Testimony of

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On Behalf of

The Coalition to Save Community Banking

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To the Honorable Members of the Subcommittee on Financial Institutions and Consumer Credit:

Thank you for inviting me to testify today. As President and CEO of Bethel New Life Inc. (BNL), I am here to speak on behalf of a broad and diverse coalition of community organizations, non-profits, local leaders, religious institutions, and concerned citizens. My testimony focuses on the FDIC seizure and forced sale of Park National Bank (PNB) and its parent company First Bank of Oak Park (FBOP). The federal takeover of FBOP, and the sale of its assets to U.S. Bancorp will profoundly impact communities across Chicago. This action is of especially grave concern to the economically distressed areas in which my organization operates.

Bethel New Life, Inc. is a faith-based community development corporation located on Chicago's West Side. Bethel began in 1979 as a housing ministry of Bethel Lutheran Church to rebuild neighborhoods left in ruins after the 1968 civil rights riots. Our mission is: "Realize God's vision of a restored society by empowering individuals, strengthening families, and building neighborhoods through community-driven, solution-oriented, and value-centered approaches." Bethel offers nearly 20 programs through four divisions – Community of Elders, Housing & Economic Development, Family & Individual Support, and Community Development.

Bethel is nationally known for its pioneering community development initiatives. We strive to transform the West Side of Chicago into a Community of Choice- a community in which people choose to live, work and do business. Such a community provides existing residents with the services and resources found in any healthy, vibrant community while also providing amenities to attract future residents. To achieve this community concept, Bethel uses a framework that aims to employ, build, retain, and invest in local residents and assets.

Throughout this process, Park National Bank has stood at our side as a partner in mission and vision. Now, due to federal action our trusted partner has been lost. Today I will attempt to convey the essential and irreplaceable role that Park National Bank has served in our community. In doing so, I will address broader issues which concern our nation as a whole:

Community-based banks (CBBs) are fundamental to the health of our national economy, and they are at risk. They are threatened by overly powerful and unaccountable regulatory agencies, as well by unbalanced and inequitable policies- such as the Troubled Asset Relief Program (TARP). Community-based banks are a central component of any sustainable economic recovery, and it is imperative that congress act to support CBBs through meaningful regulatory oversight and legislative reform.

Park National Bank: A Pillar of the Community

Park National Bank was a model community-based bank. It was both financially successful and mission-driven. It provided the quality of service, access to capital, and community reinvestment that all financial institutions should aspire to deliver. PNB demonstrated its commitment to the community by employing local residents and investing in new schools, small businesses, and affordable housing. PNB supported the work of local non-profits and cultural organizations, and exemplified innovation, fairness, and flexibility.

I use the term community-based bank to distinguish superlative institutions such as Park National Bank and FBOP from those "community banks" that are defined more by their size than by their actions. Although they tend to be smaller, with deposit holdings under $10 billion, community-based banks cannot be defined by a number. It is fully possible for a small bank to ignore or even exploit its community, just as it is possible for a larger local bank to retain a "community-based" mentality by increasing local reinvestment along with its assets. Even as PNB and FBOP grew, they remained community-based.

I challenge you to find any financial institution whose level of community investment and support is proportional to that of Park National Bank and FBOP. As FBOP was privately held, I am not privy to the full extent and details of its generosity. However, our experience and all available information is sufficient to support the estimate that FBOP consistently dedicated roughly *27 percent of annual profits* to charitable giving in its communities**.** Such a figure could only be made possible by FBOP's status as a privately held company. Comparatively FBOP's purchaser, U.S. Bancorp, posted a profit of $2.94 billion in 2008.[1] Yet its foundation gave only $20.7 million, or 0.7 percent of profits, in charitable grants.[2]

The following data and stories demonstrate Park National Bank and FBOP's exceptional history of service and support for Bethel New Life and other organizations in our community.

PNB Community Investment and Support: Our Experience

Implementing programs to address the root causes of poverty has been a central focus of Bethel New Life (BNL) since its inception in 1979. Lack of mainstream financial services combine with inadequate financial education in our community to perpetuate a cycle of poverty. Park National Bank and FBOP understood the need to address poverty in the communities it served. As such, FBOP partnered with BNL in one of our primary programs to combat poverty and increase financial literacy: the Smart Savers 2 Individual Development Account matched savings program.

