AMERICAN STATE BANK
AND TRUST COMPANY
Banking, the American State Way.

P.O. Box 1446
Williston, North Dakota 58802-1446
Phone (701) 774-4100
Toll Free 1-800-486-8173
Fax (701) 774-4175
www.asbt.com

October 15, 2012

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429
Via email at comments@fdic.gov

Re: FDIC RIN 3064-AD95, FDIC RIN 3064-AD96, and FDIC RIN 3064-AD97

Dear Mr. Feldman:

This letter is written in response to the proposed Basel III Notices of Proposed Rulemaking issued in June 2012 requiring all banking organizations to comply with Basel III pronouncements and standardized approach NPR.

We are in support of increasing the capital requirements for banks in our country to ensure that our industry can weather the storms that will come our way in the future. We think we all have that goal in common. However, we have concerns with the proposals which have been approved by the agencies and placed out for comment.

We, like most other community banks in our country, want to make sure that we are able to continue serving our community in the way we have been for over 110 years. A strong economy is dependent on job growth and job growth is dependent on availability of capital to fund the small businesses of our communities that produce most of the jobs. We want to ensure that the new rules do not reduce the ability of our community banks to provide this capital.

The following items are the areas of the proposal in which we have concerns:

1. **Incorporating AOCI as Part of Regulatory Capital**

   Inclusion of accumulated other comprehensive income (AOCI) in capital for community banks will result in increased volatility in regulatory capital balances and could rapidly deplete capital levels under certain economic conditions. AOCI for most community banks represents unrealized gains and losses on investment securities held available-for-sale. Because these securities are held at fair value, any gains or losses due to changes in interest rates are captured in the valuation. Recently, both short-term and long-term interest rates have fallen to historic lows generating unprecedented unrealized gains for most investment securities. Additionally, demand for many implicitly and explicitly government guaranteed securities has risen due to a flight to safety and government intervention in the capital markets. This increased demand has caused credit spreads to tighten further increasing bond valuations. Interest rates have fallen to levels that are unsustainable long-term once an economic recovery accelerates. As interest rates rise, fair values will fall causing the balance of AOCI to decline and become negative. This decline will have a direct, immediate impact on common equity, tier 1, and total capital as the unrealized losses will reduce capital balances. At our bank, for instance, if interest rates increased by 300 basis points, our bank's bond portfolio would show a paper loss of $12,100,000. This would mean that our bank's tier one ratio would drop by 27%. Large financial institutions have the ability to mitigate the risks of capital volatility by entering into qualifying hedge accounting relationships for financial accounting purposes with the use of interest rate derivatives like interest rate swap, option, and futures contracts. Community banks do not have the knowledge or expertise to engage in these transactions and manage their associated risks, costs, and barriers to entry. Community banks should continue to exclude AOCI from capital measures as they are currently required to do today.

2. **Proposed Phase-out of Trust Preferred Securities**

   We object to the proposed ten year phase-out of the tier one treatment of instruments like trust preferred securities (TRUPS) because it is a reliable source of capital for community banks that would be very difficult to replace. We believe it was the intent of the Collins amendment of the Dodd-Frank Act to permanently grandfather tier one treatment of TRUPS issued by bank holding companies between $500 million and $15 billion. Phasing out this important source of capital would be a particular burden for many privately-held banks and bank holding companies that are facing greatly reduced alternatives in raising capital. While we applaud the fact that TRUPS issued by bank holding companies under $500 million would not be impacted by the proposal, consistent with the Collins Amendment, we urge the banking regulators to continue the current tier one treatment of TRUPS issued by those bank holding companies with consolidated assets between $500 million and $15 billion in assets. Our bank has utilized TRUPS for a number of years as a very cost effective source of capital that has allowed us to grow and continue to serve our community. The elimination of this source of capital will reduce our ability to provide our community with loans to support job growth.

3. **New Risk Weights**

   The proposed risk weight framework under Basel III is too complicated and will be an onerous regulatory burden that will penalize community banks and jeopardize the housing recovery. Increasing the risk weights for residential balloon loans, interest-only loans, and second liens will penalize community banks who offer these loan products to their customers and deprive customers of many financing options for residential property. Additionally, higher risk weights for balloon loans will further penalize community banks for mitigating interest rate risk in their asset-liability management. Community banks will be forced to originate only 15 or 30 year mortgages with durations that will make their balance sheets more sensitive to changes in long-term interest rates. Many community banks will either exit the residential loan market entirely or only originate those loans that can be sold to a GSE. Second liens will either become more expensive for borrowers or disappear altogether as banks will choose not to allocate additional capital to these balance sheet exposures. Community banks should be allowed to stay with the current Basel I risk weight framework for residential loans. Furthermore, community banks will be forced to make significant software upgrades and incur other operational costs to track mortgage loan-to-value ratios in order to determine the proper risk weight categories for mortgages.

4. **Subchapter S Community Banks**

   Imposing distribution prohibitions on community banks with a Subchapter S corporate structure conflicts with the requirement that shareholders pay income taxes on earned income. Those banks with a Subchapter S capital structure would need to be exempt from the capital conservation buffers to ensure that their shareholders do not violate the provisions of the Internal Revenue Code. We recommend that the capital conservation buffers be suspended during those periods where the bank generates taxable income for the shareholder.

While we fully support an increase at some level in the amount of capital that banks hold, the cumulative effect of the items included in the proposal will have a severe impact on most of the community banks in this country. We strongly urge you to consider this impact and to consider a possible exemption for most our community banks from the bulk of these rules. Our nation's community banks need to be able to continue serving our communities and helping to strengthen our local economies.

Sincerely,

David N. Hanson

David N. Hanson, CFO
President & CEO

Jeremy J. Skoglund

Jeremy J. Skoglund
Vice President & CFO