October 16, 2012

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
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 NW
Washington, DC 20429

Re: Proposed Regulatory Capital Rules: Regulatory Capital, Implementation of BASEL III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions and Prompt Corrective Action (R-1442, Docket ID OCC-2012-0008, RIN 1557-AD46, RIN 3064-AD95)
and
Proposed Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements (R1442, Docket ID OCC-2012-0009, RIN 1557-AD46, RIN 3064-AD96)

Ladies and Gentlemen,

BankWest, Inc. (BW) appreciates the opportunity to submit comments on the above referenced notices of proposed rulemaking (NPRs). The NPRs were released on June 12, 2012 by the FRB, OCC and FDIC (together, the Agencies) and are designed to incorporate the latest revisions to the Basel III framework and to implement relevant provisions of the Dodd Frank Wall Street Reform and Recovery Act. The Agencies have stated their belief that the proposals will result in capital requirements that "better reflect banking organizations' risk profiles and enhance their ability to continue functioning as financial intermediaries, including during periods of financial stress, thereby improving the overall resiliency of the banking system."

BW understands the Agencies' efforts to address perceived weaknesses in the banking industry's capital framework and we recognize the enormous challenges that the Agencies face in developing a system that accurately reflects risk across a broad and diverse universe of financial institutions that make up the United States banking system. We appreciate the willingness of the Agencies to extend the comment period through October 22, 2012. In the past months BW has been preparing for and has undergone a regular FDIC exam and the extension has allowed us the time to respond. In addition, we have been working on trying to measure the impact of this proposal on our Bank and we have found the proposal to be highly complicated and difficult to analyze. We do not have all the data necessary to run the model created by the Agencies. In addition, the model addresses only the current impact of the changes and does not measure the "phased in" impact. Therefore, we request that consideration be given to further extending the comment period into 2013.

BW's comments' regarding the NPR's are listed below and they follow our paraphrase of the relevant sections of each specific NPR.

Proposed Regulatory Capital Rules: Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions and Prompt Corrective Action (Basel III NPR)

- **Proposed Rule: Accumulated Other Comprehensive Income (AOCI) as a component of Tier I capital-** The agencies are proposing that AOCI, which includes all unrealized gains and losses on AFS securities, would flow through to common equity Tier I capital. This includes unrealized gains or losses related to debt securities whose valuations primarily change as a result of fluctuations in a benchmark interest rate, as opposed to changes in credit risk.

BW Comments: BW has a number of concerns about the inclusion of AOCI as a component of Tier I capital. The Agencies themselves have acknowledged that the inclusion of unrealized gains and losses on securities could introduce substantial volatility in a banking organization's regulatory capital ratios. We understand that from a market valuation perspective that it is necessary to include AOCI as a part of tangible capital. We believe, however, that inclusion in regulatory capital could lead to flawed, uneconomic and even unsound decision making regarding a bank's asset liability management and investment portfolio. The following are some of the potentially troubling aspects of this proposal:

1. Inclusion of AOCI in the regulatory capital calculations will probably force the regulators to calculate alternative ratios to determine an effective capital position, exclusive of AOCI. Capital ratios that have been bolstered by market appreciation will almost certainly be discounted to reflect the potential volatility that would exist if rates were to go up. At the same time, market depreciation would be counted against capital even though rates down and/or time might significantly improve the capital position. A non-publicly traded local community bank like BW will not have access to capital markets to bolster capital levels should rates go up and capital levels fall. We would have to hold greater levels of capital to comply with a ratio requirement that is reflecting a temporary adjustment.
2. One option available to Banks like us is to place more of our securities in the held-to-maturity (HTM) account. This move would protect our capital account from the market fluctuations related to interest rate movements, but it would result in significant operational restrictions. BW would no longer be able to adjust its portfolio for liquidity and funds management purposes or for changing risk/reward profiles. The use of HTM by one institution and Available for Sale (AFS) by another would result in disparate treatment of the same bonds. Two institutions with the exact same portfolios could have significantly different capital ratios based on slotting in the HTM or AFS account.
3. Another option available to us to reduce the potential for capital ratio volatility is to keep the investment portfolio very short. This will help to reduce the market value risk but it will also significantly reduce the ability of the investment portfolio to produce income and generate capital appreciation. Earnings are a significant contributor to a community banks' ability to overcome difficult economic times. In the last 18 months we have purchased $16 million of GNMA reverse mortgage pools. These GNMA pools have generated a total annual return of approximately 7.60% or $1,216,000. If we had invested in a short-term security instead of the GNMA's we would have probably earned about .5% or $80,000. The difference of $1,136,000 would have come straight off our bottom line!
4. Including AOCI in the regulatory capital calculation applies mark-to-market treatment to only one set (about 16% for BW) of an institution's balance sheet. Other balance sheet components that have very similar economic attributes, such as loans and HTM securities, do not receive the