The First Bank of Oak Park partnered with BNL in 2005 to open a Financial Service Center in West Garfield Park, offering services and products to individuals traditionally underserved by mainstream financial institutions. Operated under Park National Bank, this branch location brought essential financial services to the West Side, and housed the BNL Smart Savers IDA

[1] Hutchenson, Martin. "The Top U.S. Banks, from Zombies to Hidden Gems." *Money Morning*. Feb. 18, 2009. http://moneymorning.com/2009/02/18/us-banks/ (Accessed January 2010)
[2] US Bancorp. "2008 Community Highlights." *Community Profile*. 2008: 1.

program. The Smart Savers program offers participants incentive savings matches, personal finance and money management education, peer and staff support, asset-specific training, credit repair assistance, and individual homeownership counseling. As part of this partnership, FBOP has provided more than $150 thousand of in-kind services.

At the time of seizure, BNL had roughly $1.8 million deposited in Park National Bank.[3] In recent years, BNL has received over $5.1 million in resources from Park National Bank, including $1.3 million in zero-interest loans, $1.4 million in low-cost loans, $2.25 million in New Markets Tax Credits, and $158 thousand of in-kind services.[4]

PNB Community Investment and Support: Coalition Experience

Our fellow Coalition members have likewise experienced and outstanding history of partnership and support from Park National Bank (PNB). At last count, coalition organizations have received over $35.6 million in resources from PNB in the form of in-kind services, charitable contributions, low-cost or zero interest loans, and future commitments from the bank.[5] Furthermore, this data only reflects loans that are currently active, commitments made at the time of seizure, and resources received during FY 08-09. It cannot begin to capture the full impact of Park National Bank in our communities over the years**.** Nor can it capture the future returns that our communities have lost along with our Bank.

An example of the charitable investment characteristic of PNB is detailed in a copy of letter held by one of our coalition members. Written by PNB Chairman and FBOP President Michael Kelly, the letter is addressed to Chicago Mayor Richard M. Daley. The letter states PNB's desire and willingness to purchase the former site of the Brach Candy Factory in Austin, and *donate* it to Chicago Public Schools for the construction of a new Austin High School and YMCA. Mr. Kelly's letter criticizes a speculative proposal that would allocate $10.6 million in TIF funds towards the purchase and construction of a warehouse on the site, and encourages the Mayor instead to pursue "the highest and best use" for the land. The letter estimates the cost of acquisition to be between $4 and $6 million, but Mr. Kelly seems less concerned about this sum than he is about the fact that Austin lacks a local high school, that the local YMCA is dilapidated, and that a potential community asset may go to waste.

How many publicly held banks, whose first priority must be profit margins, would make such a commitment? Will this commitment be honored by Park National Bank's successor? It seems highly unlikely. In 2008, the U.S. Bancorp Charitable Foundation gave $4.6 million towards education, *nationally*. Park National Bank was ready to match or surpass that sum in a *single Chicago community*. Will a nationally held bank with offices from coast to coast allocate nearly 100 percent of its educational donation budget to a single school in a single community? The answer must certainly be NO.

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[3] Poynton, Colleen. *Park National Bank: Community Leverage Overview*. 2009.
[4] Poynton, Colleen. *Park National Bank: Community Leverage Overview*. 2009.
[5] Ibid.

FBOP Community Investment and Support: Coalition Experience

Park National Bank's superlative record of community investment was not unique within FBOP Corp. FBOP itself was immensely supportive of local organizations and initiatives. FBOP's generosity to coalition member Christ the King College Preparatory School effectively dwarfs the charitable giving record of much larger financial institutions.

Christ the King is part of a national group of Jesuit schools operated by the Christo Rey Network. FBOP extended Christ the King a $20 million zero-interest loan for the construction of a new, state-of the art school.[6] In addition, FBOP agreed to $6 million in loan forgiveness for the school, and committed to supporting four student internship positions with the bank – collectively worth about $40 thousand per year.[7] The faith-based school is the first new Catholic school to be built on the West Side in 85 years.[8]

At the time of its seizure, FBOP had an asset base of $19.4 billion. In Comparison, U.S. Bank held $265 billion in assets[9]. Yet The U.S. Bancorp Foundation's total charitable giving for 2008 was only $20.7 million. The $6 million in loan forgiveness that FBOP promised Christ the King is nearly 30 percent of all of U.S. Bancorp's charitable giving *nationwide*. The school's grand opening was this past Monday. Now the community must ask whether the school will last out the year. Will U.S. Bank honor the zero-interest loan and millions in loan forgiveness promised by FBOP? The answer is unclear.

