.7	6.45%	13.27%	17.19%	5.65%	11.62%	17.19%
State Street	12.3	0	1.5	9.03%	18.05%	19.46%	7.97%	15.93%	19.46%
Regions	11.7	3.5	0.8	8.84%	11.66%	15.76%	8.20%	10.82%	15.76%
Metlife	31.1	0	0.0	5.65%	9.46%	**9.90%**	5.65%	9.46%	**9.90%**
Amex	10.4	0	0.0	7.75%	9.79%	11.96%	7.75%	9.79%	11.96%
Taunus Corp.	-7.4	0.0	0.0	**-1.86%**	**-7.58%**	**-7.58%**	**-1.86%**	**-7.58%**	**-7.58%**
Barclays	5.0	0.0	0.0	**1.26%**	**4.67%**	**7.78%**	**1.26%**	**4.67%**	**7.78%**
HSBC North Am.	28.0	0.0	3.0	7.92%	13.74%	17.36%	7.06%	12.25%	17.36%
TD Bank US	2.1	0.0	0.1	**1.56%**	**3.04%**	**4.85%**	**1.50%**	**2.93%**	**4.85%**
Citizens Financial	12.0	0.0	0.5	8.96%	11.88%	13.30%	8.58%	11.38%	13.30%

Data from Y9 filed as of 3/31/10. List above includes SCAP companies and those over $100 billion in assets.

*GMAC has repaid some TARP funds, but it appears the source of repayment was an equity stake, so it is unclear how much remains outstanding.

Restricted tems defined as items 6c, Memo 8c, 8d, and 3d; some banks are showing limited items over 25% of tier 1.

Largest Banking Companies – Leverage Trend

SCAP (Includes failures that merged into SCAP) $ in Billions	New Leverage Ratio*				
	4Q06	4Q07	4Q08	4Q09	1Q10
American Express	n/a	n/a	n/a	9.75%	7.75%
Bank of America	5.25%	**4.02%**	5.34%	6.06%	5.55%
Bank of New York Mellon	5.46%	5.35%	6.16%	5.69%	6.44%
BB&T Corp.	6.09%	5.71%	7.96%	6.30%	5.65%
Capital One Financial Corp.	10.76%	7.81%	10.07%	7.94%	**4.13%**
Citigroup Inc.	**4.62%**	**2.96%**	**4.85%**	6.15%	5.05%
Countrywide Financial Corp.	5.95%	n/a	n/a	n/a	n/a
Fifth Third Bancorp	8.28%	6.31%	7.89%	9.87%	9.51%
GMAC (Ally Financial)	n/a	n/a	n/a	11.26%	10.92%
Goldman Sachs	n/a	n/a	n/a	7.23%	6.63%
JPMorgan Chase & Co.	5.26%	5.06%	5.71%	5.88%	5.64%
KeyCorp	7.05%	6.46%	8.60%	9.80%	9.67%
MetLife, Inc.	5.55%	5.56%	5.77%	5.40%	5.65%
Morgan Stanley	n/a	n/a	n/a	5.21%	**4.83%**
National City Corp.	7.86%	5.11%	n/a	n/a	n/a
PNC Financial Services	8.33%	5.74%	15.42%	8.94%	7.49%
Regions Financial Corp.	8.11%	6.12%	7.75%	8.27%	8.20%
State Street Corp.	5.26%	**4.54%**	7.03%	7.49%	7.97%
SunTrust Banks	5.86%	5.61%	8.76%	9.48%	9.51%
U.S. Bancorp	6.42%	6.11%	8.21%	6.78%	6.90%
Wachovia Corp.	5.17%	**4.97%**	n/a	n/a	n/a
Wells Fargo	7.01%	5.96%	11.28%	6.82%	6.70%
Taunus Corp.	**-0.95%**	**-1.25%**	**-2.26%**	**-1.93%**	**-1.86%**
Barclays Group	**1.08%**	**0.68%**	**1.07%**	**1.17%**	**1.26%**
HSBC North Am.	5.23%	**4.49%**	**4.40%**	5.87%	7.23%
Citizens Financial	6.97%	6.56%	6.64%	8.32%	8.58%

*Leverage ratio for 1Q10 computed per Collins analysis; in previous periods, only subtracts TPS from tier 1

TARP funds were distributed to most SCAP BHCs in 2008

Note: Due to a change in the Y9, only Trust Preferred Securities were deducted as a proxy historically

ATTACHMENT B

Initial Risk Analysis of Bank Holding Companies with Trust Preferred Securities

June 2010

Discussion Draft - Unaudited

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Bank Holding Company Distribution

Sample	Over the past 5 years: No TPS	TPS	TPS>25%
Total BHCs	355	680	324
C&D Concentrated	141	413	225
with NTM Loans	7	46	17

Asset Breakdown	No TPS				TPS			
Sample	>10 bil	1-10bil	500-1bil	<500mil	>10 bil	1-10bil	500-1bil	<500mil
Total BHCs	6	112	196	41	71	283	271	55
C&D Concentrated	1	44	74	22	25	190	163	35
with NTM Loans	0	3	3	1	25	18	2	1

- Roughly 680 bank holding companies included Trust Preferred Securities as regulatory capital at some point between 2005 and 2009
  - About half of these had TPS representing over 25% of Tier 1 capital
- More BHCs with TPS had "higher-risk" loans: whether C&D concentrations and/or loans with Negative Amortization features

Note: Data excludes roughly 4,000 BHCs under $500 million in assets that do not file Y9C

