Issue of Concern : Phase out of TRuPS

Originally, the banking agencies proposed to phase-out trust preferred securities (TRupS) under either a 3 or 10 year transition period, depending on the institution's size. The proposed treatment, however, went against the intent of the Dodd-Frank Act's Collins amendment, which grandfathered existing TRuPS issued before May 19, 2012, for institutions between $500 million and $15 billion. Instead of maintaining the grandfathering of TRuPS, the banking agencies would have implemented a phase-out of these instruments for bank holding companies with between $500 million and $15 billion in total consolidated assets, as of December 31, 2009, permitting the inclusion of 90% of the carrying value of such instruments in 2013, with annual 10% decreases in the includible amount through 2021, until the instruments are fully phased-out on January 1, 2022.

Why it is an Issue:

- Phasing out TRuPS would have placed significant burdens on community banks;
- Privately-held banks are facing, in light of the costs associated with increased regulations, would have greatly reduced alternatives in raising capital;
- Dodd-Frank never intended for this type of instrument to be phased-out for community banks.

Final Rule

The banking agencies, noting the burden the proposed phase out of TRuPS would have caused for community banks, permanently grandfathered TRuPS issued before May 19, 2010 and other "non-qualifying" capital instruments in tier 1 capital of institutions with less than $15 billion in assets and mutual holding companies established on or before May 19, 2010.

Banking organizations with assets of $15 billion or greater that are not advanced approaches banks must begin to phase out TRuPS from tier 1 capital by January 1 2015, however TRuPS may remain in tier 2 capital until the instruments are redeemed or mature. Advanced approaches banks must begin the phase out of TRuPS from regulatory capital by January 2014.