

June 14, 2010

To: Members of the Senate-House Conference on H.R. 4173

Re: Opposition to Collins Amendment on Capital Rules

The undersigned banking trade associations, representing banks of all sizes in every state, are writing to you to express our serious concerns about section 171 (Collins amendment) of the Conference Base Text (H.R. 4173). This section would be destabilizing for a large number of financial institutions, and would result in a significant curtailment of credit to small businesses and consumers.

First and foremost, there has been no meaningful discussion by Congress about the need for, or impact of, this amendment offered by Senator Susan Collins (R-ME). Given the potential for serious unintended adverse consequences, we believe the best course of action is to strike section 171 and review carefully whether there is a better way to achieve the objective of strengthening the capital of our country's financial institutions.

The amendment, in essence, would impose on bank holding companies the same capital rules that apply to banks. The two sets of rules are equally effective but differ in material respects. For instance, two important sources of capital – trust preferred securities and Treasury's investments through the Capital Purchase Program – are permitted for bank holding companies but not for banks.

These two sources of capital alone comprise ***\$177 billion of capital held by more than 1,550 companies. Section 171 would eliminate this capital***, forcing the affected institutions either to replace it or shrink. The former option is not realistic for small holding companies, while the latter would significantly impede the economic recovery. For mutually chartered banks and their holding companies, the rules would eliminate two important sources of capital – trust preferred securities and loans from other mutual institutions – further limiting capital raising choices or forcing conversion to stock.

Below is a partial list of other issues raised by section 171:

- Small bank holding companies (defined as those with less than \$500 million in total assets) would be forced to comply with the same rules that apply to multinational corporations. These community bank holding companies typically are “shell” companies that own no assets other than the stock of the subsidiary banks. It makes no sense to apply a one-size-fits-all rule to them. To do so would cause many to be deemed undercapitalized, notwithstanding the fact that they are fundamentally strong. Of the affected companies, almost 900 have less than \$500 million in assets and are, as a class, least able to access the capital markets.
- Section 171 applies to any nonbank financial company that is brought under the Federal Reserve Board's jurisdiction, which may include the Federal Home Loan Banks (FHL Banks). The FHL Banks are not commercial banks and, appropriately, have a capital structure that is fundamentally different from that of commercial banks. Notwithstanding these differences, section 171 could impose commercial bank standards on the FHL Banks while effectively prohibiting much of the FHL Banks' capital from being considered Tier 1. This would raise serious questions about the value of commercial banks' investments in the FHL Banks.
- Section 171 would undermine the ongoing efforts of U.S. financial regulators to modernize and strengthen international capital standards at a time when the U.S. government is working with other nations to strengthen capital requirements on a global, internationally coordinated basis.

Section 171 is not needed to strengthen holding company capital rules. Other provisions of the bill already address the need for stronger capital. For example, section 165 requires that the Federal Reserve Board establish enhanced risk-based and leverage capital requirements for systemically significant firms. Section 616 authorizes the Federal Reserve Board to issue such regulations and orders as the Board deems appropriate relating to the capital levels of *all* bank holding companies and savings and loan holding companies. Section 171 would undercut these and other authorities, and do so in a way that risks serious unintended consequences.

Given the stakes involved, we believe the more prudent course is for Congress to direct the agencies to review the differences between the capital rules that apply to banks and bank holding companies, respectively. If harmonization of the rules is appropriate, the agencies should be directed to do so but in a manner that will permit a more considered reflection of the pros and cons of various changes.

We urge the conference committee to strike section 171 (Collins amendment) from the final bill.

Sincerely,

American Bankers Association  
Alabama Bankers Association  
Alaska Bankers Association  
Arizona Bankers Association  
Arkansas Bankers Association  
California Bankers Association  
Colorado Bankers Association  
Community Bankers Association of Ohio  
Connecticut Bankers Association  
Delaware Bankers Association  
Florida Bankers Association  
Georgia Bankers Association  
Hawaii Bankers Association  
Heartland Community Bankers Association  
Idaho Bankers Association  
Illinois Bankers Association  
Illinois League of Financial Institutions  
Indiana Bankers Association  
Iowa Bankers Association  
Kansas Bankers Association  
Kentucky Bankers Association  
Louisiana Bankers Association  
Maine Association of Community Banks  
Maryland Bankers Association  
Massachusetts Bankers Association  
Michigan Bankers Association  
Minnesota Bankers Association  
Mississippi Bankers Association  
Missouri Bankers Association

Montana Bankers Association  
Nebraska Bankers Association  
Nevada Bankers Association  
New Hampshire Bankers Association  
New Jersey Bankers Association  
New Mexico Bankers Association  
New York Bankers Association  
North Carolina Bankers Association  
North Dakota Bankers Association  
Ohio Bankers League  
Oklahoma Bankers Association  
Oregon Bankers Association  
Pennsylvania Bankers Association  
Puerto Rico Bankers Association  
Rhode Island Bankers Association  
South Carolina Bankers Association  
South Dakota Bankers Association  
Tennessee Bankers Association  
Texas Bankers Association  
Utah Bankers Association  
Vermont Bankers Association  
Virginia Bankers Association  
Washington Bankers Association  
Washington Financial League  
West Virginia Bankers Association  
Wisconsin Bankers Association  
Wyoming Bankers Association

Cc: Members of the U.S. Senate  
Members of the U.S. House of Representatives