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Time Series of Risk Metrics and Ratings

BHCs with no TPS	4Q05	4Q06	4Q07	4Q08	4Q09
Avg PDNA	1.43%	1.48%	2.14%	3.60%	4.81%
Avg NCO	0.22%	0.26%	0.38%	1.00%	1.82%
Avg ROA	1.13%	1.15%	0.92%	-0.18%	-0.30%
% 3,4,5	2%	2%	2%	6%	19%
C&D Conc.	70	74	84	100	83
Neg AM Loans	n/a	n/a	4	4	5

BHCs with TPS during last 5 years	4Q05	4Q06	4Q07	4Q08	4Q09
Avg PDNA	1.30%	1.46%	2.29%	3.90%	5.81%
Avg NCO	0.30%	0.35%	0.57%	1.37%	2.60%
Avg ROA	1.10%	1.02%	0.55%	-1.02%	-1.20%
% 3,4,5	2%	2%	3%	12%	34%
C&D Conc.	289	282	322	302	223
Neg AM Loans	n/a	n/a	30	30	31

BHCs with TPS>25% Tier 1 during last 5 years	4Q05	4Q06	4Q07	4Q08	4Q09
Avg PDNA	1.27%	1.47%	2.51%	4.23%	6.43%
Avg NCO	0.32%	0.39%	0.66%	1.58%	2.91%
Avg ROA	1.01%	0.89%	0.41%	-1.59%	-1.67%
% 3,4,5	2%	2%	4%	16%	41%
C&D Conc.	165	165	178	173	126
Neg AM Loans	n/a	n/a	19	20	22

- During the mid/late 90s, BHCs showed similar performance numbers
- Towards the end of 2008 and 2009, banks with TPS showed greater deterioration in asset quality and earnings
- BHCs that had higher concentrations of TPS are reporting the worst financials and ratings
  - Over 40% rated 3, 4 or 5

Note: Time series is based on the 1,035 BHCs reporting Y9s as of March 31, 2010. Not all BHCs were active in prior periods. Two known failures/mergers were added to the sample in previous periods.

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Insured Banking Subsidiary Analysis

Banking Subs of Current BHCs with no TPS	4Q05	4Q06	4Q07	4Q08	4Q09
Avg PDNA	1.55%	1.58%	2.11%	3.35%	4.62%
Avg NCO	0.20%	0.18%	0.24%	0.59%	1.21%
Avg ROA	1.11%	1.24%	1.00%	-0.23%	-0.11%
% 3,4,5	2%	2%	2%	7%	17%
C&D Conc.	120	142	157	161	104
Neg AM Loans	n/a	n/a	7	6	7
Total	457	470	476	473	472

Banking Subs of Current BHCs with TPS during last 5 years	4Q05	4Q06	4Q07	4Q08	4Q09
Avg PDNA	1.33%	1.42%	2.20%	3.70%	5.45%
Avg NCO	0.23%	0.18%	0.29%	0.76%	1.60%
Avg ROA	1.17%	1.46%	0.94%	-0.53%	-0.65%
% 3,4,5	2%	1%	2%	8%	26%
C&D Conc.	480	540	594	528	355
Neg AM Loans	n/a	n/a	30	32	32
Total	1,192	1,184	1,210	1,154	1,077

- Similar trends are noted at insured bank subsidiaries of holding companies that reported TPS in regulatory capital

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1Q10 Trust Preferred Securities Dependence

Asset Range	Number of BHCs	With TPS	TPS > 25% T1
Over $250 billion	12	9	0
$100 to $250 billion	11	10	2
$10 to $100 billion	52	46	3
$1 to $10 billion	394	271	62
$500 million to $1 billion	468	256	54
Less than $500 million	96	50	24
Total Bank Holding Co's	1,033	642	145

Source: SNL; Y9C data as of March 31, 2010

BHCs with TPS > 25% of Tier 1 Capital						
BHC Rating	>100 bil	10-100 bil	1-10 bil	500mil-1bil	<500 mil	Total
1			2	2	1	5
2	1		33	25	4	63
3	1	1	15	17	6	40
4		2	9	9	8	28
5			3	1	5	9
Total	2	3	62	54	24	145

- Of the BHCs reporting Y9Cs in 1Q10, over 640 (62%) included TPS in regulatory capital
  - 145 report TPS representing 25% or more of tier 1 capital
  - Half of the 145 are at BHCs with assets less than $1 billion
- Over half of the BHCs with heavier TPS dependence were rated 3, 4, or 5 as of 4Q09

Note: Data excludes roughly 4,000 BHCs under $500 million in assets that do not file Y9C

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ATTACHMENT C

FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, DC 20429

SHEILA C. BAIR
CHAIRMAN

June 22, 2010

Honorable Susan Collins
United States Senate
Washington, D.C. 20510

Dear Senator Collins:

I am writing to express my continued support for your amendment to strengthen the capital regulation of the U.S. banking system and systemically important nonbank financial institutions.

The amendment ensures that our largest financial institutions, including those that benefited the most from federal support during the crisis, will adhere to capital requirements at least as stringent as those applying to thousands of community banks nationwide. The amendment requires bank holding companies' capital requirements to be at least as stringent as those of banks, ensuring they can serve as a source of strength to their subsidiary banks rather than a source of weakness as we saw too often during the crisis. Requiring large nonbank firms regulated by the Federal Reserve to adhere to capital requirements as strict as those faced by banks addresses the problem of regulatory capital arbitrage that fueled risk-taking in the years before the crisis.