When school founders originally approached U.S. Bank and other local institutions about supporting several student interns at-cost, the bank declined. This story exemplifies the difference between a community-based bank and a bank that simply operates in a community. It is not a fictional difference that we have imagined; it is a difference we have experienced.

The Bigger Picture: Community Banks at Risk

These stories may be local in nature, but they are national in significance. In 2009 alone, 140 of the nation's 8,000[10] local banks failed, and at this moment more and more are struggling to stay afloat as the FDIC issues demands for banks to raise capital reserves above standard thresholds.[11] In Illinois seven community-based banks are at serious risk, including Shore Bank, Highland Community Bank, and Second Federal Savings and Loan.[12]

Meanwhile, financially healthy community banks are falling under increased pressure from the FDIC. Bank of Shorewood and America's Heartland are recent subjects of consent orders, which force them to either raise additional capital or shrink themselves in order to boost capital reserves

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[6] Poynton, Colleen. *Park National Bank: Community Leverage Overview*. 2009.
[7] Ibid.
[8] Dean, Terry. "Christ the King Opens in Austin." *Austin Weekly News*. Vol. 26:16. Jan 7, 2010.
[9] Yerek, Becky. "FDIC Seizes 9 Banks Operated by FBOP." *Chicago Tribune*, Oct. 31, 2009.
[10] Federal Deposit Insurance Corporation. *Failed Bank List*. Jan. 14, 2010. http://www.fdic.gov/bank/individual/failed/banklist.html (accessed Jan.15 2010)
[11] Daniels, Steve. "Bank regulators start focusing on healthier lenders," *Crain's Chicago Business*, Dec. 4, 2009. http://www.chicagobusiness.com/cgi-bin/news.pl?id=36344&seenIt=1 (accessed Jan. 9, 2010).
[12] Woodstock Institute. *Troubled Banks List*. November, 2010.

above normally acceptable levels. The necessity of these demands is unclear, as Shorewood's delinquent loans make up less than 3% of its $106 million portfolio, with American Heartland's share of delinquent loans only slightly higher at 5% of its total portfolio.[13]

Our communities and our nation cannot afford to stand by as local financial institutions die out. They are the economic lifeblood of neighborhoods, and will be pivotal credit pipelines for sustainable economic recovery. Community-based banks are where Americans turn when the local boy scouts troop needs a sponsor, when the high school football team needs new uniforms, or when a local non-profit wants to offer job readiness training. *Simply having a bank in the community is not the same as having a community-based bank.*

We know there is a difference between national and community-based banks because our experience has taught us so. National banks and community-based banks operate differently. They are beholden to different constituencies. Publicly held, national banks are beholden to their shareholders, whose primary concern is profit. In contrast, community-based banks are frequently privately held, just as PNB was. This enables community-based banks to place a premium on local reinvestment that would otherwise be infeasible.

Thus, community-based banks can loan to different groups at different rates and on different terms. They can give back to and invest in their communities at different levels. And finally, community-based banks can respond to the needs, challenges, and economic hardships of their customers in a different manner. Park National Bank's response to the foreclosure crisis, as well as its exemplary lending record illustrates these differences.

Park National Bank: Foreclosure Response

In 2008, the city of Chicago posted 36.2 foreclosures per 1,000 mortgageable properties.[14]The communities of Austin, West Garfield Park, and East Garfield had much higher foreclosure levels than the city overall.[15] However, suburban communities such as Maywood have also been hit hard by foreclosures. The foreclosure crisis must be addressed across all communities, or it will continue to impede economic recovery.

