ICBA
INDEPENDENT COMMUNITY BANKERS of AMERICA®

January 9, 2018

The Honorable Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

The Honorable Janet Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Mr. Russell G. Golden
Chairman
Financial Accounting Standards Board
401 Merritt 7
Norwalk, CT 06856

Re: Regulatory and Accounting Impact of Recent Tax Reform Legislation

Dear Comptroller Otting, Chair Yellen, Chairman Gruenberg, and Chairman Golden:

The Independent Community Bankers of America (ICBA)[1] is very concerned about the immediate impact that recent legislative changes in the Internal Revenue Code will have on community bank financial statements and regulatory capital. Although we believe community banks will be much stronger overall as a result of tax reform and the passage of the Tax Cuts and Jobs Act, we are concerned that many community banks will have

[1] The Independent Community Bankers of America®, the nation's voice for more than 5,700 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services. With 52,000 locations nationwide, community banks employ 765,000 Americans, hold $4.9 trillion in assets, $3.9 trillion in deposits, and $3.3 trillion in loans to consumers, small businesses, and the agricultural community. For more information, visit ICBA's website at www.icba.org.

their 2017 net income adversely impacted because of the need to impair reported deferred tax items in the financial statements. In some cases, this write down will significantly impact regulatory capital.

While ICBA commends the banking agencies for their intention to issue guidance on this issue, ICBA is still concerned about the immediate impact on 2017 financial statements when recording the impairment of these deferred tax items, particularly when community banks will generally see a broad uptick in net earnings during 2018 because of the reduction in corporate tax rates. With respect to those deferred tax items that originally impacted accumulated other comprehensive income or AOCI, the earnings impact of these adjustments can be alarming for those community banks that carry high-quality investment securities on the balance sheet designated available-for-sale.

As preserved in Basel III, community banks are not required to recognize the impact of AOCI in regulatory capital. But for banks that record an adjustment to a deferred tax item as a result of AOCI, the earnings impact will also immediately impact common equity tier 1 capital, the most critical capital element community banks need to be considered well capitalized under the Basel III prompt corrective action framework. Also, the tracking nightmare that results from needing to adjust a deferred tax item originally impacting AOCI alone is enough to question the appropriateness of the accounting, especially when considering the straightforward business model of smaller, non-public financial institutions. It should be noted that the impact of the tax legislation for year-end financial statements is a noncash impact for an experience that some might consider a “once in a lifetime” event. In most cases, any impact in 2017 will be completely mitigated in 2018 and thereafter by an overall reduction in the corporate tax rate.

ICBA believes that community bank customers, investors, and regulators do not have a full understanding of the unintended consequences that the tax legislation will have on GAAP financial statements and regulatory capital balances for community banks that need to make adjustments to deferred tax assets. Without immediate action by your agencies, financially strong and well-capitalized community banks could inadvertently be deemed undercapitalized or deficient in earnings simply because they were forced to adjust deferred tax items as a result of legislative action.

The Financial Accounting Standards Board (FASB) should promptly amend GAAP to allow community banks the option to keep the tax effect impact of AOCI due to changes in the effective tax rate within AOCI and not in reported earnings. This solution avoids the tracking nightmare, regulatory capital impact, and the confusion that would result for other stakeholders from the reported tax effects resulting from the legislation. Prudential bank regulators should segregate the adverse impact of any regulatory capital changes from regulatory capital balances when measuring capital adequacy for December 31,

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2017 call reports and for all call reports submitted for fiscal year 2018. By taking these steps and applying some needed regulatory flexibility, your agencies will ensure that community banks are not unfairly criticized by the unintended consequences of tax legislation that is designed to boost the strength and viability of the U.S. economy.

ICBA appreciates your attention to these concerns and their associated negative consequences for smaller financial institutions. If you have any questions or would like additional information, please do not hesitate to contact James Kendrick at james.kendrick@icba.org.

Sincerely,

/s/

James Kendrick
First Vice President, Accounting and Capital Policy