same treatment. In addition, the liability side of the balance sheet is totally ignored, thus if a bank has taken steps on the liability side to mitigate interest rate risk they receive no credit for that protection. In BW's case we have added some long-term fixed rate deposits that will be significantly more valuable should interest rates increase. If we use that money to match fund a slightly longer asset we are actually penalized for protecting ourselves against increasing rates. To further illustrate this point, William Isaac, former Chairman of the FDIC, in his book, Senseless Panic, attributed the severity of the latest economic downturn to mark to market accounting. He is a staunch opponent of mark to market accounting.

5. BW and almost all community banks have historically been a buyer of municipal securities. These securities have been a reliable source of solid revenues in various periods of rates up and down. If these proposals are adopted we may have to re-evaluate our municipal bond purchases in order to lower our "capital risk". This will result in lower performance for us and will make it more difficult and more expensive for municipal governments to fund community needs. At a minimum municipal bonds should be carved out of this proposal!
6. BW feels that the negative impacts of the AOCI inclusion will fall disproportionately upon community banks, due to their very limited access to capital markets for funding and temporary equity enhancements.

To illustrate the impact of this proposal with our portfolio we give you the following facts. At the end of September our portfolio was just under $117 million. We had a tier 1 leverage ratio of 9.45% and a total risk based capital ratio of 12.95%. In a rates up 300 bps immediate rate shock we estimate losing approximately $14 million and if rates fall our gain would be approximately $12 million. Our capital ratios would fall to approximately 7.50% and 10.50% in the up 300 shock and go up to 11.00% and 14.90% in the down rate shock. This volatility of 350 bps for the leverage ratio and 440 bps for the total risk based capital ratio is caused by interest rate movements that will be temporary either through moving toward maturity or rates going back the other way. If this is adopted BW will have to strongly consider reducing that volatility, probably to the detriment of our earnings and liquidity!

BW recommends that the agency proposal to include AOCI be dropped. Unintended consequences of the proposal have the potential to ultimately weaken a bank's capital position rather than strengthen it.

Proposed Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets (Standardized Approach NPR)

- **Proposed Rule: Past Due Exposures –** The Agencies have proposed that banking organizations assign a risk weight of 150% to any exposure that is not guaranteed if it is 90 days past due or on nonaccrual.

BW Comments: When we encounter times of economic stress it is normal for banks to have cyclical increases in past-due and nonaccrual loans. To account for potential loss exposures banks will make periodic provisions to their allowance for loan and lease losses. In addition, once a loan is classified, BW must test the loan for impairment. In the event of impairment BW would write down the loan by the amount of the impairment. In addition, the impairment will impact our general reserve calculations through the historical loss rate. Therefore, we strongly believe that the additional risks of past due loans are being accounted for and there should be no need to create an additional capital charge at all let alone to increase it to a 150% risk weight.

BW recommends that, because the loan loss exposures are already reflected in the Allowance for Loan Losses, this proposal be dropped.

Thank you for the opportunity to express our opinions!

Sincerely,

Charles H. Burke III, CEO & Chairman of the Board

BankWest, Inc.