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United States Senate

WASHINGTON, DC 20510-1904
November 26, 2012

LA12-923

COMMITTEES:
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS,
RANKING MEMBER
APPROPRIATIONS
ARMED SERVICES
SPECIAL COMMITTEE
ON AGING

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street & Constitution Ave., N.W.
Washington, D.C. 20551

The Honorable Martin J. Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20551

The Honorable Thomas J. Curry
Comptroller
Department of the Treasury
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, D.C. 20219

RE: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action (RIN 3064-AD95)
Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements (RIN 3064-AD96)
Regulatory Capital Rules: Advanced-Approaches Risk-Based Capital Rule; Market Risk Capital Rule (RIN 3064-AD87)

Dear Chairman Bernanke, Acting Chairman Gruenberg, and Comptroller Curry:

I am writing to comment on the proposed rules implementing the Basel III regulatory capital framework.

As the author of Section 171 (the "Collins Amendment") of the Dodd-Frank Act, I believe strongly that capital requirements must ensure that firms have an adequate capital cushion in difficult economic times, and provide a disincentive to their becoming 'too big to fail.' To achieve this, Section 171 requires that large bank holding companies be subject, at a minimum, to the same capital requirements that small community banks have traditionally faced.

During consideration of the Dodd-Frank Act, I supported modifications to the final language to Section 171 to ensure a smooth transition to increased capital standards. Among these modifications were provisions to delay, for five years, the application of new capital requirements for savings and loan holding companies ("SLHCs"), and for certain foreign-owned

bank holding companies. See subsections (b)(4)(D) and (E) of Section 171. These modifications were intended to allow these entities the time they need to adjust their balance sheets and capital levels in order to come into compliance with the new capital standards. The proposed rules implement the five year delay provided to foreign-owned bank holding companies by Section 171 (b)(4)(E), but neglect to implement the nearly identical delay for SLHCs provided by Section 171 (b)(4)(E). I do not understand why the proposed rules fail to implement this provision, as required by Congressional intent and the clear language of the statute.

I am hopeful, too, that in crafting final rules, you will give further consideration to the distinctions between banking and insurance, and the implications of those distinctions for capital adequacy. It is, of course, essential that insurers with depository institution holding companies in their corporate structure be adequately capitalized on a consolidated basis. Even so, it was not Congress's intent that federal regulators supplant prudential state-based insurance regulation with a bank-centric capital regime. Instead, consideration should be given to the distinctions between banks and insurance companies, a point which Chairman Bernanke rightly acknowledged in testimony before the House Banking Committee this summer. For example, banks and insurers typically have a different composition of assets and liabilities, since it is fundamental to insurance companies to match assets to liabilities, but this is not characteristic of most banks. I believe it is consistent with my amendment that these distinctions be recognized in the final rules.

I am hopeful you will keep these concerns in mind as you continue to implement the Dodd-Frank Act and the proposed rules referenced above implementing the Basel III regulatory capital framework.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Collins". The signature is written in a cursive, flowing style.

Susan M. Collins
UNITED STATES SENATOR