PRESS RELEASE

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FDIC Issues Guidance to S-Corporation Banks Regarding Basel III Capital Conservation Buffer

FOR IMMEDIATE RELEASE

The Federal Deposit Insurance Corporation (FDIC) is clarifying how it will evaluate requests by S-Corporation Banks to make dividend payments that would otherwise be prohibited under the Basel III capital conservation buffer.

On April 8, 2014, the FDIC finalized new Basel III capital rules. These rules include a capital conservation buffer which prohibit or limit the amount of dividends a bank can pay when its risk-based capital ratios fall below certain thresholds. The capital conservation buffer will be phased in during the years 2016-2018 and will be fully effective in 2019.

Federal income taxes of S-corporation banks are paid by its investors. If an S-corporation bank has income but is limited or prohibited from paying dividends as a result of the new rules, its shareholders may have to pay taxes on their pass-through share of the S-corporation's income from their own resources. Because of the nature of the capital conservation buffer phase-in, the FDIC does not expect this S-corporation tax issue to present itself in specific cases for several years. Nevertheless, to address the concerns of S-corporation banks, the FDIC is clarifying certain aspects of the capital conservation buffer as it applies to S-corporation banks.

The Basel III-rule contains a provision allowing any bank to request approval from their primary federal regulator to make a dividend payment that would not otherwise be permitted by the capital conservation buffer. The regulator may approve such request if warranted based on safety-and-soundness considerations. Absent significant safety-

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Congress created the Federal Deposit Insurance Corporation in 1933 to restore public confidence in the nation's banking system. It promotes the safety and soundness of these institutions by identifying, monitoring and addressing risks to which they are exposed. The FDIC receives no federal tax dollars — insured financial institutions fund its operations.

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and-soundness concerns about the requesting bank, the FDIC generally would expect to approve exception requests by well-rated S-corporation banks that are limited to the payment of dividends to cover shareholders' taxes on their portion of an S-corporation's earnings.

This clarification does not change the Basel III regulation or any other existing FDIC policy, and does not limit the ability of other banks to request approval to make a dividend payment that would not otherwise be permitted under the capital conservation buffer, including banks that had experienced difficulties but are returning to health.

Attachment: Guidance to S-corporation Institutions

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