September 26, 2012

Via Electronic Submission at www.regulations.gov

Office of the Comptroller of the Currency
250 E Street, S.W., Mail Stop 2-3
Washington, DC 20219

Re: Docket ID OCC-2012-0008; RIN 1557-AD46
Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action
Docket ID OCC-2012-0009; RIN 1557-AD46
Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements

Dear Comptroller Curry:

I am an ex-OCC examiner and banker currently employed by the State National Bank of Big Spring. We were chartered in January 1909, and opened for business on March 1st of that year. The bank has been a strong and continuous presence in Big Spring every since our doors were opened. We are an independent community bank that strives to provide excellent and individualized service to our customers. We strive to be good community citizens and are proud of the effort and impact we have on our community. We are the textbook definition of a community bank.

The bank acquired a troubled institution in the communities of O'Donnell and Lamesa in 2003. We have since offered the same type of service in these communities. All of our branches are within 60 miles of Big Spring, but in actually are much closer by West Texas standards. Lamesa is the closest incorporated city to the north of Big Spring and O'Donnell is the closest incorporated city north of Lamesa. As a matter of practice and purpose, we have never expanded out of our neighborhood. In the case of O'Donnell, we are the only bank in the town.

The reason for my comments are to help ensure that the concerns and well being of our bank and our customers, as well as others in like situations are protected and considered prior to adoption of the Basel III standards. I feel that if these are adopted as proposed, community banking will continue to be adversely impacted by a response designed for very different types of banks.

The proposals as written contain numerous provisions that will negatively impact the capital level of our Bank, the balance sheet decisions we will be forced to make going forward, the capital available for credit within our communities and the types of loans we are able to offer to our customers. Following is a recap of each of those provisions and the anticipated impact on our Bank and our communities.

I have objections to several of the proposals including the

- Inclusion of Accumulated Other Comprehensive Income
- Risk weighting of the bank's past due and non-accrual loans
- Higher risk weighting of 1-4 family real estate loans
- The definition High Volatility Commercial Real Estate
- Higher risk weighting of multi-family housing loans

Of these, the AOCI and the ALLL have the greatest potential negative impact on our bank. The other proposals will have a smaller impact on our bank, but I am concerned about the impact on other community banks, the ultimate survival of the community banking segment, and the resulting consolidation of the banking system into the money center banks.

Compliance costs, raising capital, and other competitive disadvantages

The compliance burden that will be required to track and report the loans in the above proposals will be excessive and burdensome to community banks. Since these standards will not be retroactive, the community bank will have to spend enormous amounts of time tracking the LTV ratios and other data on the loans in question. The bank's MIS is not currently capable of storing and maintaining this information, and until core processing systems can be modified, this will be a semi-manual process. The bank will not only pay for the additional human capital, but MIS vendors will pass the cost onto the bank.

In an era when community bank net interest margins and income is strained by the artificial rate environment, capital augmentation will be difficult. If these proposals are finalized, community banks will be at a disadvantage in raising the required additional capital from investors. It will be extremely difficult to attract investment in an industry segment that faces a possible new capital call with every decision of the Open Market Committee.

The proposals also place other competitive hurdles in the way of the traditional community bank. Large banks have access to human capital and economies of scale that are not possible in community banks. It is extremely difficult to attract qualified staff in most of the smaller towns in which community banks operate. Without this human capital, compliance with the enormous burden of these proposals will be impractical, if not impossible.

The likely end result of these proposals, if adopted, will be further consolidation of the financial industry as community banks decide that they can no longer survive and will seek to sell to larger banks with centralized management, accounting, and compliance functions. Ultimately, this will kill smaller communities such as O'Donnell, because the market is not big enough for a large regional, national, or multinational bank.

Accumulated Other Comprehensive Income

The proposal requires that all unrealized gains and losses on Available for Sale (AFS) securities flow through Common Equity Capital and by default the Tier I and Total Capital calculations. Community bank gains and losses in its AFS portfolio occur primarily because of fluctuations in the interest rates and ***not*** credit risk. As of ***June*** 2012, the Bank held $186 million in its AFS portfolio. Based on our most recent quarterly interest rate shock analysis, if rates were to increase 300 basis points, our AFS portfolio and our capital would decrease $10 million or **39%** of capital.

Community banks have already suffered because of artificially low interest rates and although rates may remain stable or rise slowly, we are have prepared for rising rates by keeping our loan portfolio as short as possible. Regardless of the outcome, I think that reasonable people can agree that rates will probably rise and this will transform our unrealized gain into what will be effectively a realized loss.

If this section of the proposed rules is adopted as proposed, the Bank will be forced to maintain excess capital to allow for unknown fluctuations in the portfolio. This will equate to reduced funds that will be available for lending in our communities.

In addition, the substantial loss in our portfolio created by fluctuations in interest rates is due to the large portion of government treasuries and agencies held by our Bank. To offset the risk created by these proposed rules we would be forced to liquidate the majority of these instruments that community banks have used for decades to manage their interest rate risk. The consequences of community banks "selling off" this portion of their securities portfolio will unbelievably further damage to already unstable markets.

This requirement may also force community banks to exit the municipal bond market increasing the borrowing cost for state and local governments. This may also increase the likelihood of money center banks cornering the market on these bonds and thereby concentrating risk in fewer institutions thereby weakening the FDIC insurance fund.

AFS mark-to-market adjustments should continue to be excluded from regulatory capital.

Past Due 90+ Days and/or Non-accrual

Currently, risks associated with problem credits are captured via the Allowance for Loan and Lease Losses. As a credit goes onto non-accrual, a specific reserve is allocated to that credit based on an impairment test that captures the unsecured/unguaranteed portion of the credit. As proposed, in addition to the specific reserve allocated in the ALLL, a 150% risk weighting would be allocated to this credit. The amount to be allocated is unclear as the risk weighting is unclear in the proposed rules, however, that is irrelevant in our opinion. The additional risks associate with these credits is already captured in the allowance and should not be provided for again with the additional capital requirement.

