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October 22, 2012

Thomas J. Curry
Comptroller of the Currency
250 E. Street SW, Mail Stop 2 – 3
Washington, DC 20219
OCC Docket ID OCC-2012-0008
Via e-mail: regs.comments@occ.treas.gov

Robert E. Feldman, Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
FDIC RIN 3064-AD 95
Via e-mail: comments@FDIC.gov

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. R-1430; RIN No. 7100-AD87
Via e-mail: regs.comments@federalreserve.gov

RE: Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions and Prompt Corrective Action

Dear Sirs and Madam:

Please accept this letter in response to the request for public comments on the revised regulatory capital rules proposed by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (the "Agencies"). I submit these comments relative to the Notice of Proposed Rulemaking referenced above on behalf of the Massachusetts Housing Partnership (MHP), a quasi-public state agency.

While MHP supports the efforts of the Agencies to ensure that we have a well-capitalized banking system, we believe that more flexibility is needed to prevent the requirements from needlessly interfering with loan products – including our own – that meet critical market needs, are carefully underwritten, and have shown excellent long-term loan performance.

The SoftSecond® Loan Program was developed in response to a landmark Federal Reserve Bank study in 1989 that documented mortgage lending discrimination in Boston. The program operates through a partnership between state government, banking institutions and community organizations that is unparalleled anywhere else in the U.S. Since the early 1990s the SoftSecond program has made it possible for over 16,500 families to become successful homeowners in Massachusetts. The program has put almost $2.7 billion in discounted, private sector capital into Massachusetts neighborhoods.

Under the current program structure, participating banks make a 30-year fixed-rate loan that can be sold on the secondary market and a 30-year fixed-rate second mortgage loan, which is held in portfolio. Both mortgage loans are offered at a discounted fixed interest rate. In lieu of private mortgage insurance, public funds are set aside as a loan loss reserve which is pooled for each lender. Qualified borrowers may also receive a publicly-funded interest subsidy on their second mortgage loan, which results in a graduated payment between years five through eleven.

Even though SoftSecond borrowers have average household income of approximately $50,000, or less than 60% of area median income, the program continues to compare favorably with the delinquency rates for prime, fixed-rate mortgage loans in Massachusetts. The foreclosure rate is less than half the rate for prime, fixed-rate loans in Massachusetts.

Under current regulatory capital rules, SoftSecond first mortgage loans are risk-rated at 50% and the seconds at 100%. In 2013 SoftSecond will be recast as a single 95 to 97% loan-to-value product. The revised regulatory capital rules would severely penalize low down payment programs for first-time home buyers like SoftSecond without any consideration of how those loans are underwritten or what cash reserves are available to mitigate loan losses, and without any analysis showing that the increased capital requirements are commensurate with actual risk. The proposed rule also fails to consider other important differences between low down-payment mortgage loan programs including pre-purchase homebuyer education requirements and post-purchase support.

Actual bank losses since the inception of SoftSecond in 1991 are 0.23% of original loan balances, net of top-loss reserves that are cash-funded with state funds at the time of loan origination. The revised capital rules would require minimum risk-based bank capital at nearly 35 times actual losses. Even when applying a worst-case projection of losses in this loan portfolio through the end of the current market cycle the revised capital requirements would still be more than triple the potential losses. Implementation of such an arbitrary capital standard without consideration of actual credit risk would harm the U.S. economy by needlessly denying credit to qualified low- and moderate-income home buyers.

Our program is a national model for successful homeownership by low- and moderate-income families with significant private investment by the banking industry. I urge you to adopt regulatory capital rules that will promote and not hinder successful programs such as ours. If you have any questions about our underwriting standards and loss experience, please feel free to contact me at 617-330-9955 or cziegler@mhp.net.

Sincerely,

Clark L. Ziegler
Executive Director