One of the implications of the amendment has attracted a great deal of attention. Specifically, trust preferred securities, which are not permitted as tier 1 capital for insured banks, would not be permitted as tier 1 capital for bank holding companies. I view this as an important and necessary change.

Over the past several years, the capital bases at the largest financial institutions have become diluted with trust preferred securities and other debt instruments that "look" like capital in good times, but that fail to absorb losses when called upon. Institutions became very savvy at exploiting legal, accounting, and regulatory rules to create and issue well over a hundred billion dollars in trust preferred securities in the boom years of the 1990s and 2000s. Trust preferred securities proved highly attractive to investors insofar as they legally commit bank holding companies to pay dividends or risk going into default. (In fact, the tax code treats them as debt, making the interest deductible to the bank holding company.) The ease of issuing these debt-like instruments as "capital" fueled growth at many weaker institutions, allowing them to increase leverage and risk taking.

However, as the crisis hit, these securities became a significant burden on troubled bank holding companies, making them a drain -- not a source of strength -- for their subsidiary banks. The market had no confidence in trust preferred securities as loss-absorbing capital and notably, the regulators did not give credit for trust preferred securities in conducting the stress tests of capital adequacy in 2009.

Another significant problem is that investors interested in recapitalizing bank holding companies have been discouraged by their inability to persuade holders of trust preferred securities to convert their shares into common equity. Because holders of trust preferred securities have legal rights to cumulative dividends, they have little incentive to subordinate their position to facilitate the infusion of fresh equity capital. This leaves potential acquirers frustrated and unable to complete an open bank transaction, making it more likely the banking organization will fail, exposing the Deposit Insurance Fund to losses that could have otherwise been avoided. The increased leverage facilitated by trust preferred securities, combined with the impediments they pose to recapitalization, will cost the Deposit Insurance Fund billions in resolution costs which must, of course, be borne by the all insured banks through increased deposit insurance assessments.

Your amendment takes aim at the financial engineering that went on in the boom years, and serves as the most concrete and meaningful legislative proposal that I have seen to improve the quality of capital at U.S. banking organizations. Contrary to the argument that your amendment would reduce credit availability, it will actually encourage renewed lending by placing the banking system on a sounder footing with real, tangible common equity. Ask any securities analyst or market participant whether or not they put much value in trust preferred securities during the crisis - the answer is a resounding no. The market believes trust preferred securities are debt – the regulators and Congress should follow suit. The end result of your amendment would be to replace weak, risky debt-like instruments with growth sustaining, true capital.

We appreciate that concerns have been raised by some in the financial services industry that banking organizations should not be required to raise capital as they seek to repair their balance sheets and provide credit support for the recovering economy. The amendments you have agreed to provide ample relief and transition time for financial institutions to adjust to these new requirements. There will always be some industry resistance to increasing capital requirements. In bad times, there will be those who argue that increased capital will constrain lending; in good times, they will argue that increased capital is unnecessary given low delinquency default rates on their loans and other assets. The process of deleveraging will be difficult whenever it occurs, but occur it must. With greater capital cushions, much of the financial crisis could have been averted. Large financial entities would have been constrained in their risk taking and better able to withstand losses, ameliorating the need for costly bailouts.

We have a great opportunity to return to the basic business of banking and away from the financial games that caused significant hardship, the loss of millions of jobs, and significant losses to the Deposit Insurance Fund. The FDIC remains committed to working with you towards accomplishing this goal and we applaud your strong leadership.

Sincerely,

Sheila C. Bair

Sheila C. Bair

Draft

Preliminary Impact Analysis of a "4 plus 4" TCE to New RWA Requirement for Small Banks

Introduction

This note reports on the results of a preliminary capital impact analysis of a specific Basel 3 calibration option: a 4 percent minimum tangible common equity (TCE) to risk weighted assets (RWA) requirement and a 4 percent TCE to RWA fixed capital buffer. For convenience we will henceforth call this the "4+4 test."

In a separate note (attached at the end of this note), we outline how a 4+4 test can be viewed as a reasonable outgrowth of analysis of historical losses relative to "old RWA" and a through-the-cycle approach to translating old RWA into Basel 3 RWA. One can view this note as flowing from the first note. Alternatively, one could view this note simply as a standalone analysis of one specific calibration option.

The analysis in this note is best viewed as applicable to small banks and banking organizations. In particular, while all tables in this note include results for BHCs and insured banks of all sizes, including the largest organizations, we believe the QIS results will be more accurate and comprehensive with respect to these large organizations. Moreover, some important proposals in the Basel Committee's December papers are *de facto* irrelevant for most small banks. Other proposals are not irrelevant for small banks but because of lack of data on potential impacts or for other reasons, carve-outs should be considered for small banks.

Finally, it should be noted that the analysis is based on insured bank Call Reports and Bank Holding Company (BHC) Y-9c reports and is limited to that extent, and also limited because we currently do not have the benefit of final proposals in many areas including the definition of capital and the leverage ratio.

Analysis

The current minimum tier 1 capital requirement for insured banks (IDIs) and holding companies is 4 percent of RWA, while the current tier 1 requirement for an IDI to be "well capitalized" is 6 percent of RWA (bank holding companies do not have a statutory PCA framework so the term "well capitalized does not apply to them).