Although I realize that there can be associated cost over and above the principal at risk on a loan, it seems counter-intuitive to risk weight a closed end loan (with no further contractual principal advances) at more than the principal value. This proposal, along with others, requiring risk weight in excess of 100% are not appropriate and may be more of a regulatory tool to judge the risk on a macro level than at the micro level. It is not truly indicative of the risk of the loan and should be reduce to no more than the amount truly as risk.

We are allowed approximately half of our ALLL in our Tier II capital. Since we have already reserved for these trouble assets and are not given credit for an excessive amount in our ALLL, an unintended consequence may be a leaner ALLL on a bank and systemic basis. Banks may be tempted to do a negative provision to avoid the negative double dip in this situation.

High Risk 1-4 Family Real Estate

The proposal assigns risk weights for residential mortgages based on whether they are "traditional" 30-year mortgages – Category 1 or "riskier" mortgages – Category 2. There are three primary issues with this section of the Notice of Proposed Rulemaking (NPR). First, the proposal presumes that any credit that is not a 30-year mortgage is riskier. As proposed, any balloon payment automatically places the credit into a Category 2 risk weighting that increases the risk-weighting assignment from 50% up to 200%. There is no default data that supports this assumption that a 30-year term vs. a shorter term with a balloon payment is a less risky credit. In addition, the NPR does not allow existing credits to be grandfathered. Accordingly, three and five-year mortgage loans currently on our books will automatically be reassessed at a minimum risk-weighting of 100%.

Second, the NPR does not take into consideration Private Mortgage Insurance (PMI) when considering the LTV. PMI insurance protects Banks for those credits with higher LTV ratios. This economic crisis has proven without a doubt that PMI insurance significantly reduces losses due to collateral values in most cases. PMI insurance should be taken into consideration when calculating LTV for purposes of assigning a risk-weighting – there is no valid reason not to consider this factor.

Finally, to consider all junior liens at a 100% risk-weighting regardless of any other factors is short-sighted. LTV should be considered when determining the risk-weighting of these assets. Why would a junior lien that along with the first lien creates a 40% LTV be required to carry a 100% risk weighting?

Currently our bank does not have a significant volume of these loans, but the proposal will decrease the likelihood that we will re-enter the home loan market. I feel that the outcome would be similar in community banks similar to ours. In addition, if the balloon payment requirement remains in place, we will discontinue offering these types of credits. We offered these credits because for whatever reason our borrower does not qualify for a "conforming" credit that can be sold on the secondary market. In addition, you will lose a substantial population of potential homebuyers that will no longer be eligible to buy homes.

High Volatility Commercial Real Estate

The proposal defines High Volatility Commercial Real Estate (HVCRE) and acquisition, development and construction (ADC) commercial real estate loans except one-to-four family residential loans or commercial real estate ADC loans that meet certain criteria. These criteria include loan-to-value requirements and a 15% capital contribution by the borrower that must remain in the project until the credit facility is converted to permanent financing, sold, or paid in full.

The proposed requirement that these credits be classified as a 150% risk-weighted asset is a blatant overreaction to the economic crisis and a clear misunderstanding of what caused this crisis. ADC credits did not cause the collapse of this economy – fraudulent and subprime mortgage loans originated by the thousands by large financial services companies, were sold without question on the secondary market, securitized, and subsequently sold again via Freddie Mac and Fannie Mae - the primary contributor to this collapse. All of this because politicians believed every American should own a home, not because ADC loans are riskier.

In addition, if this proposed ruling is passed as proposed, our Bank would seriously consider getting out of ADC lending altogether, as would most community banks. Who then will lend to the small developers who employ the small business electricians, plumbers, landscapers, etc.? Not the big banks and not the community banks.

Multi-Family Real Estate

Currently, multi-family real estate loans are carried at 50% risk-weighting. The proposed rules would increase the risk-weighting to 100% for the first year and with a reduction of 50% after 12 months of timely payments. In addition, underwriting criteria has been established as part of the NPR. Finally, the credit must have an original maturity of no less than 7 years.

Once the underwriting criteria (LTV and DSC requirements) have been established, the risk-weighting should be carried at 50% at origination and the original maturity of the loan should have no bearing on the risk-weighting of the asset. There is absolutely no correlation between the original term and the collectability of these credits.

These credits have always been strongly underwritten and historically have generated few losses within our Bank or community banking as a whole. The need to retain additional capital with these credits would cause us to reduce our lending to this segment.

Closing

In closing, we would ask that the above provisions of the rules be seriously reconsidered. As you can imagine, as difficult as these decisions would be, as we believe they would significantly impact our communities and the country's economy as a whole, preservation of our capital is critical.

We would ask that these rules not only be reconsidered, but that Basel III in its entirety be reconsidered. As noted by FDIC Director Thomas M Hoenig in a recent speech at the American Banker Regulatory Symposium, "…the number of Basel risk-weights evolved from five to thousands." Hoenig states, "Even high levels of capital cannot save a firm…. or save an industry from the cumulative effects of excessive risk taking." Finally, Hoenig closes stating, "Basel III will not improve the condition of small- and medium-sized banks. Applying an international capital standard to a community bank is illogical…..to implement Basel III suggests we have solved measurement problems in the global industry that we have not solved. It continues an experiment that lasted too long."

To implement these rules would negatively impact community banking and take significant credit out of our communities that are already struggling to stabilize. This one piece of proposed legislation has the propensity to throw this country back into an economic recession we have fought so hard with government easing and other "programs" to avoid.