

From: First American Bank, Donald A. Roubitchek  
Proposal: 1442 (RIN 7100-AD 87) Regs H, Q, & Y Regulatory Capital Rules  
Subject: Regs H & Y Regulatory Capital Proposals

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Comments:

Dear Sir or Madam:

I have two comments.

Regarding Capital Conservation Buffer, it appears that no consideration was given to S corp banking organizations. As it is written in the proposed regulation, if a banking organization is adequately capitalized, but does not maintain a Capital Conservation Buffer, it is unable to pay dividends. Unless subject to a stringent enforcement action, S corps traditionally have been allowed to pay tax dividends to its stockholders in amounts equal to their tax liabilities. This proposed regulation should be amended to state that the restrictions on dividends, discretionary payments on tier 1 instruments, share buybacks and certain discretionary bonus payments, shall be instituted after tax dividends are paid to S corp stockholders.

Regarding phase out of TRUPS as tier 1 capital, this flies in the face of Dodd-Frank. For smaller banks, this regulation proposes that TRUPS will be phased out as tier 1 capital over 10 years. Dodd-Frank specifically addressed this issue and allowed smaller banks to keep grandfathered TRUPS as tier 1 capital. This was done to recognize the extreme difficulty smaller banks have in raising tier 1 capital. This proposed regulation is not only counterproductive, but it will unnecessarily create a new crisis.

Thank you for your consideration.

Sincerely,

Donald A. Roubitchek  
First American Bank