First Capital Bank

...Where People Matter

October 2, 2012

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Re: Proposed Rulemaking on Minimum Regulatory Capital Rules and the Standardized Approach for Risk-weighted Assets

Basel III Federal Reserve Docket No. R-1430; RIN No 7100-AD-87 and Docket No R-1442; RIN No. 7100-AD87

Basel III FDIC RIN 3064-AD95, RIN 3064-AD96

Basel III OCC Docket ID OCC-2012-0008 and Docket ID OCC-2012-0009

Dear Madam and Sirs:

First Capital Bank appreciates the opportunity to submit comments on the above-referenced notices of proposed rulemaking (NPRs).

First Capital Bank (FCB) is a community bank located in the capital city of our state, Richmond, Virginia. With $520 million in assets, FCB provides a full range of banking services to the local community. We operate 7 branches, all in the Richmond metropolitan area. Having recently completed a successful capital raise and participated in the US Treasury's second auction of TARP securities, winning the bid and retiring fifty percent of our outstanding TARP, we are pleased to be well capitalized and positioned for future success under the current capital requirements. If Basel III progresses to implementation as it is currently proposed, we have significant concerns capital level requirements will limit our Bank's ability to work with our customers, and our community as a whole to provide the funds needed for healthy economic growth. We also have concerns about the increased burden compliance with these regulations will place on our financial and intellectual resources.

FCB opposes the application of the Basel III capital requirements to Community Banks

In the past several years, the total number of financial institutions in the United States has declined, while the concentration of assets among the systemically important financial institutions, for whom Basel was intended, has increased substantially. The top five institutions held a combined $8.5 trillion in assets (as of March 31, 2012), which represents approximately 45% of total industry assets.[1] Contrastingly, the approximately 6,800 community banks with less than $1 billion in assets represent slightly more than 10% of industry assets, and provide almost 40% of all small business loans.[2]

Limited Supply of Capital—Raising capital at the community bank level is more difficult given that the amount of capital sought is typically below the interest level of an institutional investor. Subjecting community banks to Basel III with our limited ability to raise capital, places us at a significant disadvantage with no practical solution to raise additional capital.

Risk-Weighted Calculation Unduly Burdensome, Complex, and Costly—The "one size fits all" approach to these new proposed regulations disregards the need for additional resources to calculate results and comply with these regulations. The larger banks have vast departments who focus solely on compliance and reporting, as well as in-house information technology development teams that are able to build and modify the systems that are necessary to make this information gathering and reporting possible. Changes to the risk weighting of assets will become unduly burdensome and costly for community banks. Our bank has limited resources and the implementation of Basel III would require time for our limited staff, who wear many hats to keep the bank running on a day-to-day basis, to work with our existing software provider to make enhancements that would capture the data necessary to perform the calculations. After the software is available to receive the information, a manual process will have to be undertaken to gather and enter the data into the system. Until such a time that this can be completed,

[1] http://www.ffiec.gov/nicpubweb/nicweb/Top50Form.aspx
[2] Remarks by FDIC Acting Chairman Martin J. Gruenberg to the American Banker Regulatory Symposium, Washington DC, September 19, 2011.

all amounts will have to be manually created. Additional staff will have to be added to make this possible. The software costs in addition to the increased manpower will be substantial for our bank.

Excessive Capital Reduces Credit Availability—With the increased risk weighting and complexity of the capital calculation, we may be forced to reduce our product offerings to only those products for which we can afford to allocate capital. This reaction would damage our customer base, our bank's profitability, and severely limit our ability for growth. With such a limited product base, we will likely experience difficulty attracting talented lenders and preventing our experienced leaders from leaving the industry.

For the above mentioned reasons, FCB respectfully requests that these proposed regulations be restricted to banks with more than $10 billion in assets, as is consistent with the pre-NPR-release industry expectations, to allow our banks and other community banks of our size the opportunity to manage our assets with the resources we have available.

FCB opposes the inclusion of Accumulated Other Comprehensive Income as a component of Common Equity Tier 1 Capital

Our bond portfolio is a component of an effective liquidity management plan that, if subjected to the proposed requirements under the new NPR would force the Bank to choose between proper liquidity management and capital volatility management.

Because interest rates significantly impact unrealized gains and losses, even when holding an unrealized gain the Bank would need to calculate what true core capital would be if market rates suddenly increased and that gain turned to a loss, no matter how temporary. The management of the movement in the value of the investment portfolio ceases to be an exercise in sound fiscal management and becomes a system of structured of transactions that will be designed to have the least impact on capital. What would otherwise be deemed a good investment would be foregone to avoid the risk of creating temporary noise in the resultant capital ratios.

As often happens with regulations that are intended to provide clarity and make information more readily available for analysts, the outcome of regulation creates inconsistencies and errors. To avoid having to include AOCI in CET1, banks may opt for held to maturity (HTM) investments over available for sale (AFS) investments. The same security may be presented by some banks as HTM and by others as AFS. The result of this treatment would be that banks with higher risks in both liquidity and interest-rate sensitivity being reported as having more stable capital, when in actuality both banks have identical assets and capital.

An alternative to choosing HTM investments over AFS investments and accomplish the objective of avoid the AOCI inclusion would be to consider shorter-term investments which will reduce capital volatility and increase liquidity but the downside of this action would be to significantly reduce the earnings generated (and therefore capital created) by the investment portfolio. Eliminating yield producing investments from our balance sheet will force us to seek profitable alternative assets, likely pushing us into credits that are riskier. This alternative may hold just as much interest-rate sensitivity risk and would likely hold even more credit risk than the AFS alternatives. With AFS investments being the item on our balance sheet that is marked to market, and now including the AOCI component in CET1, the Bank's ability to effectively perform asset liability management will be dramatically weakened. Specifically, a very significant capital penalty will be incurred by using the securities portfolio, the most flexible ALCO tool available, to reduce overall asset sensitivity. No such penalty exists for any other balance sheet component.

We strongly urge the regulatory agencies to exclude any AOCI adjustments from the regulatory capital calculations.

The Basel III Proposals should be withdrawn and rewritten after careful study

We strongly urge you to withdraw the Basel III Proposals and rewrite the regulations to address the concerns identified in this letter for all banks, and specifically community banks. A comprehensive evaluation should be undertaken to determine the aggregate impact the Basel III and numerous other proposals will have on the banking industry when all proposals are fully implemented. We strongly encourage the agencies to slow the pace of change, considering one variable at a time, and monitoring the actual impact of each change made.

Thank you for your consideration of our comments.

Sincerely,

John M. Presley
Managing Director and Chief Executive Officer