Satisfaction of the 4 + 4 test would be in some sense analogous to the satisfaction of the "well capitalized" PCA threshold. Specifically, there would be some regulatory consequences of being below the buffer just as there are consequences to being less than well capitalized, but these consequences would not be as severe as the consequences of not meeting the minimum capital requirements.

Based on Call report data, of the 7,177 insured banks (excludes thrifts) reporting at March 31, 2010, 399 would not satisfy the 4+4 test (Table 1). Put another way, about 94 percent of insured banks appear to satisfy a 4+4 test. In aggregate those 399 insured banks would need to raise an estimated $23 billion in TCE to meet the 4+4 test, an amount equal to 1.4 percent of their aggregate assets or 14 percent of their current TCE (Table 2). Analysis of normalized return on assets (ROA) for these banks could provide some insight into the amount of time required to generate this level of capital internally. 147 banks currently do not satisfy the 6 percent tier 1 risk-based capital threshold for being well capitalized (Table 3). Consequently, if we view the satisfaction of a 4+4 test as analogous to being well capitalized, the number of insured institutions not meeting a "well capitalized" tier 1 risk-based standard would increase by 252.

Table 1. Estimated TCE to RWA ratios for insured banks

	New Common to RBC Ratio					
Asset Range	Under 4%	4% - 6%	6 - 8%	8 - 10%	Over 10%	Total
Over $250 billion	0	1	1	3	1	6
$100 to $250 billion	1	0	2	5	5	13
$15 to $100 billion	0	1	4	9	24	38
$1 to $15 billion	16	9	34	105	354	518
$500 million to $1 billion	15	13	24	99	484	635
Less than $500 million	72	58	148	481	5,208	5,967
Total Banks	104	82	213	702	6,076	7,177

Source: 1Q10 Call Reports

Table 2. Estimated insured-bank capital raises to meet 4+4 test

	IDI's that would fall below 8% Threshold			
Asset Range	Number of Banks	$ Amount (billions)	% of assets	% of capital
Over $250 billion	2	$6.2	1.2%	11%
$100 to $250 billion	3	$7.3	1.4%	13%
$15 to $100 billion	5	$3.0	1.3%	13%
$1 to $15 billion	59	$4.2	1.9%	24%
$500 million to $1 billion	52	$0.9	2.5%	44%
Less than $500 million	278	$1.2	2.1%	36%
Total Banks	399	$22.7	1.4%	14%

Source: 1Q10 Call Reports

Table 3. Current Tier 1 to RWA ratios for insured banks

	Current Tier 1 to RBC Ratio					
Asset Range	Under 4%	4% - 6%	6 - 8%	8 - 10%	Over 10%	Total
Over $250 billion	0	0	1	0	5	6
$100 to $250 billion	0	0	0	3	10	13
$15 to $100 billion	0	0	1	6	31	38
$1 to $15 billion	11	6	15	77	409	518
$500 million to $1 billion	10	13	13	63	536	635
Less than $500 million	56	51	101	376	5,383	5,967
Total Banks	77	70	131	525	6,374	7,177

Source: 1Q10 Call Reports

Viewing capital needs from the perspective of BHCs, of the 1,029 BHCs filing form Y-9c at March 31, 2010, 401 institutions, or about 39 percent of all BHCs filing a Y-9c, would not satisfy the 4+4 test. (Table 4). These 401 BHCs are estimated to need to raise an additional $181 billion in TCE to meet a 4+4 test. (Table 5), an amount that corresponds to about 1.5 percent of their aggregate assets and about 17 percent of their current TCE. Similar to the situation for insured banks, a number of BHCs do not meet existing capital standards. For example, 44 BHCs reported not meeting the existing minimum tier 1 risk based capital requirement of 4 percent of RWA (Table 6).

Table 4. Estimated TCE to RWA ratios for BHCs

	New Common RBC Ratio					
Asset Range	Under 4%	4% - 6%	6 - 8%	8 - 10%	Over 10%	Total
Over $250 billion	2	3	4	2	1	12
$100 to $250 billion	2	1	5	1	2	11
$15 to $100 billion	3	4	6	6	11	30
$1 to $15 billion	37	52	78	72	177	416
$500 million to $1 billion	38	42	72	102	214	468
Less than $500 million	28	8	16	10	30	92
Total Bank Holding Co's	110	110	181	193	435	1,029

Source: SNL; Y9C data as of 1Q2010; Most holding companies under $500 million in assets are not required to file.

Table 5. Estimated BHC capital raises to meet a 4+4 test

	Companies that would fall below 8% Threshold			
Asset Range	Number of BHCs	$ Amount (billions)	% of assets	% of capital
Over $250 billion	9	$133.9	1.4%	17%
$100 to $250 billion	8	$20.6	1.6%	15%
$15 to $100 billion	13	$13.6	2.3%	22%
$1 to $15 billion	167	$10.1	2.1%	23%
$500 million to $1 billion	152	$2.2	2.0%	25%
Less than $500 million	52	$0.7	3.5%	56%
Total Bank Holding Co's	401	$181.1	1.5%	17%

Source: SNL; Y9C data as of March 31, 2010

Table 6. Current Tier 1 to RWA ratios for BHCs

	Current Tier 1 RBC Ratio					
Asset Range	Under 4%	4% - 6%	6 - 8%	8 - 10%	Over 10%	Total
Over $250 billion	1	1	0	3	7	12
$100 to $250 billion	1	0	0	2	8	11
$15 to $100 billion	2	0	0	4	24	30
$1 to $15 billion	10	11	16	54	325	416
$500 million to $1 billion	15	12	22	60	359	468
Less than $500 million	15	8	11	7	51	92
Total Bank Holding Co's	44	32	49	130	774	1,029

Source: SNL; Y9C data as of 1Q2010; Most holding companies under $500 million in assets are not required to file.

