October 10, 2017

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
United States House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member, Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Re: Clarifying High Volatility Commercial Real Estate Loans (H.R. 2148)

Dear Members of the Committee on Financial Services:

The undersigned organizations represent a broad spectrum of owners, investors, managers, lenders and brokers from every aspect of the U.S. commercial and multifamily real estate market. We are pleased to support the Committee's efforts to enact measures that will promote economic growth, create jobs and enable market participants and financial companies to better participate in the economy.

One such measure involves reform of the Basel III High Volatility Commercial Real Estate (HVCRE) Rule as stipulated in one of the bipartisan measures being marked up on Wednesday, October 11, 2017 in the House Financial Services Committee – Clarifying High Volatility Commercial Real Estate Loans (H.R. 2148). We encourage members of the Committee to support this measure.

Congressman Pittenger (R-NC) and Congressman Scott's (D-GA) bipartisan legislation – H.R. 2148 – helps address concerns regarding the Basel III HVCRE rules by amending the Federal Deposit Insurance Act to clarify the certain requirements for certain acquisition, development, or construction loans (ADC).

The lack of clarity in the Rule and subsequent HVCRE Frequently Asked Questions (FAQs) published by the agencies on March 31, 2015 has resulted in a wide disparity in how banks classify their ADC portfolios as HVCRE or non-HVCRE. This result has negatively impacted ADC loan decisions for some banks, leaving some borrowers with fewer and potentially more costly sources of ADC loan capital. The legislation would clarify and modify the HVCRE rules to ensure that they are appropriately calibrated and do not impede credit capacity or economic activity, while still promoting economically responsible commercial real estate lending.

The HVCRE rules are disproportionally affecting ADC lending by driving up borrowing costs and reducing credit availability. The rules are overly broad and include many stabilized loans without construction risk in this HVCRE category, unduly burdening stabilized loans with capital charges appropriate to protect banks from heightened construction risks. Many banks, including small community financial institutions, have been deterred from making this type of loan which impedes economic development across the nation.

Of the $3.8 trillion[1] in commercial real estate debt outstanding, commercial banks constitute our nation's largest source of commercial real estate financing. Yet, approximately $1 billion a day is maturing though 2019 – including $469 billion[2] in bank debt. Without adequate credit capacity, this wall of maturities could create problems in the banking system and the broader economy.

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[1] Federal Reserve Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts, Q4 2017
[2] Trepp, LLC

The commercial and multifamily real estate industry makes a significant contribution to the nation's economy – contributing to America's gross domestic product, employing millions of people and producing a significant amount of the taxes raised by local governments for essential public services. Without adequate credit capacity for this important sector, jobs and tax revenue will be lost.

The proposed legislation addresses several specific deficiencies in the agencies' regulations governing what is an HVCRE loan. The legislation does not eliminate the agencies' ability to require banks to hold higher capital for HVCRE loans. Rather, the bill provides the clarity as to which types of loans should and should not be classified as HVCRE loans.

It should be noted that the banking regulators have released a Notice for Proposed Rulemaking that would significantly change the current HVCRE rule by replacing it with a newly defined exposure category called high volatility acquisition, development or construction (HVADC). As the rulemaking process moves forward, we encourage regulators and Congress to work together and with the industry to ensure a coherent and consistent statutory and regulatory approach.

A vote in favor of H.R. 2148 will help reverse the negative economic impact that the HVCRE rules are having on acquisition, development and construction lending and help craft a sensible financial framework for growing a healthy economy. We appreciate your consideration and look forward to working with you and other members of the House Financial Services Committee to ensure that the Basel III rules are appropriately calibrated and do not impede credit capacity.

Thank you for the opportunity to comment on this important issue.

Sincerely,

CRE Finance Council
International Council of Shopping Centers
Mortgage Bankers Association
NAIOP, the Commercial Real Estate Development Association
National Association of Home Builders
National Association of Real Estate Investment Trusts
National Association of Realtors
National Multifamily Housing Council
The Real Estate Roundtable