Fishback Financial Corporation

April 8, 2019

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Division of Banking
South Dakota Department of Labor and Regulation
1601 N. Harrison Avenue, Suite 1
Pierre, SD 57501

Re: Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organization: Docket ID OCC-201-0040; Docket No. R-1638; RIN 3064-AE91

To Whom It May Concern:

Fishback Financial Corporation is a privately-held financial holding company headquartered in Brookings, South Dakota. Our organization began as a check-cashing station in 1880 and has grown to include two state bank charters, with 23 locations serving 18 towns in South Dakota and Minnesota with total assets of $2.9 billion. We are a proud community bank and strive to provide the best products possible to our customers.

We appreciate the opportunity to comment on the notice of proposed rulemaking, specifically the establishment of a community bank leverage ratio ("CBLR") as a way to simplify capital reporting requirements for community banks. The proposal is in response to Section 201 of the Economic Growth Regulatory Relief and Consumer Protection Act of 2018 (the "Act"). We support the efforts to simplify the capital calculations for community banks and the ability for banks to opt in and out of the CBLR reporting framework. However, we recommend a few revisions to the proposal that we feel will better ensure simplification for community banks.

We believe that the CBLR threshold of nine percent (9%) is too high. Establishing the ratio at eight percent (8%) is still well above the current leverage ratio requirement for well-capitalized

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banks. The difference for our two state banks between holding eight percent (8%) and holding nine percent (9%) is $28 million in capital, a significant amount for our community bank. This $28 million could be used to provide loans for our customers or for our banks to avoid incurring additional funding sources. Additionally, we have concerns that the nine percent (9%) CBLR ratio may be viewed as a minimum by examiners, and banks will effectively be required to hold capital in excess of nine percent (9%) in order to avoid regulatory criticism.

We believe that the CBLR calculation should use Tier 1 capital as currently defined. The introduction of yet another capital definition seems counterproductive to efforts to simplify the capital calculations for community bankers. However, simplification would be achieved if eligible banks used the current RC-R Part I calculations for capital. If the eligible bank met or exceeded the Tier I Leverage Ratio requirement, the bank could stop at that point of the form without having to complete RC-R Part II. However, if a bank does not meet the Tier I Leverage ratio requirement, they would continue on to Part II.

This approach would avoid the requirement of a separate calculation and form for community banks to learn, and for which to adapt their processes and software integration. For example, the current deduction for intangible assets from Tier 1 Capital is net of associated deferred tax liabilities, but the proposed CBLR deducts intangible assets gross of any deferred taxes. As a result, community banks such are ours would change their calculation of Capital depending on whether they meet the CBLR threshold. Again, if the CBLR were consistent with Tier 1 Capital, we would only have to calculate capital once and then determine if we meet the well-capitalized requirement.

In addition, it is unclear to us whether or not Trust Preferred Securities would be eligible for capital inclusion in the CBLR. Having two sets of capital requirements with differing treatment for Trust Preferred Securities further complicates financial and capital management.

We would appreciate greater clarity on the consequences, if any, of moving to and from the CBLR. Understanding how our financial institution may be negatively affected by falling below the CBLR is essential to our decision on whether or not to take advantage of the simplifications offered by the CBLR.

Thank you for the opportunity to comment on the proposed rulemaking.

Sincerely,

[redacted]

Carrie Wilson
Chief Financial Officer
Fishback Financial Corporation