The difference between the impact of a 4+4 test on insured banks versus BHCs is striking. Only 6 percent of insured banks are estimated not to meet a 4+4 test; the corresponding figure for BHCs is 39 percent. This difference is directly attributable to the differences between banks and BHCs in the percentages of potentially deducted items in tier 1 capital. In this analysis, 42 percent of BHC tier 1 capital consists of items that would potentially be deducted from equity, whereas only 16 percent of insured bank capital consists of potentially deducted items (Tables 7 and 8). Again, for BHCs the QIS

will give a better analysis of potential deductions, and the size of those deductions is likely to be higher than reported here. BHCs appear to face higher deductions mostly because of the roughly $130 billion in trust preferred securities the BHCs carry in tier 1 capital, and their much greater use of preferred stock.

Table 7. Estimated deductions from BHC tier 1 capital

Bank Holding Companies	Current Tier 1	% of Current Tier 1 for Each Item: Preferred Stock	Trust Preferred Sec.	Currently Included Intangibles	Currently Included DTAs	Minority Interest	Gains/ Loss on AFS	Sum
Over $250 billion	$727	7.8%	11.7%	11.7%	9.6%	2.9%	1.2%	45%
$100 to $250 billion	$140	17.3%	13.8%	8.5%	6.0%	1.2%	0.9%	48%
$15 to $100 billion	$114	12.1%	8.0%	2.0%	5.2%	2.9%	-0.2%	30%
$1 to $15 billion	$114	9.6%	11.5%	1.4%	3.4%	1.8%	1.3%	29%
$500 million to $1 billion	$29	5.5%	10.1%	0.7%	3.2%	0.8%	1.3%	22%
Less than $500 million	$3	5.0%	15.6%	0.7%	3.4%	2.0%	0.4%	27%
Totals in $ billions	$1,127	$107.4	$130.1	$101.1	$89.3	$28.6	$11.7	$468.2

Source: SNL; Y9C data as of March 31, 2010; Most holding companies under $500 million in assets are not required to file.

Table 8. Estimated deductions from insured bank tier 1 capital

Insured Banks	Current Tier 1	% of Current Tier 1 for Each Item: Preferred Stock	Trust Preferred Sec.	Currently Included Intangibles	Currently Included DTAs	Minority Interest	Gains/ Loss on AFS	Sum
Over $250 billion	$443	0.1%	n/a	16.1%	5.7%	1.6%	0.5%	24%
$100 to $250 billion	$162	0.0%	n/a	9.4%	9.6%	3.5%	-0.1%	22%
$15 to $100 billion	$197	2.2%	n/a	2.0%	3.7%	1.0%	-0.3%	9%
$1 to $15 billion	$175	1.5%	n/a	2.3%	3.2%	0.5%	0.9%	8%
$500 million to $1 billion	$45	0.5%	n/a	0.7%	3.0%	0.1%	1.2%	5%
Less than $500 million	$99	0.6%	n/a	0.4%	1.6%	0.0%	1.7%	4%
Totals in $ billions	$1,121	$8.4	n/a	$95.4	$56.6	$15.6	$5.3	$181.3

Source: Bank call reports as of 1Q10

Whether viewed through the lens of banks or BHCs, the capital raises required to meet the 4+4 test vary within a relatively narrow range when expressed as a percentage of the consolidated assets of the organizations needing to raise the capital. For example, 11 of the 12 capital raises for various size ranges of institutions reported in Tables 2 and 5 range between 1.2 percent of assets and 2.5 percent of assets; the 3.5 percent capital raise pertains to small BHCs filing a Y-9c, a population that may include some institutions in special situations. Analysis of normalized earnings potential could shed light on the amount of time required to complete these capital raises if all equity had to be generated internally.

We have also included estimates of the capital raises required to meet other standards than a 4+4 test. Tables 9 and 10 report such estimates for a "3+3" test (3 percent TCE minimum and 3 percent TCE buffer); Tables 11 and 12 provide the same information for a "5+5" requirement. Comparison of Tables 2, 9 and 11 indicates that as the total TCE to RWA standard increases from 6 to 8 to 10, the impact increases markedly at TCE ratios above 8. For example, the number of insured banks failing to meet the requirements is 186 for a 6 percent requirement, 399 for an 8 percent requirement, and 1101 for a 10 percent requirement.

Table 9. Alternative "3+3" test for insured banks

IDI's that would fall below 6% Threshold				
Asset Range	Number of Banks	$ Amount (billions)	% of assets	% of capital
Over $250 billion	1	$0.5	0.2%	2%
$100 to $250 billion	1	$3.6	2.5%	24%
$15 to $100 billion	1	$0.7	1.3%	14%
$1 to $15 billion	25	$2.1	2.5%	47%
$500 million to $1 billion	28	$0.5	2.3%	54%
Less than $500 million	130	$0.5	2.0%	46%
Total Banks	186	$7.8	1.3%	15%

