FIRST LEGEND BANK & TRUST FIRST STATE BANK & TRUST
Where banking is still a people business.

October 18, 2012

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

Via E-mail: comments@FDIC.gov

RE: FDIC RIN 3064-AD 96; Regulatory Capital Rules

Dear Mr. Feldman:

Below are comments regarding the proposed Basel III Notices of Proposed Rulemaking (NPR).

First State Bank and Trust (FSB&T) is a state chartered bank, with its home office in Tonganoxie, KS, population 5,000. We have approximately $231,000,000 in total assets and we are honored to employ approximately 90 people across the 5 communities we serve.

First, I want to emphasize that FSB&T is committed to high safety and soundness standards, including appropriate capital levels that safeguard our depositor's interests, your agency's capital standards and insurance fund, and protect the integrity of the U.S. banking industry. Security for our customers, staff, communities and country is our highest priority.

FSB&T is currently well capitalized and operates under a detailed capital plan designed to measure risks, manage capital levels, and devise and implement contingency planning to protect the interests described above. We have a strong relationship with our state and federal regulatory supervisors and work closely with them on all our capital adequacy issues.

We have a history of being among the largest, most stable employers in our communities, but we operate on limited resources. Simplicity, certainty, and consistency are the most valuable elements of the regulatory framework we operate under. Regulatory changes or burdens that vary from these principles for the sake of casting a broad net that is applicable to all bank's in our country (and I suppose in this case – applicable to banks in all the Basel Committee countries) presents the risk of amplified, negative repercussions that hit our staff and customers almost immediately. This in turn has immediate and palpable effects on our local community's economy. We believe the Basel III proposal is overly broad in application and presents these negative risks to banks like FSB&T.

In addition – we believe the timing of this proposal (whether substantively positive or negative) presents significant risk at a time when the global, U.S., and Kansas economies and banking industries are just beginning to show green shoots of recovery. Any projections of the effect these proposals may have on the recovery are speculative. There are surely many opinions about the future impact of the proposal – but there must be uniform agreement that effects and unintended consequences are inevitable. This requires serious consideration of the wisdom of introducing these sorts of systemic changes at time when the overall condition of the economies and industry are outside of normal, average health ranges.

The preceding paragraphs explain the general reasons we ask that you and your agency reject the Basel III proposal. We would support an initiative by U.S. federal and state regulators (FFIEC and CSBS) to review and examine the current U.S. banking capital standards, with broad involvement in the design by U.S. industry leaders and associations.

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More specifically, FSB&T is not particularly unique from hundreds of other U.S. community banks that will be commenting on these proposals. I don't expect we have any novel or unique concerns, so I am sure our comments will mirror many of our peer banks. Also, your agency's examiners and officers spend 100's of hours annually in our bank, collecting and analyzing reports and data. Our FDIC regulators are professional, experienced, and highly capable. In fact, we depend on their knowledge and guidance a great deal, because of their access to enormous resources and expertise that a small community bank likes ours does not have. We assume the FDIC has scrutinized the impact of your proposal on the hundreds of community banks like ours prior to issuing the NPR.

Those assumptions notwithstanding, the following elements of the proposal cause us the most immediate concerns:

1. We are in the process of trying to raise new capital. The access to capital for community banks has been drastically reduced in recent years. The uncertainty and increased costs and burden created by continuing regulatory changes have contributed to this negative development. This capital proposal is exacerbating the problem and creating a lack of willingness on the part of community bank investors.

2. The inclusion of investment gains and losses on available-for-sale debt securities in the common equity tier 1 computation at such a dramatic stage of the rate cycle is extremely risky and reckless. Our bank does not actively "trade" securities for income. We "build" a portfolio for safety, income, and liquidity planning. This significant change in the accounting treatment of our bond portfolio – will require our bank to abandon pre-determined investment strategies, execute unwanted bond trades at inopportune times, and potentially render our existing capital and liquidity plans ineffective.

3. The proposed adjustments to asset risk weighting is unnecessary and overly burdensome on small U.S. banks. These rules and methodologies may be meaningful for bank's with international activities, obligations and aspirations; or the large national and regional banks in the U.S., that have volumes of assets that make blanket risk weighting necessary and that have the operational resources to adequately track asset characteristics. The operational burden of coding and tracking risk weightings will be significant for our bank. The additional weightings will also affect our ability to deliver some traditional, community bank products into our markets.

4. The proposed capital buffer is unnecessary and overly broad for FSB&T and similarly situated U.S. community banks. Small, non-complex banks are subject to close supervision and frequent reporting and examination obligations, which provide reasonable regulatory oversight with some latitude to make case-by-case judgments.

In conclusion, I reiterate that FSB&T understands the importance of, and is committed to adequate capital levels. We value the role the FDIC plays in the supervision and management of our bank and the guidance, expertise, and security the FDIC brings to the industry. We work closely with the FDIC on our capital planning and adequacy and will always do so regardless of the future of this proposal. We do however, respectfully submit that the current proposal is not appropriately tailored to serve U.S. community banks, <u>it is extraordinarily ill-timed</u>, and presents general and specific risks and intended and unintended consequences that should not be introduced into the U.S. community banking system at this time.

Thank you for the opportunity to provide input.

Respectfully,

William D. Grant, Jr.
President and CEO