PREMIER
COMMUNITY BANK

September 28, 2012

**VIA ELECTRONIC DELIVERY**
Mr. Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, N.W.,
Washington, DC 20429
comments@FDIC.gov
RIN 3064-AD95 and RIN 3064-AD96

**RE: Regulatory Capital Rules: (1) Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Correction Act: RIN 3064-AD95; and (2) Standardized Approach for Risk-Weighted Assets, Market Discipline and Disclosure Requirements: RIN 3064-AD96**

Dear Mr. Feldman:

I am a community banker with Premier Community Bank, a $265 million community institution in north east and north central, Wisconsin. We have twelve offices and 99 employees, employees that give over 10,000 hours of their time to make their communities better places to live.

As a community banker, I am really concerned over the broad approach that is being taken by the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (FRB) and the Office of the Comptroller of the Currency (OCC), (collectively, the Agencies) with their Basel III proposal. Just as the industry's survivors are finally getting their institutions in order with improved earnings, capital and reserves, the Basel III proposal threatens to SIGNIFICANTLY harm the community bank, our community bank.

This approach tightens regulatory capital requirements on community banks which is unwarranted, beyond Congressional intent in many respects, and will likely cause a disruption in available credit in our marketplace. Also, the proposed Basel III rules are coming at a time when there are currently at least ten major mortgage related rulemakings in various stages of development (HOEPA, MLO compensation, TILA/RESPA integration, two appraisal rules, ability-to-repay, risk retention, escrow requirements, and mortgage servicing rules under both TILA and RESPA). This, in turn, builds upon at least seven major final rulemakings in the previous 36 months (RESPA reform, HPML requirements, two MDIA implementation rules, appraisal reforms, appraisal guidelines, and MLO compensation).

I am very much concerned about the cumulative burden these rules will have on my institution. It is vitally important that the proposed regulatory capital rules be analyzed together in the context of other rulemakings and regulatory reforms—and be prospective in approach. The Agencies must not create capital requirements that are based upon occurrences in the past, under a different regulatory environment, and without consideration of other rulemakings and reforms.

For these reasons and for the concerns outlined below, the Agencies must withdraw the proposed regulatory capital rules, conduct additional study and analysis, and only propose capital rules which take into consideration the impact other regulatory proposals and reforms will have on risk. The Agencies must recognize that there are many differences between community banks and large, complex international institutions—and must, therefore, not force a community bank into the same capital calculation "peg-hole" as a sophisticated international institution.

If the Agencies do not withdraw the proposals to further study the drastic impact they will have on community banks and on the U.S. financial industry as a whole, I urge the Agencies to take into consideration the specific concerns and recommended changes noted below.

**Accumulated Other Comprehensive Income (AOCI)**

As proposed, all unrealized gains and losses on available for sale securities (AFS) must "flow through" to common equity tier 1 capital. Therefore, if there is a change in the value of an AFS security (which can occur daily in some circumstances), that change must immediately be accounted for in regulatory capital. This part of the proposal is puzzling and seems to indicate that the Agencies are unaware that unrealized gains and losses occur in AFS portfolios primarily as a result of movements in interest rates—*not* as a result of credit risk.

If the rules are finalized as proposed, with the inclusion of unrealized losses of AFS securities in common equity tier 1 capital, rising interest rates, which are likely in our current low-interest rate environment, would put downward pressure on our capital levels. This will potentially cause us to reduce our growth or shrink our securities portfolios considerably in order to maintain capital ratios at the desired or required levels.

Further, as a community bank, our organization has made a significant commitment to the twelve communities we operate in, providing long-term financing to schools, cities and villages, when many other financing sources shun these communities. However, as proposed, the rules would discourage my bank from holding municipal securities, because of the interest rate impact on such long-term assets. This, in turn, would lead to a lower return on assets for my bank and less funding for the local governments that rely on that funding.

**Treatment of Trust Preferred Securities (TruPS)**

The Agencies' treatment of trust preferred securities (TruPS) under the proposals must not be finalized as proposed. Presumably out of concern for such a debt instrument being treated as "capital", Congress, as part of the Dodd-Frank Act (DFA), prohibited any new issuances of TruPS; however, under the Collins amendment in DFA, TruPS are grandfathered for institutions between $500 million and $15 billion. Nonetheless, the Agencies' proposals ignore the Collins amendment by requiring a complete phase-out of TruPS beginning in 2013.

Many Wisconsin community banks hold TruPS as capital on their books. The proposed complete phase-out of TruPS creates a significant problem for community banks that are privately held as they will have little access to capital. Investors in community banks are motivated by the growth opportunities such an investment affords rather than a desire to fill capital holes caused by changes in regulation.
While our organization has not issued any TruPS, I strenuously oppose the Agencies' treatment of TruPS beyond that which Congress intended under DFA.

**Capital Risk-Weights for Residential Mortgages and Related Matters, High Volatility Commercial Real Estate (HVCRE), and Home-Equity Lines of Credit (HELOCs)**

The Agencies' proposals place new significantly higher capital risk weights in several categories of real property-secured loans despite having neither empirical evidence to substantiate the need for such heightened capital levels, nor a mandate under law. The proposals raise several significant concerns, including the following.