Source: 1Q10 Call Reports

Table 10. Alternative "3+3" test for BHCs

Companies that would fall below 6% Threshold				
Asset Range	Number of BHCs	$ Amount (billions)	% of assets	% of capital
Over $250 billion	5	$35.7	0.8%	9%
$100 to $250 billion	3	$7.7	1.4%	16%
$15 to $100 billion	7	$6.6	1.9%	22%
$1 to $15 billion	89	$5.3	2.3%	29%
$500 million to $1 billion	80	$1.0	1.8%	25%
Less than $500 million	36	$0.5	3.3%	74%
Total Bank Holding Co's	220	$56.8	1.0%	12%

Source: SNL; Y9C data as of March 31, 2010

Table 11. Alternative "5+5" test for insured banks

IDI's that would fall below 10% Threshold				
Asset Range	Number of Banks	$ Amount (billions)	% of assets	% of capital
Over $250 billion	5	$65.9	1.4%	14%
$100 to $250 billion	8	$21.1	1.7%	16%
$15 to $100 billion	14	$9.1	1.4%	12%
$1 to $15 billion	164	$9.7	1.7%	21%
$500 million to $1 billion	151	$1.8	1.8%	23%
Less than $500 million	759	$2.6	1.7%	22%
Total Banks	1,101	$110.3	1.5%	15%

Source: 1Q10 Call Reports

Table 12. Alternative "5+5" test for BHCs

Companies that would fall below 10% Threshold				
Asset Range	Number of BHCs	$ Amount (billions)	% of assets	% of capital
Over $250 billion	11	$249.2	2.3%	29%
$100 to $250 billion	9	$38.7	2.6%	25%
$15 to $100 billion	19	$25.6	2.9%	27%
$1 to $15 billion	239	$18.8	2.7%	28%
$500 million to $1 billion	254	$4.4	2.4%	27%
Less than $500 million	62	$1.1	4.4%	65%
Total Bank Holding Co's	594	$337.7	2.4%	28%

Source: SNL; Y9C data as of March 31, 2010

There are important limitations to this analysis that need to be emphasized. Not all of the deductions contemplated in the December proposals can be captured with analysis of public financial reports. One example is deducted financial equity exposures. To the extent this analysis misses important deductions it understates the impact of the proposals. Moreover, this analysis does not consider the impact of a new leverage ratio requirement, the final form of which is not yet known, that includes off balance sheet items. Other considerations work in the other direction. For example, if the BCBS decides not to require full deduction of some items, the required capital raise would be mitigated, as it also would be to the extent any deducted items are grandfathered.

Attachment

Basel 3 Risk-based Capital Calibration and Translation from Old to New RWA

This note starts from the presumption that minimum and buffer capital requirements should, taken together, provide for a high degree of confidence that banks can continue to operate while absorbing losses of a magnitude that might be expected in a severe scenario. Thus, loss absorbing equity (we will refer to this as tangible common equity or TCE) should be maintained at levels that will provide a high degree of protection against stressed losses relative to risk-weighted assets.

Also, while not taking a position on the precise form of a capital surcharge for systemically important financial institutions (SIFIs), this note presumes that the numerical capital requirements applied to SIFIs will not be lower than the numerical capital requirements applied to non-SIFIs.

The note presumes that there is an overriding policy interest in a strong and credible minimum capital requirement. Accordingly, the numerical value of the minimum capital requirement is presumed to be not less than that of the buffer.

The note includes a very brief overview of calibration of the TCE requirement to old RWA, a discussion of how these requirements might translate to requirements expressed in new RWA, and a "straw man" calibration option for discussion.

Solvency standard and calibration to old RWA

The Basel Committee's Top Down Calibration Group (TCG) has analyzed the historical distribution of negative net income as a percent of RWA, to shed light on how much loss absorbing equity relative to RWA is needed to provide a suitable degree of loss absorption in a stressful scenario. For example, the attachment (reproduced from Table 2 of "Capital Calibration Work Stream: Summary of Initial Results," 18 May 2010, prepared by the Federal Reserve Bank of New York on behalf of the TCG's Capital Calibration work-stream) presents the return on risk-weighted assets (RRWA) for the top 20 BHCs at various solvency standards. The 99.9 percent solvency standard is of interest because it was the standard the Committee agreed for the calibration of Basel II. Depending on the measurement concept used (annual data, and rolling average of last 4, 6 or 8 quarters), the RRWA for the top 20 BHCs ranges from -6.5 percent to -11.3 percent (measured relative to "old" RWAs).

A number of considerations suggest a calibration for the minimum plus the buffer that is relatively close to the upper end of this range. Periods of high loss can persist for more than 4 quarters; peak losses are important and can exceed cumulative losses over any given period; losses may have exceeded those actually realized absent substantial governmental support during the crisis; and losses in the attached table may be biased downwards on account of "survivorship bias."

For discussion purposes, a calibration of TCE/old RWA at 5 percent minimum plus 5 percent buffer seems a reasonable starting point for analysis.

Translation to new RWA

The historical loss analysis described above was relative to the experience with the "pre-Basel 3" definition of risk weighted assets; and in fact much of the loss experience for this exercise was relative to Basel I risk-weighted assets. In these discussions, pre-Basel 3 RWA has been referred to as "old RWA."

A recent note, for example, discussed a minimum requirement of tangible common equity (TCE) to old RWA in the range of 4-6 percent. If we suppose for the sake of discussion that increasing the amount of required high quality capital to this range will provide an appropriate regulatory minimum, then changes in RWA layered on top of the new numerical minimum could have unintended consequences for the effective minimum capital requirement. For example, if RWA going forward were expected to be substantially less than the RWA used for the calibration exercise, the result could be to undo the effects of the higher numerical minimum requirements, resulting in insufficient capital. Conversely, if RWA going forward were substantially more than the RWA used for calibration, the effective capital raise required could greatly exceed the capital raise that was suggested as necessary by the calibration exercise.

