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October 22, 2012

By electronic submission

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington D.C. 20429
Attention: Comments/Legal ESS
RIN 3064-AD95, 3064-AD96, 3064-AD97

Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551
Jennifer J. Johnson, Secretary
Docket No. R-1442
RIN 7100-AD87

Office of the Comptroller of the Currency
250 E Street, S.W.
Mail Stop 2-3
Washington, D.C. 20219
Docket IDs OCC-2012-0008, OCC-2012-0009, OCC-2012-0010
RIN 1557-AD46

Re: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III – Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action; Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements; Advanced Approaches Risk-based Capital Rule, Market Risk Capital Rule

Ladies and Gentlemen:

U.S. Bancorp welcomes the opportunity to comment on the three joint notices of proposed rulemaking (the "**NPRs**") released on June 7, 2012 and published in the Federal Register on August 30, 2012 by the Board of Governors of the Federal Reserve System (the "**Federal Reserve**"), the Office of the Comptroller of the Currency (the "**OCC**") and the Federal Deposit Insurance Corporation (together, the "**Agencies**"). These NPRs propose to implement aspects of Basel III and the Basel II standardized approach in a manner consistent with Section 939A and Section 171 (the "**Collins Amendment**") of the Dodd Frank Wall Street Reform and Consumer Protection Act ("**Dodd-Frank**") and propose related changes to the Agencies' prompt corrective action regulations.

U.S. Bancorp (the "**Company**"), with $352 billion in assets as of September 30, 2012, is the parent company of U.S. Bank National Association, the 5th largest commercial bank in the

United States. The Company operates 3,086 banking offices in 25 states and 5,080 ATMs and provides a comprehensive line of banking, brokerage, insurance, investment, mortgage, trust and payment services products to consumers, businesses and institutions.

The NPRs will provide a cornerstone for the regulatory reforms intended to ensure the safety and soundness of the banking system. We support many of the proposals included in the NPRs, particularly those that strengthen capital levels and increase the loss absorbency of eligible capital instruments.

These comments focus on those elements of the NPRs that are of significant importance to the Company. However, we endorse the comments on these NPRs submitted jointly by The Clearing House Association L.L.C. ("The Clearing House")[1], of which the Company is a member, and the American Securitization Forum.

AOCI Filter of AFS Investment Portfolio Unrealized Gains and Losses

One of the Company's principal concerns with the Agencies' proposed rules is the removal of the filter on Accumulated Other Comprehensive Income ("AOCI") associated with debt securities in the Available for Sale ("AFS") investment portfolio. Such a change will:

- increase the volatility of the Company's regulatory capital as changes in the value of the AFS portfolio stemming from interest rate fluctuations flow through AOCI;
- because of this increased volatility, force banks to maintain substantially more capital than they would otherwise need to hold in order to avoid penalties related to breaching required capital buffers;

We believe that these effects will be magnified by the proposed requirements of the Liquidity Coverage Ratio ("LCR"). The LCR effectively requires that banks materially increase the size of their investment portfolios with highly liquid securities to meet stringent on-balance sheet liquidity requirements. Increasing the size of the investment portfolio will compound the increase in the volatility of capital if the AOCI filter of the AFS investment portfolio is removed.

The Company is encouraged by the Agencies' request for comment (Question 16) on the pros and cons of alternatives that would allow banks to exclude from regulatory capital unrealized

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[1] The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing – through regulatory comment letters, amicus briefs and white papers – the interests of its owner banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing and settlement services to its member banks and other financial institutions, clearing almost $2 trillion daily and representing nearly half of the automated clearing-house, funds transfer, and check-image payments made in the U.S. *See* The Clearing House's web page at www.theclearinghouse.org.

gains and losses on debt securities whose change in fair value is predominantly attributable to fluctuations in a benchmark interest rate. The Agencies cite the debt obligations of the U.S. government and its agencies as well as the debt obligations of U.S. government sponsored entities ("GSEs") as examples of such securities.

The Company strongly supports retaining the AOCI filter and excluding from regulatory capital the unrealized gains and losses on these securities. While the valuations of these securities will fluctuate with market rates of interest, banks can employ these assets (which qualify as highly liquid assets for purposes of the LCR) to raise liquidity via repo-style or other collateralized funding transactions without causing the realization of gains or losses on these securities. Retaining the filter on these types of securities will significantly mitigate the drawbacks outlined above.

Mortgage Servicing Assets ("MSAs")

The Company urges the Agencies to maintain the current risk-based capital treatment for MSAs. The proposed rules would increase the overall risk-weight for MSAs from 215% to 350% (inclusive of the minimum deduction of 10% of fair value).

The Company believes that the current capital rules reflect fairly the valuation risks inherent in a bank's MSA portfolio. Mortgage servicing cash flows are contractual and have priority on GNMA and most private label residential mortgage-backed securities. FNMA and FHLMC mortgage-backed securities are paid directly to the servicers by these GSEs. The principal risks in MSA valuations are prepayment risk and increased servicing costs related to defaulted mortgages. These risks are addressed effectively in the increased sophistication of hedging programs, valuation models, improvement to model validation and review processes, and comprehensive stress testing processes which have advanced materially since the financial crisis.

Deferred Tax Assets ("DTAs")

We appreciate the Agencies' efforts to provide further guidance related to the capital treatment of deferred tax items. The discussion provided in the Background section and the additional computational guidance included in the Definition of Capital section of the NPR is very helpful. The treatment of DTAs raises complex accounting and tax principles. It is essential that the Agencies take this opportunity to ensure that the rules for determining the impact of DTAs on the capital calculations are clear and workable.

We request that the treatment of DTAs in the capital calculations allow for a flexible allocation of deferred tax liabilities ("DTLs"). This approach is consistent with how the Company manages its tax position. In practice, the Company treats its DTAs and DTLs as pools to be managed efficiently, and does not necessarily link the deferred tax item to the asset from which it arises.

In general, the proposed rules permit the netting of DTLs against the assets to which they are related. We recommend that the rules for the capital calculations explicitly permit financial institutions the discretion to allocate DTLs against the assets to which they are related, to reduce a bank's net tax temporary difference DTA balance, or to allocate the DTLs to either purpose. Further, we recommend that banks be permitted to change their election on each reporting date, as warranted by changes in facts and circumstances.

We believe that granting banks the flexibility to elect how DTLs are included in the capital calculations is consistent with how financial institutions actually evaluate their deferred tax position and the related tax planning strategies that may be implemented for tax or capital planning purposes.

Capital Conservation Buffer

The Company recommends that the definition of Eligible retained income be modified to include the issuance of qualifying capital instruments during the relevant time period. We understand that including redemptions and excluding issuances will provide a lower basis on which to compute the Maximum payout amount resulting in a greater constraint on distributions; however, a bank risks a potential penalty if, for example, it pairs a redemption of securities with an issuance of securities either to reduce its funding costs, increase the quality of its capital (substituting non-cumulative perpetual preferred securities for trust preferred securities) or to enhance the capital value of subordinated debt that is within five years of its maturity date.

The Company appreciates the opportunity to comment on these important regulatory proposals. Should you have any questions regarding these comments, please contact me or Martin Cooney at 612-303-4011.

Sincerely,

Kenneth Nelson

Kenneth Nelson
Executive Vice President and Treasurer
U.S. Bancorp

cc: Andrew Cecere
Martin Cooney