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October 16, 2012

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 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, D.C. 20429

Re: Basel III Capital Proposals

Ladies and Gentlemen:

Thank you for the opportunity to provide comment on the Basel III proposals[1] that were issued for public comment by the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. While we applaud the objective of creating a more level playing field for financial institutions operating in international markets and to increase capital requirements to provide a greater ability to weather future economic cycles, the unintended consequences to the U. S. banking system are of grave concern to us.

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[1] The proposals are titled: *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, and Transition Provisions; Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements; and Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rules; Market Risk Capital Rule.*

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Our bank was formed in 2007 in Omaha, Nebraska. We have grown to $170 million in total assets as we approach our five year anniversary. The bank was formed by several executives from large financial institutions to fill a void in the market where customers are valued by providing personal service and by making available products that all could afford. Our significant growth is testimony to the need for a vibrant community bank alternative to the mega banks.

The U. S. banking system is unique in the world. No other country has the number or diversity of commercial banks and financial services firms. Most other countries are dominated by a few very large institutions often serving as the central bank. While the U. S. system does have some very large banks, the smaller community banks, which make up the majority of the number of banks, provide critical financial services to many underserved communities, provide an alternative to individuals and small to mid-sized businesses, and represent the heartbeat of their communities as the owners and managers live and work among their customers. Community banks may not be too big to fail but they are too important to ignore.

Most community banks, as in our case, are not active in the derivatives market, are not able to participate in hedging and swap activities. Community banks are focused on the business of banking, accepting deposits by providing cost effective products and investing those funds into secure investments and into loans in support of its local markets. Therefore, our concerns lie with only a few of the proposal components which we believe will have serious unintended consequences for the country.

1. **Inclusion of Accumulated Other Comprehensive Income (AOCI) in regulatory capital.** The purpose of the bond portfolio for a community bank is to first provide a source of liquidity and secondarily to generate current income. Today's low interest rates have given the banks unrealized gains recognized in AOCI as the value of legacy portfolios has risen. When interest rates move upward, however, this will reverse and could have a catastrophic effect on regulatory capital.

   At ACCESSbank, for instance, if interest rates increased by 300 basis points, the bank's bond portfolio would show a paper loss of $3.1 million versus the current unrealized gain of $586 thousand. After tax a swing of that magnitude in value represents 13.4% of total capital. Our risk based capital ratio would decline from approximately 14.7% to 12.9%. And, none of that decline is real on an ongoing concern basis.

   To avoid capital impairment community banks will be forced to reposition their investment portfolios to very short-term, less volatile investments. This will dramatically reduce earnings having a negative impact on capital growth. Further, long-term government bonds, mortgage backed securities and municipal bonds will face a much thinner market. This will increase the cost of borrowing placing greater pressure on the nation's deficit and on state and local municipalities. This is particularly critical for local municipalities. Without a market for bonds how will the schools, sewer systems, power plants and other critical infrastructure get funded? Community banks are critical in providing this funding and anything to discourage an active market is unwise.

2. **Increased risk weighting for residential mortgage loans.** Our bank provides residential mortgages through wholesale agreements with other financial services companies. However, we also provide home equity loans, bridge loans and other types of residential mortgages in meeting the needs of the community. The proposal to increase the risk weighting of these activities is concerning. Based on our current portfolio we would have to increase the risk weighting on 35% of our 1-4 family residential mortgages. Further, the administrative cost of tracking LTV initially and at renewal would be significant. The effect would be that we could no longer justify providing this critical financing to families in our community.

   The government is working towards privatizing the mortgage market given the abuses of certain non-bank mortgage originators and the exorbitant risk the federal government assumed from the misguided direction of Fannie Mae and Freddie Mac. Who will fill the void if community banks are unable to serve this need? Mortgages will only be available from a few private sources. Borrowing costs will rise, credit availability will fall and homeownership will decline. We believe that risk weighting residential mortgages higher than other types of loans based on LTV is unrealistic. Residential mortgages do not possess an increased risk beyond any loan if properly underwritten and appropriate mitigants applied.

3. **Capital Conservation Buffer.** The original Basel III accord provided regulatory authorities the ability to impose a 2.5% capital conservation buffer to those institutions that possess an unacceptably high risk profile and, if failed, would present an unacceptable risk to the economy. The proposal, however, applies the capital buffer to all banks regardless of risk profile. All banks are penalized with restrictions on dividends, executive compensation and other regulatory constraints regardless of whether that bank possesses any systemic risk to the economy or the FDIC fund (DIF).

   We agree that systemically important banks and banks with higher than normal risk profiles need more capital. Imposing the Conservation Buffer on all banks could force otherwise conservative banks to increase their risk profile to generate sufficient earnings to maintain capital, support growth and meet the financial needs of its constituents. We believe that any Conservation Buffer should not be applied carte blanche to the entire industry but rather only to those institutions demonstrating a high risk profile.

4. **Continuation of the exclusion of "excess" Allowance for Loan and Lease Losses (ALLL) above 1.25% of total loans.** Our bank currently has an ALLL to total loans of 1.54% meaning that $357 thousand of our ALLL is considered excessive for regulatory capital purposes. The ALLL is a specific allocation of capital to protect against future losses. It is counterintuitive to penalize a bank for providing for additional protection. The first concern of the banking industry is its safety and soundness. This includes providing sufficient protection through the ALLL to absorb future losses.

This policy encourages banks to maintain inadequate ALLL reserves and allows for the inappropriate manipulation of earnings. The ALLL should accurately reflect the risk profile of each bank's individual loan portfolio and the bank should not be penalized for doing so.

We support and understand the need for higher capital for the industry particularly for banks operating at or near current minimum capital levels. We believe that U. S. financial institutions should not have an unfair disadvantage to financial institutions in other countries. The complexity of the proposed changes, however, adds an unreasonable cost and burden to the industry. Further, and most importantly, several of the components of the proposals would have very harmful unintended consequences. We strongly urge you to consider the economic risk to the nation and its community banks. We urge a complete re-evaluation of the proposals to simplify the methodology and eliminate those portions which have a serious risk of disrupting the economy, local communities, individual consumers and the banking industry.

Thank you for your thoughtful consideration.

Cordially,

Patrick J. Corrigan
President and CEO