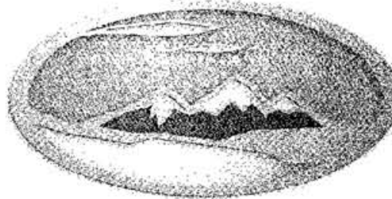
MAIN OFFICE:
P.O. Box 159
695 Parkway Drive
Mountain View, WY 82939
P - 307-782-7400
F - 307-782-7407
www.uintabank.com



Uinta Bank

LOAN PRODUCTION OFFICES:
120 Yellow Creek Road
Evanston, WY 82930
P-307-789-1900
F-307-789-1901

1251 Dewar Drive
Rock Springs, WY 82901
P-307-362-648
F-307-362-6488

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October 16, 2012

The Honorable Thomas J. Curry, Comptroller
Office of the Comptroller of the Currency
Regs.comments@occ.tres.gov
Docket ID OCC-2012 0008

The Honorable Ben S. Bernanke, Chairman
Board of Governors of the Federal Reserve System
Regs.comments@federalreserve.gov
Docket R-1430; RIN No. 7100-AD87

The Honorable Martin J. Gruenberg, Acting Chairman
Federal Deposit Insurance Corporation
comments@FDIC.gov
FDIC RIN 3064-AD95

Re: Comments regarding the implementation of Basel III

Dear Sirs:

This is a Comment Letter regarding the three proposals being considered by the banking regulatory agencies which would impose the capital requirements and risk weighting requirements of Basel III on small, community banks.

For purposes of this Comment Letter, I'd define a "small" bank as one that has $500 million or less in total assets.

Again, for purposes of this Comment Letter, I'd define a "community" bank as one that operates in a geographic area no larger than one county and, perhaps, contiguous counties.

I'd like to point out a few facts:

1.) In 1975, there were over 14,300 banks in the United States and today there are approximately 7,500.

2.) In 1984, the "too big to fail" concept was born by the "rescue" of Continental Illinois Bank. After a hue and cry from farm state Members of Congress because of the rapid closure of many small community hometown banks, the regulatory agencies allowed the closure of Bank of New England to show there really wasn't a "too big to fail" policy. But there certainly is a "too big to fail" policy now.

3.) Around 1980, Chicago's F.D.I.C. regional office was headed up by W. Harlan Sarsfield. Mr. Sarsfield was at that time either the Deputy Regional Director or had already been promoted to Regional Director. Mr. Sarsfield expressed the opinion to me that "small banks, especially de novo banks, were more trouble than they were worth." Mr. Sarsfield said the regulatory agencies were moving to a new type of regulation – one that would drastically reduce field examinations. The new type of regulation would be "statistically" based. This "statistically" based monitoring by the regulatory agencies would be accomplished by the Call Reports of the banks. The Call Report has gone from approximately 10 – 12 pages to one that is now in excess of 70 pages. I do not think that the number of field examinations has substantially decreased per existing bank.

4.) The Glass-Steagall Act was repealed in 1999 which lifted (did away with) many of the restrictions on banks – restrictions that were the result of the "Great Depression." The Glass-Steagall Act, which was passed in 1933, was repealed because of the unholy alliance between the politicians and the "too big to fail" banks which wanted even greater market share and to engage in new and/or expanded financial services. The traditional "correspondent" banking concept wasn't good (profitable) enough for the larger institutions.

So, let's do away with Glass-Steagall and buy the small banks and turn them into branches! Even better, let's abrogate state branching laws and then we can attack the small, community banks and drive away their business and then we'll buy them, cut overhead by firing all their better paid employees and make it a branch.

5.) The Community Reinvestment Act was passed in 1977 but was then modified to "force" banks to make a certain percentage of loans relative to deposits. This change had less than favorable results for the safety and soundness of banks.