For example, if the Committee believed a 6 percent minimum TCE to old RWA requirement was warranted, but RWA under Basel 3 were expected to be half of "old RWA," then a 12 percent minimum requirement as a percent of new RWA would be needed to obtain the same degree of protection. Conversely, if new RWA were expected to be double the old RWA, a 3 percent requirement as a percent of new RWA would give the same protection as a 6 percent requirement expressed relative to old RWA.

A simple way to express these concepts is as follows:

Required capital/new RWA = (required capital /old RWA)*(old RWA/new RWA)

In the above, "old RWA/new RWA" can be viewed as a translation factor for converting requirements expressed in old RWA into a requirement expressed in new RWA.

This note assumes that we want the new Basel 3 requirements to ensure that banks will have enough capital as they enter the next period of financial stress, even after any potential pro-cyclical reduction in RWA that can expected to occur during an economic expansion. This objective would not be satisfied if we greatly overestimate the RWA the new framework will deliver on a through-the-cycle basis. Thus, in the above formulation, "old RWA" and "new RWA" should be viewed as through-the-cycle averages of RWA for the industry-wide portfolio of exposures viewed at different times in the cycle. For example, the same portfolio that appears very risky today, 5 years ago might have been deemed low risk and received a negligible risk-weighting.

One way to operationalize the translation described above would be to simply use the old and new RWA reported in the Comprehensive QIS exercise. For a number of reasons, we

believe it is conceptually incorrect to translate old RWA to new RWA using a simple extrapolation of RWA results reported in the Comprehensive QIS. This is primarily because there is reason to believe the RWA reported in the QIS may be cyclically high and does not reflect the desired through-the-cycle measurement (QIS could even reflect some estimation bias since banks may have an incentive to overestimate the capital required by the proposals, but this note does not address this issue). We believe that a number of factors suggest that the increase in RWA under Basel 3 will be considerably less than what a simple extrapolation based on the QIS results would suggest. These factors are as follows.

Credit risk. With the exception of the correlation assumption for large financial exposures, the Basel 3 proposals did not change the supervisory formulas that assign risk-weights for credit risk. Pillar 1 contains no requirements for the use of stressed values of the PDs, LGDs and EADs that are inputs to these formulas. Consequently, for purposes of estimating these risk inputs, the experience of the crisis will be reflected in the advanced approach capital requirements by the addition of a few years worth of new data points in a long time series of credit loss history.

Experience and analysis suggests that peak-to-trough variation in credit risk RWA under the advanced approach is substantial. Moreover, in comparison to the credit risk RWA under Basel I that were the basis of much of the calibration work performed by the Capital Calibration Working Group, credit risk RWA under the advanced approach tends to be markedly lower in periods where economic conditions are benign (and in a number of countries this has been true even throughout the crisis).

Market risk. Currently anticipated increases in market risk RWA, especially for the largest U.S. banks, are driven heavily by the preponderance of speculative grade and unrated securitizations in their trading books. Capital treatments alternative to deduction are available for unrated securitizations, and it is not anticipated that banks would adopt a long term strategy of holding deducted unrated securitizations in their trading books. We would also not expect during an economic expansion to see heavy exposures to downgraded securitizations in trading books. Accordingly, we believe current market risk QIS results may have a pronounced bias towards much higher RWAs than are likely to be realized.

Further, apart from mandated securitization deductions, new market risk charges causing increases in RWA are modeled charges based on banks' own estimates. There is considerable softness in these numbers and considerable uncertainty as to the amounts of RWA that will be realized. For example, Table 18 of "Analysis of the Fourth Quantitative Impact Study" reports that the Incremental Risk Charge adds 59 percent to market risk capital requirements, but with a standard deviation across the reporting banks of 48 percent; that the changes to the correlation trading portfolios would add 67 percent to market risk capital requirements, but with a standard deviation of 73 percent; and that stressed VAR requirements would add 59 percent to market risk capital requirements with a standard deviation of 51 percent.

CVA. Large CVA charges in the recent QIS have been almost universally criticized as being too high. A number of proposals to recalibrate the CVA charge to produce lower capital requirements have been put forward and one or more of these changes will probably be adopted.

Applicability of a translation to various types of banks. For a bank operating under the Basel II standardized approach, the conceptually correct RWA translation from Basel I RWAs is likely to be negligible.

For a bank that operates under the advanced approach, specializes in credit risk and does not have trading operations or a large derivatives portfolio, the appropriate translation from Basel I RWA to its new RWA is most likely opposite in direction to the type of translation that has been considered for the largest banks with large trading operations and derivatives businesses. Thus, for example, a 5 percent charge under the old RWA for such a bank might be quantitatively equivalent to a 6-7 percent charge under the new RWA.

This note does not address these "cross-bank" issues. Given that there will be a single set of capital requirements applicable to all banks (except possibly for a SIFI surcharge for the largest banks), a prudent policy response might be to limit how "aggressive" any downward RWA translation adjustment would be.

RWA Scenarios

Table 1 is intended to illustrate how various assumptions about the trend in credit risk RWA and market risk RWA might affect one's view of the appropriate translation between old and new RWA. Table 1 takes as a starting point a stylized initial RWA composition and makes simplified assumptions about future RWA for operational risk and CVA, assumptions that are held fixed for purposes of the Table. We have shaded some of the cells of the Table to correspond to a range of potential corrections for future pro-cyclicality in credit risk RWA and market risk RWA that we (FDIC staff) believe to be plausible.

