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This form is to be completed by Executive Branch employees who are contacted by registered lobbyists regarding **EESA**. This report includes a written description of each contact, the date and time of the contact, and the names of the registered lobbyist(s) and the employee(s) with whom the contact took place. Written materials prepared by registered lobbyists should be attached to this form for posting on the website. The information on this form will be available to the public on Treasury's website.

To be completed by the employee contacted

Date and time of contact:	Name of the Employee(s) Contacted (Name and Title)	Brief description of the communication: (attach separate sheet if necessary)
Friday Oct.9, 2009 11:00AM	Lori Bettinger Deputy Director, Equity Program Ted Schaffner Director, Equity Program	Letter to express support of the specific recommendations to help well-managed, viable banks address their capital needs.

Name of the Employee(s) who prepared this form:	Date
Robin J. Brunson	10.13.09

Registered Lobbyist Name:	Title:	Firm or Organization:, if applicable	Client
Mark Tenhundfeld	Senior Vice President	American Bankers Association	

October 9, 2009

The Honorable Timothy Geithner
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Geithner:

The undersigned state bankers associations are writing to express our support of the specific recommendations to help well-managed, viable banks address their capital needs as described in the attached letter sent to you from ABA Chairman-Elect Arthur Johnson in September. The letter identifies several Capital Assistance Program modifications that would help many traditional banks as they work through the challenges imposed by rising unemployment and declining property values in their communities.

The recommended CAP changes outlined in the letter are summarized below:

- Invest up to $5 billion of Troubled Asset Relief Program funds in banks that did not receive Capital Purchase Program funds.
- Limit the maximum Treasury CAP investment in any one bank to 5% of its risk-weighted assets.
- Require participating banks to issue Treasury senior preferred securities.
- Require participants to show they have private equity commitments to match Treasury's investment dollar for dollar.
- Allow any bank with total assets of $5 billion or less to apply, but condition approval on an acceptable capital restoration plan.

We strongly urge you to consider all of the recommendations included in the attached letter.

Sincerely,

Alabama Bankers Association
Arizona Bankers Association
Arkansas Bankers Association
California Bankers Association
Colorado Bankers Association
Connecticut Bankers Association
Delaware Bankers Association
Florida Bankers Association
Georgia 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
Maryland Bankers Association
Michigan Bankers Association
Minnesota Bankers Association
Mississippi Bankers Association
Missouri Bankers Association
Montana Bankers Association
Nebraska Bankers Association
Nevada 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
Community Bankers Association of Ohio
Oklahoma Bankers Association
Oregon Bankers Association
Pennsylvania Bankers Association
South Carolina Bankers Association
South Dakota Bankers Association
Texas Bankers Association
Utah Bankers Association
Virginia Bankers Association
Washington Bankers Association
Washington Financial League
West Virginia Bankers Association
Wisconsin Bankers Association
Wyoming Bankers Association

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September 21, 2009

The Honorable Timothy Geithner
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Geithner:

Earlier this year, the American Bankers Association formed a task force to focus on community bank solutions to the financial crisis. We appreciate the opportunity our bankers had to meet with several Treasury representatives, and we appreciate Treasury's recognition of the vital role that community banks play in our financial system. After those meetings as well as meetings with the bank regulators and significant discussions internally, we have developed specific recommendations for ways the existing Capital Assistance Program (CAP) could be modified to assist well-managed, viable community banks and therefore be more effective in achieving its objectives. These recommendations may be summarized as follows:

- Invest up to $5 billion of Troubled Asset Relief Program (TARP) funds in community banks that did not receive Capital Purchase Program (CPP) funds;
- Limit the maximum CAP investment by Treasury in any one bank to 5% of the bank's risk-weighted assets;
- Require participating banks to issue Treasury senior preferred securities;
- Require participants to show that they have commitments from private equity to match Treasury's investment dollar for dollar; and
- Allow any bank with total assets of $5 billion or less to apply but condition approval upon the submission of an acceptable capital restoration plan.

Background and discussion. Strong capital is essential to helping community banks work through the problems caused by declines in asset values. While conditions have improved over the past year in the economy overall, many community banks are finding that the lagging impacts of job losses and declines in property values are negatively affecting these banks, causing declines in their capital at a time when new capital often is hard to find.

This problem is compounded by the unintended consequences of policies that have the effect of steering private investors to failed banks. For instance, the FDIC announced in June that, while the Legacy Loans Program remained a viable program, the agency intended to scale the program back at least initially to a pilot involving failed banks. The FDIC announced last week that it had selected a winning bidder in a sale of receivership assets and that the bidder would receive FDIC-guaranteed financing. This, coupled with loss-sharing agreements used to entice buyers of failed banks and failed bank assets, is creating incentives for investors to wait until a bank has failed before investing.

Furthermore, the banking agencies are requiring many banks to raise capital at a time when sources of capital are scarce and at precisely the time when capital should be available to absorb losses. This can put these banks in an untenable position, precipitating the failure of a viable bank that has a good franchise and could survive if capital was made available.[1]

The ABA recommends that Treasury modify the criteria for its CAP to assist viable community banks that need help working through their current issues. We propose that Treasury offer assistance to those banks that did not qualify for CPP funds but that nevertheless can demonstrate the ability to operate safely and soundly and survive if given the chance to obtain necessary capital. This ability would be demonstrated in three ways.