Banks must adopt aggressive measures to work with residents and community organizations to mitigate home loss and foreclosure. Community-based banks know their customers. They are willing and able to work with borrowers to modify mortgage loans and use creative strategies to keep borrowers in their homes. Their immediate economic self-interest is closely tied to the long-term health and economic vitality of the communities they serve. Unlike large national banks, CBBs can't afford to see a neighborhood boarded up. CBBs are the partner communities need to address the foreclosure crisis.

Park National Bank has demonstrated outstanding leadership in responding to the foreclosure crisis in our communities. In a review of foreclosure filings across the Chicago region, PNB's

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[13] Daniels, Steve. "Bank regulators start focusing on healthier lenders," *Crain's Chicago Business*, Dec. 4, 2009. http://www.chicagobusiness.com/cgi-bin/news.pl?id=36344&seenIt=1 (accessed Jan. 9, 2010).
[14] Woodstock Institute.U.S. *Bank- Park National Bank Mortgage Lending and Foreclosure Activity.* November, 2009.
[15] Ibid.

name is conspicuously absent. For example, data collected by Housing Helpers indicates that PNB did not have a single foreclosure case filed or active against a Maywood property in all of 2008 and 2009.[16] In comparison, U.S. Bank was listed as the plaintiff in 18% of foreclosure filings in Maywood (59 cases) in 2008 alone.[17]

Park National Bank not only worked to avoid foreclosing on the mortgages it originated, it also sought to proactively purchase and modify mortgage loans it *did not* originate in order to help mitigate the crisis. At the time of its seizure, PNB was in discussions with Bethel New Life founder Mary Nelson, the City of Chicago, and the state of Illinois around a plan to buy up millions of dollars worth souring mortgage loans for modification. PNB would then come up with "creative loan products" to help keep people in their homes and stabilize faltering neighborhoods. While some portion of Park National Bank's investment would likely have been guaranteed by state money, there is no question that PNB's plans were motivated by its unique corporate values, its mission, and its community commitment- not by profit.

Park National Bank: Minority Lending Record

As the previous example suggests, Park National Bank did not approach lending simply as a source of profit, but as a means to empower and support residents of underserved communities. This meant lending to individuals who would frequently be classified as "higher-risk"- that is, low to moderate income minorities, perhaps with imperfect credit, residing in economically disadvantaged neighborhoods

An FDIC survey of 685 banks found that reaching out to "underbanked" communities was a business priority for less than 18 percent of those surveyed.[18] Only one in five had established new branches in low-income areas.[19] This statistic is of serious concern, as the number of underbanked and unbanked households in America is large and increasing, and will undermine future economic growth and stability.

In January of 2009, the Census Bureau conducted a survey for the FDIC on American Households' access to traditional banking services. The *Economic Inclusion* survey revealed that a large segment of American society is severely underserved by traditional financial institutions. Thirty million households have little or no access to basic banking services such as savings accounts. Overall, 25.6 percent of U.S. households either lack bank accounts or use payday loans, check-cashing services and other costly alternatives to traditional banks. Low-income**,** minority, and immigrant households make up a disproportionately large share of unbanked and underbanked households. For example, seventy-one percent of unbanked households earn less than $30,000 a year. Fifty-four percent of black households, 44.5 percent of American

[16] Housing Helpers. Maywood Foreclosure Data, 2008-2009. December, 2009.
[17] Ibid.
[18] Wagner, Daniel. "FDIC: 25% of U.S. Households Have Limited Access to Banks, Minorities Hardest Hit By Disparity." *Huffington Post*, Dec. 2, 2009. http://www.huffingtonpost.com/2009/12/02/fdic-25-of-us-households_n_376811.html (accessed Jan. 2010).
[19] ibid.

Indian/Alaskan households and 43.3 percent of Hispanic households have limited access to banking.[20]

In the Chicago-Naperville-Juliet Metropolitan Statistical Area (MSA), a staggering 53.1% of black households are either unbanked (at 25.5%) or use payday loans, check-cashing services, or other costly alternatives to traditional banks (at 27.6%). This figure is more than twice the overall composit figure of 21.2% reflecting unbanked and underbanked households in the MSA generally. The percentage of unbanked or underbanked Hispanic households is likewise elevated at 30.1%.[21]

Outreach to the underserved lay at the core of Park National Bank's mission. PNB is distinguished from its successor by both its presence in LMI communities *and* its outstanding rate of lending to minority residents within those communities. The Woodstock Insititute's analysis of market shares and lending practices for Park National Bank and U.S. Bank produced the following figures:

- In 2008,U.S. Bank was the ninth largest lender in the Chicago MSA in terms of market share, with 2.5 percent of mortgages. Park National Bank was the 48th largest lender, with a market share of 0.3 percent.