The latest crisis has been coming for a long time. The changes made to the Community Reinvestment Act, followed by the relaxation of underwriting standards in the mortgage loan area, resulted in the "too big to fail" banks and the large investment firms (Merrill Lynch, U.B.S., Morgan Stanley, G.E. Capital, etc.) and firms such as Countrywide getting together with Fannie Mae and Freddie Mac to make, securitize and otherwise deal in poorly underwritten mortgage loans.

6.) The Dodd-Frank Act has not been fully implemented and there are many more regulations to flow from the 1,000 plus pages of the DFA. So, this book has not yet been written and is far from being finished. So why should Basel III requirements be imposed on small banks when these banks are still wondering what the majority of the DFA regulations will look like.

7.) Basel I and II and III rules were formulated by international conferences. None of the Basel rules were formulated with small, community banks in mind, especially small, community banks in the United States.

The vast majority of "small, community" banks are privately owned (i.e., no "public market" for their shares). These banks are primarily owned by local shareholders or the heirs of such shareholders. Because of the illiquid nature of the shares of small, community banks, external capital raises for these banks are expensive and difficult especially when compared to large, public owned institutions. This has always been the case but is more-so today with all the bad press about the banking industry in general. Another difficulty that a small bank has when it comes to raising capital is the "too big to fail" policy which now exists. Large institutions get "bailed-out" and small institutions get closed down. As a result of this very unwise policy, small banks have been put at a great disadvantage in the capital marketplace.

The decline in the number of banks in the last 35 years is the direct result of the repeal of the Glass-Steagall Act and the closure of many small, community banks.

Earlier I referred to the unholy alliance between the politicians and the ultra large banks. The idea that our large banks operating internationally were at a disadvantage to their foreign counterparts is nonsense. Small, community banks are the ones that have been "disadvantaged". Now we must compete with Bank of the West (parent – BNP Paribas), Sovereign Bancorp (parent – Banco Santander), Great West Bank (parent – National Australia Bank Limited), et cetera. This says nothing about the large Canadian banks invading the United States.

As these Basel III rules are being contemplated, European banks are being bailed out by their national governments (taxpayers) so that they don't fail. To compare these international banking giants to small, community banks in the United States is to literally drive many small banks out of business. Already, owners of small banks are selling their businesses – because a bank is a business – because they realistically cannot raise the capital that is being demanded by the regulatory agencies and cannot earn a realistic return on their equity capital due to the burden of regulatory dictates.

To impose the capital requirements of Basel III on small, community banks does greater harm to these banks and puts them at an even greater disadvantage to the "too big to fail" international banks. The playing field in the banking industry has not been level in decades. Basel III requirements further make the playing field more uneven to the detriment of small, community banks.

Basel III does away with TRUPS.

TRUPS should be allowed as it gives a small bank some degree of effective leverage.

Small banks cannot even structure the equity section of their balance sheets the way they want. Small banks should be able to issue any kind of preferred stock; small banks should be able to issue subordinated debt. As long as the FDIC Insurance fund is not jeopardized, any form of capital should be allowed.

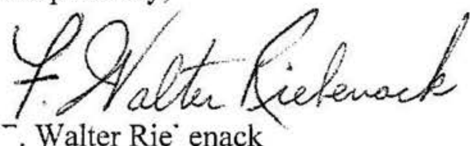
Basel III will give more impetus to doing away with small, community banks by further raising their cost of capital. If this is what policymakers want, then so be it.

I imagine that this Comment Letter is different from the ones that are being composed by industry trade groups and lobbyists. I just thought that I'd leave the intellectual comments to those that had more time on their hands – or those that were getting big fees to write Comment Letters.

My conclusion: We must remember why banks fail. Banks fail because of bad loans. The issue is not the bank's capital – the issue is the bank's loan portfolio and how well it was underwritten.

These capital requirements just put more stress on small banks and do nothing to cure the underlying issue of bad loans. The imposition of Basel III capital regulations on small, community banks is detrimental to small, community banks and the communities they serve.

Respectfully,



F. Walter Riebenack

Chairman

FWR/mb