317.875.5250 | [F] 317.879.8408
3601 Vincennes Road, Indianapolis, Indiana 46268

202.628.1558 | [F] 202.628.1601
20 F Street N.W., Suite 510 | Washington, D.C. 20001

January 16, 2024

Office of the Chief Counsel
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E–218,
Washington, DC 20219.

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW,
Washington, DC 20551.

James P. Sheesley
Assistant Executive Secretary
Attention: Comments/Legal OES (RIN 3064–AF29)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429.

Re: Regulatory Capital Rule: Large Banking Organizations and Banking Organizations with Significant Trading Activity; Extension of Comment Period, Agency/Docket Numbers: Docket ID OCC-2023-0008, Docket No. R-1813, RIN: 1557-AE78, Document Number:2023-23671

To Whom It May Concern:

The National Association of Mutual Insurance Companies ("NAMIC") welcomes the opportunity to comment on the request for public comments by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation for their Notice of Proposed Rulemaking ("Proposal") entitled "Regulatory Capital Rule: Amendments Applicable to Large Banking Organizations and to Banking Organizations with Significant Trading Activity". The NAMIC membership includes more than 1,500 member companies. The association supports regional and local mutual insurance companies on main streets across America and many of the country's largest national insurers. NAMIC member companies write $323 billion in annual premiums. Our members account for 67 percent of homeowners, 55 percent of automobile, and 32

percent of the business insurance markets. Through our advocacy programs we promote public policy solutions that benefit NAMIC member companies and the policyholders they serve and foster greater understanding and recognition of the unique alignment of interests between management and policyholders of mutual companies

We are writing to express our strong concerns about the Proposal's corporate exposures provisions for credit risk that would require an investment-grade company to have publicly traded securities outstanding to receive a lower risk weight, found in Questions 38 to 41 in the Proposal. The insurance industry is unique from other financial sectors and this provision would create an unjustified distinction between publicly traded stock insurance companies and insurance companies with other legal types of ownership structures, such as mutual holding companies or mutual companies. To assign a higher risk weight merely because of an insurance company's ownership structure fails to consider the complex and highly sophisticated regulatory provisions currently in place for all insurance companies, and more specifically as it relates to our letter, mutual property/casualty insurers, which ensures transparency, solvency, and creditworthiness.

<u>All U.S. Insurance Companies are Highly Regulated at the State Level</u>

The business of property/casualty insurance is a highly regulated industry and has been for over 150 years. Insurers understand the risks associated with changing severity and frequency of covered losses related to events such as weather. There are no distinctions in the current insurance regulatory scheme that differ based on ownership structure; all property/casualty insurance companies are held to the same standard. The state-based regulation of insurers starts with regulatory authority over the insurance contract language and the pricing of the insurance contract such that the price is not inadequate, excessive, or unfairly discriminatory for the coverage offered under the contract period, which is typically 6 or 12 months. The insurance industry is continuously reviewing the coverage risk accepted and price for the accepted covered risk, adjusting, if needed, for the next contract period to continue the insurer's ability to meet its obligations.

Overlayed on top of the regulatory review of the insurance contract is the vast and transparent financial solvency regulatory regime ("FSR") that provides solvency and risk information to the state-based regulator. Under state based FSR, there is no difference in reporting requirements between a publicly traded stock insurance company and a mutual insurance company.

In short, the FSR is a legal entity based financial solvency regulatory regime starting with the insurance contract regulation that continues with extensive reporting of an insurer's financial information through quarterly and annual financial statements that include state and nationwide information as to every aspect of the insurer

including but not limited to premium written, capital investments and losses paid. The state-based regulator is in constant review from quarter to quarter of the insurer's financial solvency watching for negative trends and deficiencies.

In addition to the filing of the financial statements, state-based regulators typically conduct a financial examination at least every five years based on the National Association of Insurance Commissioners ("NAIC") Financial Examination Condition Handbook. The financial examination is a risk focused audit for the period of time between Financial Examinations for the purposes, including but not limited to, the following; detecting as early as possible those insurers with potential financial trouble; to compiling information needed for timely, appropriate regulatory action, if needed; providing a clearer methodology for assessing residual risk in each activity under review and determining how that assessment translates into establishing examination procedures; and allowing for an assessment of the insurer's risk management processes. The examinations analyze an insurer's current or prospective solvency risk areas as well as the fair presentation of surplus.

