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September 19, 2012

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

RE: FDIC Basel III NPR (RIN 3064-AD95)

Dear Mr. Feldman:

As a financial consultant who works with over 40 small community banks, I urge the FDIC to make significant modifications to the Basel III NPR to provide appropriate relief to community banks.

Basel III was conceived as an international standard that would apply only to the largest, internationally active banks. However, the proposed rule would impose Basel III standards on banks of all sizes. Most community banks did not engage in the reckless behavior that contributed to the recent economic crisis. Imposing excessive regulatory standards on community banks would only threaten the nation's economic recovery.

Appropriate risk constraints on community banks are best applied through an efficient regulatory system that consistently applies existing regulations through the current examination process. Most community banks already meet the higher capital standards of Basel III due to years of higher unofficial capital standards set by regulators and accepted by bankers. Implementation of Basel III's complex standards and capital inclusion parameters would create additional regulatory oversight and examination review burdens for the FDIC, OCC and state banking departments, leaving less time for careful reviews of asset quality, liquidity and market risk.

Smaller institutions should not be subject to the same complex standards required of larger and riskier financial firms. I suggest a tiered capital standards approach that recognizes the difference between Main Street community banks and larger, systemically important financial conglomerates. By exempting financial institutions with total assets of less than $1 billion from the Basel III NPR, the FDIC would exclude 6,586 (91%) of the nation's 7,246 FDIC-insured institutions (as of June 30, 2012) while still applying the heightened capital standards to 90% ($12.6 trillion) of the industry's total assets. <u>From a risk management standpoint, addressing 90% of the industry's asset exposure while placing a burden on only 10% of the institutions seems a logical and effective choice.</u>

If a complete exemption of smaller institutions from the Basel III NPR is not feasible, I offer the following suggestions for partial relief, whether applied to all institutions or just smaller market participants:

- Accumulated other comprehensive income should not be included in regulatory capital. The choices available to smaller institutions to avoid significant AOCI-related capital impact would result in lower earnings (through reduced holdings of instruments with longer duration, including municipal securities that provide important financing structures for America's municipalities), lower returns to shareholders (through higher capital retention – beyond prudent capital standards – to offset AOCI) or less flexible balance sheets (through reallocation of AFS securities into HTM classification).

- Trust preferred securities previously issued by institutions with less than $15 billion in assets should be grandfathered and not phased out. Especially in today's current economic environment, requiring smaller institutions to replace existing trust preferred issues (which were created for use as capital with full blessing of banking regulators) would create unnecessary costs and risks for community banks and, by extension, the Deposit Insurance Fund.

- The current cap on the inclusion of allowance for loan and lease losses as capital should be raised. A bank's ALLL is a segregation of capital allocated as coverage for estimated losses in the loan portfolio. Limiting the amount of this capital allocation pool that can be included as capital provides incentive for bankers to avoid an ALLL over the inclusion limit and penalizes banks that take a proactive stance toward recognition of risk.

The nation's largest, systemically important institutions desperately need additional capital regulations, as well as additional regulatory oversight, to prevent another Lehman-like failure that exacerbates existing economic problems. Please don't let the needs of the few result in excessive burdens on the many. Apply Basel III to the 10% of all institutions over $1 billion and let existing regulatory practices continue to work for the other 90%.

Sincerely,

T. Jefferson Fair
President