October 22, 2012

The Honorable Thomas J. Curry, Comptroller
Office of the Comptroller of the Currency
regs.comments@occ.treas.gov
Docket ID OCC-2012-0008 and OCC-2012-009
RIN 1557-AD46

The Honorable Ben S. Bernanke, Chairman
Board of Governors of the Federal Reserve System
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Docket R-1430 and R-1442
RIN No. 7100-AD 87

The Honorable Martin J. Gruenberg, Acting Chairman
Federal Deposit Insurance Corporation
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RIN 3064-AD95 and RIN 3064-AD96

RE: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action (the "Basel III Proposal") and Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements (the "Standardized Approach Proposal") (collectively, the "Proposals")

Heads of Agencies:

Ameris Bank, a $2.9 billion subsidiary of Ameris Bancorp (ABCB), remains headquartered in Moultrie, Georgia, forty years after its founding there in 1971. We remain committed to our community banking model which serves retail and commercial customers through 69 branches, in select markets in Georgia, Alabama, South Carolina, and Florida. We have no foreign activities. Ameris Bank has closed ten FDIC assisted transactions in the last three years—more than any other bank in the country. Our primary lines of business are providing loan and deposit services to individuals and small businesses. We also have a growing mortgage loan origination business.

We have concerns the Basel III capital proposals will negatively impact our ability to serve our customers and communities by requiring us to accumulate and hold additional capital above our current "well capitalized classification". Contrary to our business plan, this would restrict our ability to lend to small businesses, the sector of our economy that creates the most jobs.

By finalizing all the changes simultaneously, we believe it is likely complementary risks will be introduced to financial institutions, the consequences of which are not yet capable of being understood. Sound risk management principals would dictate the implementation of some change, the study of its impact, and the adaptation of future change based upon knowledge gained.

The Proposals usurp the authority of experienced bankers and regulators to make rational, customized, and learned evaluations of risk. Since the most effective regulations are implemented through an understanding of the risk profile of a given institution, individuals familiar with that institution and experienced in managing banks in a variety of economic circumstances, would be best suited to implement the regulation and to make decisions regarding risk. The proposed quantitative proxies for risks of certain asset classes, such as loan-to-value ratios, are not complete and appropriate measures of risk and cannot replace the principled and qualitative measures of risks as monitored by bank management and experienced regulators.

Under the proposed rules, the risk-weighted assets for Ameris Bank would increase from $1.7 billion to $2.0 billion. This represents a total increase of $285 million or 17% in risk-weighted assets for Ameris Bank.

Capital

The definition of Common Equity Tier 1 (CET1) to include all unrealized gains and losses on available for sale securities injects volatility into the calculation of CET1—volatility of capital based solely on temporary interest rate movements. Currently, these unrealized gains and losses would compromise $7 million or 2% of our CET1.

It would be reasonable to expect, in a rising rate environment, we could be subject to a decrease of 15% or greater in the CET1. A 15% reduction in CET1 would introduce volatility in lending and could require Ameris Bank to restrict lending in a rising rate environment, an obvious impediment to economic recovery.

Capital Conservation Buffer

Restrictions proposed for financial institutions not maintaining the full capital conservation buffer required by the Basel III Proposal should be reconsidered since the existing regulatory framework adequately addresses these concerns in a more appropriate fashion. The regulatory agencies existing rules and polices require financial institutions to consult with, or obtain the approval of, the appropriate regulatory agency prior to paying a dividend in excess of an established percentage of recent earnings of the institution. Experience has proven these regulations and policies provide adequate safeguards against the payment of dividends under circumstances which are not appropriate.

Trust Preferred Securities

The Collins Amendment to the Dodd-Frank Act (Section 171) grandfathered Trust Preferred Securities (TruPS) for banks under $15 billion. The proposed changes completely ignore the intentions of the United States Congress for smaller issuers. TruPs represent 12% of the capital structure of Ameris Bank. The phase-out of this source of capital for Ameris bank will exclude $4.2 million of capital per year for the next ten years from CET1 and should be reconsidered.

Revised Risk-weighting of Residential Mortgage Exposures

Many community banks make residential mortgage loans based on long-term amortizations with balloon payments at the end of two, three, or five years. This mortgage product serves many who have non-qualifying collateral or other credit issues which may not meet an investor's requirements for a long-term fixed-rate loan, but can be served by their community bank. Other potential home-owners and buyers may not have the often sizeable amount needed to cover closing costs for a long-term loan. This product allows community banks to compete for local loans and serve the credit needs of their communities. If the Proposals pass as currently drafted, most community banks will no longer be able to offer this alternative product in their market due to the punitive effect of excluding the balloon mortgages from the category 1 definition of residential mortgage exposure. The elevated capital requirements which would result from moving most of the bank's mortgage loans to a category 2 definition, may effectively result in community banks no longer offering this product and many borrowers losing the ability to find financing for their homes. The balloon structure exclusion should be eliminated from the definition of category 1 residential mortgage exposure.

Administrative Issue

In addition to the problems discussed above, the risk-weighting of residential mortgage exposures will place a crushing record-keeping burden on financial institutions. Most financial institutions do not have systems in place to stratify their residential mortgage portfolios based on the various factors set forth in the Proposals. This burden, coupled with the category 2 exposure definition, present an almost insurmountable hurdle to community banks who wish to help meet their communities' mortgage loan needs.

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Risk-weighting of Past Due Exposures

The risk-weighting of past due exposure in the Proposals ignores the processes currently in use to account for past due exposures and is unnecessary and overly burdensome. The risk inherent in past due assets is already reflected on the balance sheets and in the capital ratios of financial institutions under applicable accounting rules. Loans on a past due or nonaccrual status are impaired and an increase in the provision for loan losses is charged directly to earnings and a specific reserve included. For an impaired security, the amount is included in the AOCI or charged directly to earnings. Adding to the risk-weighting of past due assets is unnecessary double-counting of the risk of the assets.

Risk-weighting of Credit-enhancing Warranties and Representations for Mortgages Sold

The Proposals require banks to apply a 100% risk weight to assets subject to “a credit-enhancing representation or warranty”. Many banks, including community banks, originate conventional mortgages and sell them in the secondary market, since they do not have the interest rate management ability to hold long-term fixed-rate mortgages. Many purchasers of these bank-originated mortgage loans require the bank to repurchase the loan if it defaults within a specified time period or if the value of the collateral differs from what is stated in the documentation provided to the purchaser. While the early default obligation is generally short in duration, the warranty regarding the value of the collateral can have an extensive duration. Requiring banks to apply a 100% risk weight, to loans they originated and sold, throughout the duration of these warranties, will limit their ability to continue to originate and sell mortgage loans.

We hope the feedback received from bankers is given sincere consideration. Feedback and comments are not given in an attempt to make regulations “easier” for banks—everything in banking is more difficult today due to layers and layers of regulation. Bankers generally understand the need for enhanced regulations due to the recent financial crisis; however, the current Proposals go beyond difficult and threaten the viability of the community bank, as well as the ability of our country to achieve an economic recovery.

We appreciate the opportunity to comment on the Proposals.

Sincerely,

Stephen A. Melton
Chief Risk Officer & EVP

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