<u>All U.S. Insurance Companies Are Subject to Enhanced Transparency</u>

The system of state based FSR is in place to capture and monitor material risks that could threaten the financial solvency of the insurer and the financial stability of the United States. The FSR requires insurers annually prepare and file a risk-based capital report ("RBC Report") that measures an insurer's total capital and surplus against a minimum risk-based capital requirement. The RBC report is produced following the NAIC RBC instructions that are constantly reviewed and updated by the NAIC, adding identified risks and capital requirements associated with those risks and adjusting existing capital requirements when warranted. State regulators may take actions based on the filed RBC report and the insurer's actual capital in relation to its required capital levels. The FSR also includes regulation of activities of affiliates within an insurer's holding company system. State-based regulation also implements a robust evaluation of the group solvency risks and, although capital is not fungible, review of the group's capital structure through annual filings such as the Enterprise Risk Report ("Form F"), Owned Risk and Solvency Assessment ("ORSA"), liquidity stress testing, and the Group Capital Calculation ("GCC") evaluation tool.

As stated above, the state-based regulatory system requires companies to prepare and file quarterly and annual financial statements, including submitting audited financial statements. These financial statements are filed with the company's lead state regulator and are available for public viewing, analogous to those Securities and Exchange Commission ("SEC") disclosures filed by publicly traded stock companies. While the SEC disclosures are focused on the interests of the company's shareholders, the reporting requirements to the lead state regulator

are focused on each insurer's ability to fulfill its obligations to policyholders and maintain solvency, as defined by the conservative valuation and capital standards.

The Proposal states that the lower risk weight for publicly traded companies makes sense because "they are subject to enhanced transparency and market discipline as a result of being publicly listed on an exchange." While this may be true in some markets, the line of reasoning does not ring true for the insurance industry. The statement overlooks that all U.S. insurance companies are required to provide audited, publicly available financial statements that reflect their financial strength as insurers to their state regulator. These audited financial statements are uniform across all insurance companies and provide regulators as well as banks a robust source of information regarding the financial strength of the marketplace and of individual insurers. Therefore, the Proposal's stated reasoning for the lower risk weight for publicly traded companies versus non-public insurance companies (e.g., mutuals) does not make sense for the insurance industry.

<u>Mutual Property/Casualty Insurers Have Exceptional Financial Strength</u>

In addition to being held to the same RBC standards as publicly traded stock insurance companies, mutual property/casualty insurance companies have a long history of fulfilling promises to policyholders in both the short and long term. Because a mutual insurance company is owned by its policyholders, this well-established track record makes sense as the mutual structure aligns customer interests with that of the company, whether the customers are individuals or banks.

<u>Corporate Exposures to All Investment Grade U.S. Insurers Should Receive Reduced Risk Weighting</u>

The Proposal's corporate exposures provisions establishes a two-pronged test for receiving a lower risk weighting. First, the exposure is to a company that is: 1) investment grade; and 2) has public securities outstanding or the parent company that controls the company has such securities. For the reasons above, the second prong of this test should not apply to insurance companies as it fails to consider the robust state based FSR described herein, which is applicable to public and non-public insurers and is designed to provide transparency into and an assessment of an insurer's financial solvency position so it can fulfill its obligations. We believe our revisions better reflect our industry's regulatory environment and the financial strength of all investment-grade insurers, and it removes the potential for disparate treatment between investment-grade public insurers and investment-grade non-public insurers.

Conclusion

NAMIC appreciates the opportunity to comment on this major regulatory effort. We appreciate the need for capital requirements for banks to accurately reflect risk, but the Proposal does not accomplish that for insurance companies. The unique features of the state-based insurance regulatory system do not differentiate capital requirements based on ownership structure. Mutual property/casualty companies are highly regulated, held to transparent reporting requirements, and have exceptional financial strength. We respectfully ask that the current Proposal be revised so that corporate exposures to all investment grade non-public insurers including mutual property/casualty insurers receive the reduced 65% credit risk weighting.

We are happy to provide additional information and look forward to continuing to engage on this issue. .If you have any questions or require further information, please contact me at tkarol@namic.org.. Thank you for your time and consideration.

Thomas J. Karol
General Counsel – Federal
National Association of Mutual Insurance Companies