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October 9, 2012

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 2-3
Washington, DC 20219

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

Re: BASEL III Proposed Regulation

BRIGHT LINE AT 25 BILLION

Ladies and Gentlemen:

I open my comment letter to you with a practical suggestion for the application of the BASEL III proposed regulation. This incredibly complex proposal poses a significant threat and burden to the community banking system of the United States.

I, along with all community bankers, understand the need to maintain sufficient capital levels. In fact, the vast majority of community banks are well capitalized under the rules that you have established, and have been in place for a number of years. Bankers have constructed balance sheets with these levels in mind. This new proposed regulation turns this approach on its head, and applies it retroactively.

I am well aware of the concerns that steps be taken to avoid a repeat of the financial crisis. These concerns must be carefully balanced with the burden this regulation places on community banks – both in terms of compliance and access to capital.

It is for this reason that I strongly suggest that the idea I have highlighted at the beginning of my letter be considered by your agency. The "Bright Line at 25 Billion" means that, at its outset, this regulation will only apply to financial institutions with assets greater than 25 billion. In doing this, a number of your goals can be accomplished. First, by applying this regulation to institutions of this size gets at the issue of systemic risk with the financial system of our country. Institutions of this size control the vast majority of bank deposits and assets in our country. Second, institutions of this size have the ability and resources to navigate through the complexities of this regulation. Third, institutions of this size

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have access to capital markets. Fourth, this limited application provides the opportunity of observing how this regulation impacts the financial market and the banking industry. I have no doubt that you have received many letters outlining the significant negative impact this regulation will have on the mortgage markets, construction loans, small businesses, and a myriad of other components necessary to the proper functioning of our economy. No one – not you, the other agencies, Congress, or the authors of those letters know with any level of certainty whether these scenarios will play out. If you "experiment" with the application of this regulation by limiting its impact to these larger institutions, you will be affording yourselves the opportunity of seeing how it works, and interacting with banks of high sophistication that can provide you with detailed analysis of the regulation's impact.

It has been suggested by some that there should not be any concern with this proposed regulation. In fact, some point out that the "models" indicate that 90%+ of all banks will still have good capital ratios after the application of this regulation. My question is this: How do they know this? The regulation requires a deep investigation into all the components of the balance sheet. Risk weighting calculations must be performed. We are only now conducting this, and a degree of uncertainty remains as to where the ratios will end up. Applying a "one size fits all" model is misleading, and misses the point. After all, if nine out of ten banks meet this test, why foist this burden on an already over regulated banking industry?

It is my hope that you will find this suggestion to be persuasive. If more is needed to understand the detrimental impact this proposed regulation will have on community banks, I will outline significant concerns that I have regarding its impact on First United.

1. Phase out of Tier One Capital Treatment for TRUPs.

One of the most alarming and disturbing proposals in this regulation is the phasing out of TRUPs as tier one capital. This provision is not found in the international accord that is BASEL III. It was added by this proposed regulation. It is disturbing in that it is in direct conflict with the will and intent of Congress. The treatment of TRUPs was debated in the formulation of Dodd-Frank. Because Congress recognized that TRUPs are an important component of the capital of community banks, and recognized that it is difficult for community banks to access capital markets, it decided to grandfather TRUPs as tier one capital for financial institutions with assets below $15 billion. This is the intent of Congress, and this regulation violates the spirit and will of the Collins Amendment.

First United, in understanding the rules as they existed in 2004, decided to utilize TRUPs as a way of building capital. This was done in a point in time when the economy was strong, and there were various options available for the raising of capital. First United selected TRUPs because it was economical and non-dilutive. Now, this proposed regulation seeks to eliminate the capital treatment of TRUPs at a time when it is difficult, expensive and very dilutive to raise capital elsewhere. For institutions with assets below $1 billion, capital markets may not even be an available option.

So, if this regulation goes into effect, First United will likely consider shrinking its asset base by $391,000,000 or 29% in order to account for this new treatment for TRUPs. Please remember that, if we cannot replace the TRUPs with equity capital, we will still have our legal obligation to the investors who own our TRUPs.

If we decrease our asset base by nearly $400 million to comply with this regulation, we will be required to tighten lending in the eight counties in **Maryland** and **West Virginia** that we serve. In addition to decreasing our lending in the counties, we will also reduce deposits in these areas as well. As we send deposit customers packing, one has to wonder how this proposed regulation strengthens the banking system in the U.S.A. Because of our smaller asset base, we will need to address our employment as well. This could result in a decrease in the work force, or certainly limited hiring for an extended period of time. Do you honestly believe this is what is best for our economy and our country?

2. The proposed regulation creates a hierarchy of capital application for mortgages.

This is an incredibly difficult and onerous process to "slice and dice" the mortgage portfolio to ascertain what capital levels need to be applied to each and every mortgage. Because First United has $1.3 billion in assets, we have the resources to slog through this process. What of a bank which is the size of the average bank in our country - $165 million – or 1/8th our size? Who, among that bank's twenty to thirty employees will address this task?

In our case, we will likely find that the categorization will decrease our levels of capital. Couple this with our initial concern regarding TRUPs, and we may have an issue.

Again, this may likely be addressed by decreasing our lending efforts. Further, we may decide to exit certain types of mortgages because of the capital weighting assigned to those types of lending. The question bears repeating: Do you honestly believe this is what is best for our economy and our country?

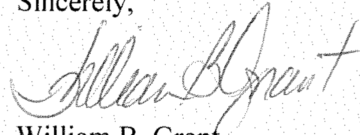
3. The proposed regulation also increases the risk weighting on delinquent loans.

This approach disregards the provisioning process that we employ at First United. Essentially, this proposed regulation "double counts" assets. It is included in the calculations of the Loan Loss Reserve, as prescribed by regulation. The proposed regulation now requires additional allocations of capital, based on a formulaic approach. In addition to decreasing capital, and consequently, potential lending, there is also a greater incentive to push these loans out of the bank. This is accomplished by working less with the borrower, and more aggressively collecting the loan.

I hope this letter provides you with a sense of the breadth of risk that this proposed regulation presents to, primarily, the critical community banking sector of our financial markets. I have attempted to provide you with a glimpse of how it would impact First United, and how we might respond to that impact. I have offered what I believe to be a practical solution to this situation which I believe meets the intent of the framers of Basel III, while protecting community banking and what they do for the communities across the country.

I do appreciate the opportunity of providing this comment letter, and I would look forward to the opportunity of discussing it with you.

Sincerely,



William B. Grant
Chairman of the Board,
President and
Chief Executive Officer

WBG/fm

cc: Senator Barbara Mikulski
Senator Ben Cardin
Senator Joe Manchin
Senator Jay Rockefeller
Congressman Roscoe Bartlett
Congressman Steny Hoyer
Congresswoman Shelley Moore Capito
Femia Adamson
Aaron Edelman
Wayne Abernathy, ABA
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