As an example of how this analysis might be applied, if the shading of cells in Table 1 were deemed reflective of a likely range of RWA scenarios, we might conclude that, in round numbers, a 5 percent minimum TCE requirement in terms of old RWA might translate roughly to a 4 percent minimum TCE requirement in terms of new RWA.

Table 1. RWA assumptions for market and credit risk and implied translation from old RWA to new RWA

2a) RWA scenarios for credit risk and market risk						
Increase in RWA	Multiple on current credit RWA:					
for Market Risk	120%	100%	90%	80%	70%	60%
4.6 times	179	164	156.5	149	141.5	134
4 times	170	155	147.5	140	132.5	125
3.4 times	161	146	**138.5**	**131**	**123.5**	116
2.8 times	152	137	**129.5**	**122**	**114.5**	107
2.2 times	143	128	**120.5**	**113**	**105.5**	98
1.6 times	134	119	111.5	104	96.5	89

2b) Implied translation from old RWA to new RWA						
Increase in RWA	Multiple on current credit RWA:					
for Market Risk	120%	100%	90%	80%	70%	60%
4.6 times	0.56	0.61	0.64	0.67	0.71	0.75
4 times	0.59	0.65	0.68	0.71	0.75	0.80
3.4 times	0.62	0.68	**0.72**	**0.76**	**0.81**	0.86
2.8 times	0.66	0.73	**0.77**	**0.82**	**0.87**	0.93
2.2 times	0.70	0.78	**0.83**	**0.88**	**0.95**	1.02
1.6 times	0.75	0.84	0.90	0.96	1.04	1.12

2c) Implied translation of 5 percent TCE to old RWA in terms of new RWA						
Increase in RWA	Multiple on current credit RWA:					
for Market Risk	120%	100%	90%	80%	70%	60%
4.6 times	2.8	3.0	3.2	3.4	3.5	3.7
4 times	2.9	3.2	3.4	3.6	3.8	4.0
3.4 times	3.1	3.4	**3.6**	**3.8**	**4.0**	4.3
2.8 times	3.3	3.6	**3.9**	**4.1**	**4.4**	4.7
2.2 times	3.5	3.9	**4.1**	**4.4**	**4.7**	5.1
1.6 times	3.7	4.2	4.5	4.8	5.2	5.6

Notes: Table assumes old RWA of 100 as follows: non-CVA credit=75; op risk=10, market risk=15; and CVA=0. New RWA for non-CVA credit risk as a percentage of old is assumed to vary as described in the column headings. New RWA for market risk is assumed to increase 4 times, from 15 to 60, as indicated in row 2 of tables 2a, 2b and 2c. Row 1 assumes 120% of the increase in market risk RWA is realized; row 3 assumes 80% of the increase is realized; row 4 assumes 60% of the increase is realized; row 5 assumes 40% of the increase is realized; and row 6 assumes 20% of the increase is realized. RWA for operational risk remains constant at 10, and the new RWA for CVA is assumed equal to 10 (this corresponds very roughly to what CVA relative to old RWA might be for a sample of large U.S. banks, after elimination of the 5 times multiple). Table assumes that a capital requirement expressed in old RWA would be translated as follows: Ratio to new RWA = (old RWA/new RWA)*(ratio to old RWA).

Attachment

Percentiles of the Distribution of
Return on Risk-Weighted Assets
Using After-tax Net Income for U.S. Bank Holding Companies*

		Percentile						
	Number of Observations	95/5	99/1	99.5/0.5	99.9/0.10	99.95/0.05	99.97/0.03	99.99/0.01
Annual Data 1981 – 2009								
Entire Sample	9534	-1.01	-5.44	-7.45	-13.07	-17.30	-19.41	-29.18
By Asset Size								
Top 20	580	-1.35	-4.08	-4.91	-6.50	-6.50	-6.50	-6.50
Below Top 20	8954	-0.93	-5.52	-7.53	-13.08	-17.30	-19.41	-29.18
Rolling 4 Quarters 1986 – 2009								
Entire Sample	26862	-1.13	-5.77	-7.89	-14.86	-20.35	-24.23	-28.48
By Asset Size								
Top 20	1775	-1.36	-2.95	-4.76	-6.50	-11.32	-11.32	-11.32
Below Top 20	25087	-1.10	-5.95	-8.11	-14.90	-21.30	-24.35	-28.48
Rolling 6 Quarters 1986 – 2009								
Entire Sample	25039	-1.38	-7.33	-10.31	-18.33	-25.18	-28.59	-34.35
By Asset Size								
Top 20	1711	-1.15	-3.74	-4.81	-7.76	-11.22	-11.22	-11.22
Below Top 20	23328	-1.42	-7.51	-10.59	-19.67	-25.73	-30.04	-34.35
Rolling 8 Quarters 1986 – 2009								
Entire Sample	23335	-1.33	-7.94	-11.72	-21.34	-29.22	-33.33	-39.18
By Asset Size								
Top 20	1652	-0.62	-3.96	-5.64	-7.99	-8.87	-8.87	-8.87
Below Top 20	21683	-1.42	-8.37	-11.99	-21.88	-29.96	-34.89	-39.18

* Reproduction of table prepared by the Federal Reserve Bank of New York