

January 29, 2020

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Ave., NW
Washington, D.C. 20551

Re: Regulatory Capital Rules: Risk-Based Capital Requirements for Depository Institution Holding Companies Significantly Engaged in Insurance Activities

Docket No. R-1673 and RIN 7100 AF 56

Dear Ms. Misback:

I write regarding the notice of proposed rulemaking (NPR) on risk-based capital requirements for insurance savings and loan holding companies (ISLHCs). The Board of Governors of the Federal Reserve System (Board) deserves commendation for its thoughtful engagement preceding the NPR. However, the Board should reconsider the imposition of a separate banking capital calculation under Section 171. This calculation not only runs counter to congressional intent, but it is also duplicative and wholly unnecessary from a safety and soundness standpoint.

Many of my colleagues and I have outstanding and serious concerns about the ill-conceived *Dodd-Frank Wall Street Reform and Consumer Protection Act* (Dodd-Frank), but I am aware that Section 171 of Dodd-Frank gives the Board certain authority over ISLHCs. During the rulemaking process after Dodd-Frank, insurers rightfully expressed concern that under the Board's interpretation of Section 171, the agency would impose unnecessary and burdensome bank capital requirements on ISLHCs.

Following these concerns, Congress came together in a bipartisan fashion and passed S. 2270, the *Insurance Capital Standards Clarification Act*. S. 2270 passed both chambers of Congress by unanimous consent, was signed into law by President Obama, and was the first substantive change to Dodd-Frank. The intent of S. 2270 is crystal clear: insurance companies should not be subject to bank-focused capital standards, and the administrative implementation of Section 171 as revised should be tailored to recognize the differences between bank holding companies and ISLHCs.

It is therefore extremely disappointing that despite this clear, united direction from Congress that the Board is now moving forward with a proposal that imposes a Section 171 capital requirement that penalizes many ISLHCs. This is a direct contravention of the intent of Congress. Furthermore, including this calculation is unnecessary and duplicative since the NPR itself states that the Building Block Approach (BBA), which adheres to S. 2270, abides by the Dodd-Frank

Section 171 mandate. In light of this, the Board should seriously reconsider mandating a separate Section 171 calculation on ISLHCs before issuing a final rule.

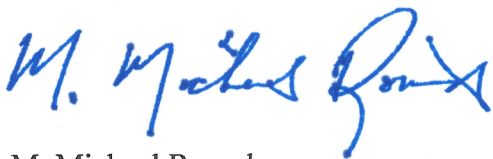
In addition, I would like to echo concerns from the National Association of Insurance Commissioners (NAIC) regarding the treatment of senior debt in the NPR. In its comment letter, the NAIC pointed out that not including senior debt as available capital could require an insurance holding company to have a capital ratio falling below action thresholds, forcing the firm to raise capital, but at the same time forbidding the same firm from using senior debt as a capital source. I trust that the Board will consider this comment from the NAIC carefully, and avoid taking any action that could put policyholders at risk or unnecessarily increase the cost of insurance to the American public.

As I am sure you know, the appropriate capital treatment for ISLHCs is an issue of great interest to me and many other members of Congress. Congress has an important role to play in the protection of policy-holders and in preserving the role of the states as the primary regulator of insurance companies. Therefore, we look forward to our formal review of the final regulation after it is published in the Federal Register to make certain that our concerns have been addressed.

Separately, I would also welcome the opportunity to continue our dialogue about the BBA. In addition to concerns I have about potential disruptions between insurers and their state insurance regulators that could occur under the current BBA during periods of market stress, it appears that the BBA's total minimum capital requirement is higher than current requirements for bank holding companies. I am also concerned that the capital conservation buffer, which is not required by statute, is also unnecessarily high and not based on any analysis of actual insurance risks.

Thank you for the opportunity to comment on this proposal.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Michael Rounds". The signature is fluid and cursive, with a large initial "M" and a stylized "Rounds".

M. Michael Rounds
United States Senator

CC: Governor Jerome Powell, Chair
Governor Richard Clarida, Vice Chair
Governor Randal Quarles, Vice Chair for Supervision
Governor Michelle Bowman
Governor Lael Brainard
Mr. Mark Van Der Weide, General Counsel
Mr. Thomas Sullivan, Associate Director