*Residential Mortgage Exposures Risk Weights*

The proposals assign risk weights to residential mortgage exposures based on whether the loan is a "traditional" mortgage (Category 1) or a "riskier" mortgage (Category 2) *and* the loan-to-value (LTV) ratio of the mortgage. The current risk weight for a real estate mortgage is generally 50%; however, depending upon the Category and LTV ratio of a particular residential mortgage, the capital risk could rise to 200%. These higher risk weights appear to be arbitrarily set as there is no empirical data presented by the Agencies to support this extraordinary increase in risk weights for certain types of mortgages.

Respectfully, I challenge the Agencies' assumption that a residential mortgage has a higher degree of risk based exclusively upon the loan having a balloon payment, an adjustable rate, or an interest-only payment, to warrant the substantial increases in capital risk weights that are proposed. In fact, our portfolio of adjustable-rate and balloon loans has experienced minimum losses with a default rate of less than 0.1%, nowhere near the arbitrary capital risk assigned by the Agencies!

In addition, the substantial increase in risk weights will discourage my bank from making theses types of loans even though we have experienced minimal losses. Our bank makes loans that are 3- to 5-year balloon mortgages with payments amortized over 15 to 30 years. We provide such loan products for many reasons, including to offer loans to good borrowers, to offer loans to borrowers that do not qualify for long-term, fixed-rate financing and to protect against interest-rate risk. However, the proposed risk weights will discourage us from making such loans. For example, if we make a 5-year balloon loan with a LTV of 81-90%, the capital risk weight skyrockets from the current rule of 50% to 150% under the proposals. This makes no sense as it will only reduce the amount of loans that we make and reduce our protection against interest rate risk.

*Reclassification to Category 2 for the Restructure or Modification of Mortgages Unless Made Under HAMP*

The proposals would also require a financial institution to re-assess a mortgage after a loan restructuring or modification, unless the modification is made under the federal Home Affordable Mortgage Program (HAMP). Thus, a Category 1 mortgage may become a Category 2 mortgage after modification if the bank does not modify the loan under HAMP. I believe this treatment will, in essence, limit my ability to provide an option to restructure or modify a loan except under HAMP. Given today's economy and its impact on any particular borrower, it is imperative banks be given flexibility to restructure or modify *any* given mortgage loan to the particular needs of both the bank and the borrower—including not under HAMP. The bank should not be penalized by assigning a Category 2 risk weight to a loan that is modified or restructured in a manner that is not under HAMP.

*Capital Requirements for Loans with Credit-Enhancing Representations and Warranties*

Under the proposed rules, if a bank provides a credit-enhancing representation or warranty on assets it sold or otherwise transferred to third parties, the bank would be required to treat such an arrangement as an off-balance sheet guaranty and apply a 100% credit conversion factor to the transferred loans while the credit-enhancing representations and warranties are in place. This new requirement would affect any mortgage sold with a representation or warranty that contains (1) an early default clause, and/or (2) certain premium refund classes that cover assets guaranteed, in whole or in part, by the U.S. government or a government-sponsored entity. Currently, the risk-based capital charges do not apply to mortgages once they are sold to third parties, even where the seller provides representations and warranties to take back mortgages that experience a very early payment default—such as within 120-days of the sale of the mortgage.

The proposal would result in substantial additional capital charges for the mortgages we sell and will limit the amount of credit I can make available to potential borrowers. I believe there is little evidence that the temporary representations and warranties associated with these mortgages have resulted in significant losses for a regulated financial institution—even during the financial crisis.

*Home-equity Lines of Credit (HELOCs)*

The proposal classifies all junior liens, such as home-equity lines of credit (HELOCs), as Category 2 exposures with risk weights ranging from 100 to 200%. In addition, a bank that holds two or more mortgages on the same property would be required to treat *all* the mortgages on the property—even the first lien mortgage—as Category 2 exposures. Thus, if a bank that made the first lien also makes the junior lien, the junior lien may "taint" the first lien thereby causing the first lien to be placed in Category 2, and resulting in a higher risk weight for the first lien. By contrast, if one bank makes the first lien and a different bank makes the junior lien, then the junior lien does not change the risk weight of the first lien. The one exception to this general treatment is very narrow, thus making most junior lien mortgages Category 2 mortgages.

Again, the Agencies have provided no data to support their assertion that all HELOCs are risky and warrant such severe treatment. In reality, HELOCs are carefully underwritten—based not only on the value of the home, but upon the borrower's creditworthiness and with some of the strongest LTV ratios. This appears to be still another proposal meant to limit credit availability to customers.

**No Grandfathered Treatment for Existing Mortgage Loans**

Finally, the proposed rules do not include any type of grandfather provision. Thus, *all* mortgage loans currently on the bank's books will be subject to the new capital requirements. This will require bank staff to examine old mortgage underwriting files to determine the appropriate category and LTV ratio for each mortgage. This is a daunting task and comes at a time when the industry is also implementing numerous other *substantial* regulatory revisions and reforms previously mentioned. We simply do not have resources necessary to gather all of the information required to properly determine the revised risk weights for existing mortgage loans.

**Conclusion**

For the concerns outlined above, the proposed regulatory capital rules must be withdrawn, additional study and analysis must be conducted, and only proposed capital rules which take into consideration the impact other regulatory proposals and reforms have on risk can be considered.

The differences between community banks and the large, multi-national and diversified institutions are significant. Treating both the same, which is what the Agencies' proposals is doing, is inappropriate, punishing to community banks and unjustified. I STRONGLY request you withdraw the proposals and engage in meaningful analysis that will result in meaningful regulation.

I appreciate the opportunity to comment on the Agencies' proposals.

Sincerely,

Thomas J. Pamperin
President/CEO