- First, a bank would have to present evidence that private investors are contractually committed to match Treasury's investment dollar for dollar.
- Second, the private investors would have to agree to receive securities that are subordinate to Treasury's interests.
- Third, the bank would have to submit a capital restoration plan to its primary regulator that, when factoring in the proposed investments by Treasury and private equity, satisfies the requirements of the "Prompt Corrective Action" rules.[2] As part of that plan, the bank also would have to show that it has adequate management to address its problems.

The suggested aggregate investment by Treasury of $5 billion is based on the amount of funds, when matched by private equity on a dollar-for-dollar basis, needed to bring all insured depository institutions with assets under $5 billion to capital levels equal to a Tier 1 risk-based capital ratio of 8% and a total risk-based capital ratio of 12% ***assuming the stressed scenarios used by the banking regulators in the SCAP***. These capital levels significantly exceed the thresholds established by the banking regulators for a bank to be deemed "well capitalized"[3] under the Prompt Correct Action rules and would provide a cushion that could enable participating banks to continue meeting the credit needs of their communities without having to shrink to comply with minimum regulatory capital requirements. A $5 billion commitment by Treasury is well below half of the dividends and warrant repurchases received by Treasury from CPP participants[4] and less than 4% of

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[1] Further information about the role of community banks and the adverse impact that recent governmental actions have had on these banks is discussed in Attachment A.

[2] *See* 12 C.F.R. § 6.5 (Office of the Comptroller of the Currency); 12 C.F.R. § 208.44 (Board of Governors of the Federal Reserve System); 12 C.F.R. § 325.104 (Federal Deposit Insurance Corporation); and 12 C.F.R. § 565.5 (Office of Thrift Supervision).

[3] For a bank to be "well capitalized" under the Prompt Corrective Action rules, it must have total risk-based capital of at least 10%; Tier 1 risk-based capital of at least 6%; a leverage ratio of at least 5%; and not be subject to a written requirement to meet a specific capital level.

[4] "The dividends paid on those [CPP] investments and the repurchases of warrants we received for those investments now total about $12 billion. For the 23 banks that have fully repaid, Treasury has earned an annualized average return of roughly 17 percent." Secretary of the Treasury Timothy F. Geithner, Written Testimony before the Congressional Oversight Panel, September 10, 2009 (available at http://www.ustreas.gov/press/releases/tg283.htm).

the total of CPP funds invested to date.[5] Our projections show that an estimated 2,000 community banks would be potentially eligible (*see* Attachment B), although it is highly unlikely that all 2,000 would choose to, or be approved to, participate.

As noted above, this program would involve matching investments by private equity investors. It is important that private equity qualify regardless of whether it comes from existing shareholders or new investors. Either way, the bank is receiving a strong vote of confidence in its viability from stakeholders who stand to lose their investments. Moreover, current investors and management often are in the best position to judge the prospects of a bank and to determine the advisability of investing in that bank.

We believe that, as a general matter, Treasury could adopt as many of the terms used in the CPP as would be relevant. Thus, for instance, Treasury would receive the same sort of securities, subject to the same conditions, as it has received through the CPP. To make this workable for community banks, we propose two exceptions to this general approach, however. First, given that these funds are intended for viable yet struggling community banks, we believe it would be appropriate for Treasury to agree that any approved banks would not be expected to pay dividends in the first four quarters following Treasury's investment. Second, we renew our request, first raised in the context of the CPP,[6] that investments in S corporations and mutual institutions that do not have holding companies be treated as Tier 1 capital. It is our understanding that these banks' interest in the CPP was significantly diminished by the treatment of CPP investments as Tier 2 capital.

We very much appreciate your consideration of these recommendations. Community banks are the backbone of our economy and are critical to the overall improvement of our economy. For a nominal investment, Treasury can preserve viable community banks, which in turn would preserve jobs and communities. As the former Comptroller Eugene Ludwig wrote in an op-ed on Friday, September 18, 2009 in the American Banker, "Now is the time for regulators to work with the well-managed community banks wherever possible to raise capital and dispose of troubled assets. Regulators must look for ways to help these institutions rather than find reasons to close them."

We would be happy to provide any further information or assistance that you would find helpful.

Sincerely,

Arthur C Johnson

Arthur Johnson

cc: The Hon. Sheila Bair, Chairman, Federal Deposit Insurance Corporation
The Hon. Ben Bernanke, Chairman, Board of Governors of the Federal Reserve System
Mr. John Bowman, Acting Director, Office of Thrift Supervision
The Hon. John Dugan, Comptroller of the Currency

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[5] As reported on the Transactions Report for the period ending September 4, 2009, Treasury has invested slightly over $134 billion through the CPP. *See* http://www.financialstability.gov/docs/transaction-reports/transactions-report_09092009.pdf.

[6] *See* Letter from Diane Casey-Landry to the Hon. Timothy F. Geithner, dated April 16, 2009.