FEDERAL DEPOSIT INSURANCE CORPORATION

JELENA McWILLIAMS
CHAIRMAN

April 10, 2020

The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, D.C. 20510

Dear Chairman Crapo:

Thank you for your letter regarding efforts by the federal financial regulators to address the economic risks resulting from COVID-19. The Federal Deposit Insurance Corporation (FDIC) is working closely with the other financial regulators to provide necessary flexibility to both banks and their customers in these challenging times. I appreciate the opportunity to update you on key regulatory actions that we have taken as well as additional measures that are under consideration.

Following the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), the FDIC has engaged with the Small Business Administration (SBA) and the Department of Treasury on the Paycheck Protection Program (PPP) and has taken a number of steps to facilitate the ability of insured depository institutions to make loans to small businesses under the program. On April 9, 2020, the FDIC, Board of Governors of the Federal Reserve System (FRB), and the Office of the Comptroller of the Currency (OCC) issued an interim final rule[1] (IFR) to facilitate the making of loans under the PPP by allowing banking organizations to neutralize the regulatory capital effects of loans funded through the FRB's PPP lending facility.

The FDIC also has taken several other important steps to facilitate the use of the PPP. First, we set up a dedicated section on our website to share information on the PPP.[2] Second, we are regularly sharing inquiries from banks with SBA leadership to help ensure that banker questions and concerns are better understood. Third, we established a frequently asked questions (FAQ) resource for bankers[3] and issued a financial institutions letter for banks with important information on PPP, including links to the SBA and U.S. Department of Treasury's webpages

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[1] *See* Regulatory Capital Rule: Paycheck Protection Program Lending Facility and Paycheck Protection Program Loans, RIN 3064-AF49 (approved April 7, 2020) (to be codified at 12 C.F.R. Part 324) available at https://www.fdic.gov/news/board/2020/2020-04-07-notational-fr.pdf.
[2] *See* FDIC, Coronavirus (COVID-19) Information for Small Business Lenders, available at https://www.fdic.gov/coronavirus/smallbusiness/.
[3] *See* FDIC, Frequently Asked Questions on the Small Business Administration's Paycheck Protection Program (Apr. 5, 2020), available at https://www.fdic.gov/coronavirus/smallbusiness/faq-sb.pdf.

regarding the program.[4] Fourth, we are providing ongoing resources to our examination teams so they are able to answer questions from institutions. We are also actively considering a number of additional steps to help banks better understand the program and the process.

The FDIC has taken numerous other steps to facilitate the ability of banks to support the economy, including those related to or resulting from provisions in the CARES Act. The FDIC, FRB, and OCC issued an IFR[5] to implement Section 4012 of the CARES Act by providing a temporary Community Bank Leverage Ratio of 8 percent, and additionally provided[6] a gradual transition back to 9 percent to enable institutions to focus on supporting lending to creditworthy households and businesses during this time of economic strain. The agencies also issued an IFR[7] to allow institutions that are subject to the current expected credit losses methodology (CECL) for estimating allowances for credit losses the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period. This option would apply for institutions that do not elect to delay implementation of CECL under Section 4014 of the CARES Act.

Additionally, the agencies issued a statement[8] on April 7 that encourages financial institutions to work constructively with borrowers impacted by COVID-19. Notably, the statement reiterates[9] that staff of the Financial Accounting Standards Board (FASB) confirmed that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not troubled debt restructurings (TDRs) under ASC Subtopic 310-40, and such guidance continues to apply with respect to loan modifications related to COVID-19 that are not addressed by Section 4013 of the CARES Act.

The FDIC is considering additional regulatory changes to support the ability of financial institutions to meet customer needs. For example, the FDIC is considering temporary changes to

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[4] *See* FDIC FIL-33-2020, *New SBA and Treasury Programs Available for Small Business Relief* (Apr. 2, 2020), available at https://www.fdic.gov/news/news/financial/2020/fil20033.html.
[5] *See* Regulatory Capital Rule: Temporary Changes to the Community Bank Leverage Ratio Framework, RIN 3064-AF45 (approved April 7, 2020) (to be codified at 12 C.F.R. Part 324) available at https://www.fdic.gov/news/board/2020/2020-04-03-notational-fr-a.pdf.
[6] *See* Regulatory Capital Rule: Transition for the Community Bank Leverage Ratio Framework, RIN 3064-AF47 (approved April 7, 2020) (to be codified at 12 C.F.R. Part 324) available at https://www.fdic.gov/news/board/2020/2020-04-03-notational-fr-b.pdf.
[7] *See* Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses, 85 Fed. Reg. 17723 (Mar. 31, 2020), available at https://www.fdic.gov/news/board/2020/2020-03-27-notational-fr-b.pdf.
[8] *See* FDIC-FIL-34-2020, *Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus* (Apr. 7, 2020), available at https://www.fdic.gov/news/news/financial/2020/fil20036.html.
[9] *See* FDIC-FIL-22-2020, *Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus* (March 22, 2020), available at https://www.fdic.gov/news/news/financial/2020/fil20022.html. This statement was issued prior to the enactment of the CARES Act and was moved to inactive status following issuance of the April 7 statement. The FDIC also previously issued an FDIC-only statement on March 13 encouraging financial institutions to work with borrowers and asserting the agency would not criticize prudent efforts to modify loans for customers affected by COVID-19. *See* FDIC-FIL-17-2020, *Regulatory Relief: Working with Customers Affected by the Coronavirus* (Mar. 13, 2020), available at https://www.fdic.gov/news/news/financial/2020/fil20017a.pdf.

the supplementary and tier 1 leverage ratios that would allow banking organizations to expand their balance sheets through deposits at Federal Reserve Banks and/or acquisition of U.S. Treasury securities. This change would allow banking organizations experiencing significant inflows of deposits to continue serving these customers in a manner that does not create an incentive for banks to take additional risk.

The FDIC is continuing to monitor the impact of COVID-19 and will take additional action, as warranted, to ensure financial institutions are able to lend to consumers and businesses during this difficult time. The FDIC is committed to providing appropriate regulatory and supervisory assistance to promote lending by institutions it supervises and mitigate the economic impact of COVID-19 for consumers and businesses.

If you or your staff have additional questions or comments, please contact me at (202) 898-6868 or M. Andy Jiminez, Director, Office of Legislative Affairs, at (202) 898-6761.

Sincerely,

Jelena McWilliams

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