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November 25, 2019

Office of the Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: Proposed Rule, "Update of Statistical Disclosures for Bank and Savings and Loan Registrants," File No. S7-02-17

Dear Office of the Secretary:

Crowe LLP appreciates the opportunity to provide input on the Securities and Exchange Commission ("SEC" or "Commission") proposed rule, "Update of Statistical Disclosures for Bank and Savings and Loan Registrants" ("Proposal" or "Proposed Rule"). We support the SEC's efforts to modernize and codify, in new subpart 1400 of Regulation S-K, the statistical disclosures required for bank and savings and loan registrants. We applaud the Commission's efforts to enhance the meaningfulness and usefulness of disclosures for investors, including eliminating many of the redundant and outdated disclosures in current Guide 3, and we offer the following observations that might assist the Commission in further enhancing the effectiveness and operability of the Proposed Rule.

Credit Ratios

Net Charge-offs to Average Loans

The credit ratio disclosure in proposed Item 1405 of Regulation S-K includes the ratio of net charge-offs to average loans, disaggregated by loan category as required to be disclosed in the financial statements. We recommend the Commission consider the feedback received from preparers as to whether any system limitations or other operational issues would impact an entity's ability to provide this information. In addition, based on the economic analysis provided in the Proposal, we encourage the Commission to consider feedback from users to determine if the cost of providing such information, including any costs related to potential operational difficulties in providing the information, outweigh the perceived benefits from users.

Reporting Periods

The Proposal specifies the credit ratio disclosures would be required for each annual period required by Commission rules for a registrant's financial statements, except in the case of an initial registration statement (or initial offering statement under Regulation A), which would require five years of credit ratio disclosures. We encourage the Commission to consider whether the five-year requirement is consistent with the objectives of disclosure effectiveness and investor protection and instead allow Emerging Growth Companies (EGCs), and issuers under Regulation A that would otherwise qualify as an EGC, to present the disclosures for only the financial statement periods presented in the initial registration or offering statement.

Other Observations

The Proposal does not appear to address whether a registrant must recast the net charge-offs to average loans credit ratio disclosure for all periods presented if the entity changes the loan categories disclosed in its financial statements (for example, upon the adoption of ASC 326). We encourage the Commission to consider whether any final rule should specifically address whether such information should be recast.

Deposits

Proposed Item 1406(e) would require disclosure of uninsured deposits as of the end of each reporting period. We encourage the Commission to consider further outreach to the Federal Deposit Insurance Corporation (FDIC) and preparers about the potential difficulty and cost of preparing this disclosure. We note current FDIC Call Report instructions¹ allow banks to provide estimates of uninsured deposits. Further, a new FDIC rule,² effective April 1, 2020, is limited to insured depository institutions with greater than two million deposit accounts and requires such institutions to configure information systems to accurately calculate insured and uninsured deposits. Both points illustrate the potential complexity and costs involved in calculating a precise amount for uninsured deposits, particularly for institutions which are not otherwise required to comply with the FDIC's new rule.

Upon receiving any additional feedback from the FDIC or preparers, we suggest the Commission perform a further cost benefit analysis of requiring precise disclosure of uninsured deposits and consider whether the disclosure objective could be achieved in an alternative way (for example, through disclosure of an estimate of the uninsured portion of deposits or through disclosure of the total balance in accounts that exceed the FDIC insurance limits). The Commission might also consider whether certain information provided in bank investor and analyst presentations with respect to the bank registrant's sources of deposits might achieve the same objective as proposed Item 1406(e).

Location of Statistical Disclosures

The Proposed Rule would continue to provide bank and savings and loan registrants with flexibility to determine where in the filing the required information should be presented. As noted in the Proposal, the statistical disclosures currently required typically are included in the business section or in Management's Discussion and Analysis. In Question 77 of the Proposal, the Commission requested feedback about whether the proposed disclosures should be located in the footnotes to the audited financial statements. We believe the Commission should, before finalizing any rule requiring the statistical disclosures in the audited footnotes, resolve any operational complexities that might be inherent in the new credit ratio and uninsured deposit disclosures, as discussed above, and consider whether certain proposed requirements (for example, requiring five years of credit ratio information) would need to be revised. Absent resolution of any identified operational complexities, requiring the proposed disclosures in the audited footnotes might result in audit complexities and increased costs. We would also encourage outreach to the Financial Accounting Standards Board (FASB) to understand whether and how FASB contemplated similar disclosures during the standard setting process for current or pending U.S. Generally Accepted Accounting Principles (GAAP) disclosures.

Securities Act Rule 409 and Exchange Act Rule 12b-21

The Proposed Rule indicates that both domestic and foreign registrants would be able to rely on Rules 409 and 12b-21 to omit the five years of credit ratio information if, after reasonable effort, it is unable to obtain that information. Given the limited historical reliance on Rule 409 and 12b-21 in our experience, it would be helpful for the Commission to issue interpretive guidance that explains how a registrant could demonstrate that the requested information is unknown and not reasonably available without unreasonable

¹ <https://www.fdic.gov/regulations/resources/call/crinst/2019-03/031-041-319rc-o-033119.pdf>

² <https://www.fdic.gov/regulations/resources/recordkeeping/index.html>

effort or expense and whether a bank or savings and loan registrant should seek staff pre-approval before relying on such accommodation.

Closing

We thank the SEC for providing the opportunity to express our views on questions raised in the Request. Please contact Mark Shannon at 202-779-9921 or Brad Davidson at 317-706-2635 to answer any questions that the staff may have regarding the views expressed in this letter.

Sincerely,

A handwritten signature in black ink that reads "Crowe LLP". The word "Crowe" is written in a cursive style, and "LLP" is written in a simpler, blocky font.

Crowe LLP