NEW MEXICO BANKERS ASSOCIATION

October 19, 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-2012-0009
RIN 1557-AD46

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

The Honorable Martin J. Gruenberg, Acting Chairman
Federal Deposit Insurance Corporation
comments@fdic.gov
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")

Ladies and Gentlemen:

On behalf of the members of New Mexico Bankers Association (NMBA), I am writing to provide you with our comments on the Basel III Proposal and the Standardized Approach Proposal (Proposals).

We have contacted our member banks to determine the impact of the Proposals on the banks and their holding companies. This comment letter contains responses we have received from our members.

In general, we believe that the Proposals should be withdrawn for further study. To the extent that the Proposals are not withdrawn, we feel that the final rules should provide an exemption for community banks from the Basel III requirements.

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Our comments are the following:

- The Proposals phase out from Tier 1 capital eligibility the proceeds received from the issuance of trust preferred securities. We believe that this is inconsistent with the Collin's amendment under Dodd-Frank which grandfathered trust preferred securities for institutions between $500 million and $15 billion. The Proposals requires the phase out of TPS for bank holding companies having between $500 million and $15 billion. Consequently, some banks will face greatly reduced alternatives to raising capital. This phase out proposal will be especially harmful to some community banks.

- The inclusion of the mark to market adjustment for the calculation of common equity is problematic for several reasons:
    - The addition or reduction of equity may be inconsistently applied as it pertains to C corporations and Subchapter S banks. Subchapter S banks do not have a contra "deferred tax M-T-M" debit/credit in its equity accounts. The entire pretax mark would impact Sub S banks and would be materially less in a C corp. **There is provision for a deduction from Tier 1 for "deferred tax assets" but it is unclear if that includes the M-T-M equity component in C corporations.**
    - The proposed inclusion would serve as a disincentive to classify securities as Available for Sale, thereby limiting liquidity options and potentially exacerbating any credit/liquidity crunch. This would be particularly troublesome for banks in a period of falling economic conditions like we saw in 2008.
    - The inclusion could potentially result in dividend restrictions through the "capital buffer" requirements for some banks even though the entity has no intention of selling any of the securities in the AFS portfolio. This could adversely affect shareholders of Sub S banks who could, in some specific albeit infrequent situations, have a shareholder tax liability and insufficient available distributions to pay those liabilities.

- The greatly expanded risk-weighting of residential mortgage loans, while an understandable reason in theory, does not necessarily reflect the risk characteristics of loans held at community banks. For instance, could an abundance of caution mortgage trigger a risk-weighting far in excess of the borrowers actual credit risk? The actual loss experience of in-house originated mortgage loans appears to not have been taken into consideration in deriving risk-weights, but rather a national "private label" loss rate seems to have been incorporated into the methodology. The systemic risk to the industry (and or the FDIC's reserves) does not stem from reasonable underwriting standards practiced for 1-4 family mortgages at most community banks. Perhaps some adjustment could be made for actual loss experiences for community bank originated mortgage loans.

- The change from assigning risk-weighting to asset classes to assigning risk-weightings to individual loans will have a significant impact on a banks administrative costs in terms of

- adding personnel to evaluate and reevaluate risk-weighting based on changes in collateral status.

- The proposed risk-weighting of residential mortgage exposures would likely shift an interest rate risk management burden to the bank which could cause the bank to restrict its residential mortgage lending or cause a bank to increase the pricing of the loan.

- The Proposals require banks to apply a 150% risk - weighting to assets that are 90 days or more past due on nonaccrual status to the extent that the assets are not secured or guaranteed. Banks already set aside reserves for loans that fall into this category. Therefore, we would suggest that existing accounting rules address past due risk sufficiently. The impact of the Proposals will cause banks to be less inclined to pursue work loan workouts but rather pursue foreclosure or other judicial remedies.

- The Proposals require banks to deduct all mortgage servicing assets that exceed 10% of its common equity Tier 1. The amount that exceeds 10% will receive a 100% risk weight. It appears that this provision will discourage bank's involvement in mortgage loan servicing. Many banks retain servicing rights to provide a future stream of income.

The Proposals present potential negative implications and problems to banks that are not fully understood. We would ask that the Proposals be withdrawn in their entirety. The Proposals require substantial modifications and thus additional study is required to develop those modifications. However, if the Proposals are not withdrawn, we feel that material modifications should be made including an exemption for community banks from the requirements of the final rules

On behalf of the New Mexico Bankers Association, we appreciate the opportunity to comment on the Proposal.

Sincerely,

John W. Anderson
Executive Vice President
New Mexico Bankers Association