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MEMBER FDIC

July 31, 2012

Federal Deposit Insurance Corporation

Email: [comments@fdic.gov](mailto:comments@fdic.gov)

Re: FDIC – RIN 3064-AD95 (Basel III NPR)  
Comment Concerning Capital Conservation Buffer

To Whom It May Concern:

There are in excess of 2,000 Subchapter S banks in the United States. Main Bank is one. We are all considered community banks. My comment concerns the dividend payment restriction if a bank does not satisfy the capital conservation buffer requirement. The proposed rule appears to have been written to apply to C corporations, without regard to S corporations.

Subchapter S bank shareholders would normally receive a dividend that would at least cover their income taxes on the earnings of their bank. Such is the case at Main Bank. Under the proposed rule, neither Main Bank's shareholders nor any other Sub S bank would be allowed to receive such a dividend with which they could pay their income taxes. However, Subchapter C banks would be allowed to pay their respective income taxes.

By way of example, assume two banks that are identical in every way except that one is a Subchapter S bank and the other is a Subchapter C bank. They both earned \$1,000,000 pre-tax. Assume the C bank's federal and state income taxes are \$400,000. The C bank would be allowed to pay its taxes under the proposed rule. Under the most restrictive level, that bank would not be able to pay any dividends to its shareholders, but it would have been able to pay its respective federal and state income taxes.

Under the proposed rule the S bank that has \$1,000,000 in pre-tax earnings would not be able to pay any dividend to its shareholders with which they could pay their respective taxes, yet those shareholders owe the taxes just as the C bank owes the taxes.

An appropriate fix for this is simple. Re-write the rule so that each S bank is allowed pay enough dividends to its shareholders in an amount that is equivalent to what the bank would have paid in federal and state income taxes had it been a C bank.

Should you have any questions about my comments or would like to discuss please do not hesitate to call me at (505) 880-1700. Thank you for reading.

Respectfully,

A handwritten signature in cursive script that reads "Ronald J. Shettlesworth".

Ronald J. Shettlesworth  
President & CEO



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