- In 2008,U.S. Bank's market share in white communities was significantly higher than its market share in predominately African American communities in the Chicago MSA. In highly African American communities, where 80 percent of more of the population was African American according to the 2000 census, U.S. Bank was the 24th largest lender with a market share of 0.9 percent. In predominately white communities, U.S. Bank was the 12th largest lender with a market share of 2.4 percent.

- In 2008, Park National Bank's market share in African American communities was significantly higher than its market share in predominately white communities in the Chicago MSA. In highly African American communities, Park National Bank was the 43rd largest lender with a market share of 0.6 percent. In predominately white communities, Park National Bank was the 68th largest lender with a market share of 0.2 percent.

Park National Bank's lending practices did not amount to bad business, or simple charity- far from it. *PNB lent wisely and with discretion, with trust built upon years of integration and participation in its community*. That cultivated trust and specialized knowledge explains why time and time again the bank financed the endeavors of individuals, organizations, churches, schools, and non-profits in our communities- despite imperfect credit scores, hard economic times, or foreseeable challenges. PNB was rewarded for its trust and respect, and it was

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[20] Wagner, Daniel. "FDIC: 25% of U.S. Households Have Limited Access to Banks, Minorities Hardest Hit By Disparity." *Huffington Post*. Dec. 2, 2009. http://www.huffingtonpost.com/2009/12/02/fdic-25-of-us-households_n_376811.html (accessed Jan. 2010).

[21] Federal Deposit Insurance Corporation.National Household Survey. *EconomicInclusion.gov*, 2009. http://www.economicinclusion.gov/household_survey.html (accessed Jan. 2010).

consistently paid back. This explains why at the time of its seizure and sale, Park National Bank was *a profitable institution*.

The Bigger Picture: Economic Recovery

If economic recovery is to reach all Americans, then we must retain a network of local financial institutions that lend *wisely and well*; helping *where* others won't, *when* others won't. Already there is evidence that Federal Recovery dollars are not reaching communities of color in an equitable manner, and Federal Bailout funds are not being returned to Main Street

The Kirwan Institute for the study of Race and Ethnicity at Ohio State University found that as of Oct. 12 2009, only $1.6 billion of the $25 billion in federal funds distributed under the American Reinvestment and Recovery Act reached black, Hispanic, or women-owned businesses. While 5.2% of businesses are black-owned, only 1.3% of ARRA funds went to black-owned businesses, and while 7% of businesses are Hispanic owned, as of Oct. 12th Hispanic businesses received only 2% of ARRA funds.[22] This early analysis of federal contracts suggests that ARRA funds are not reaching some of the communities that have been hardest hit by the foreclosure crises and economic down turn.

Simultaneously, the billions of taxpayer dollars used to bail out Wall Street have been tightly guarded by the nation's largest banks. Lending rates fell 2.8% in the third quarter of 2008- the sharpest drop since 1984.[23] Rather than lend TARP resources to help stimulate local economies, large banks have instead posted large profits- on average $2.8 billion in the third quarter.[24]

Chairwoman of the FDIC Shelia Bair is on record as stating that banks must increase lending to spur economic recovery.[25] After urging the heads of the nation's largest banks to increase lending, President Obama has turned to community bankers with the same message.

Park National Bank served its communities equitably and dependably long before President Obama and Ms. Bair made their appeals. Furthermore, it did so profitably and successfully. Yet it was allowed to fail while Wall Street, which continues to resist the influence of Washington, was saved at the taxpayers' expense. Community-based banks may be the Federal Government's best ally in stimulating an economic recovery, but only if they are supported and sustained by rational and fair policies.

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[22] Kirwan Institute. "Federal Procurement." FairRecovery.org, 2009. http://www.fairrecovery.org/design.html (accessed Jan. 2010).
[23] Alppelbaum, Binyamin. "2.8% Drop in Lending is Largest Since 1984." *Washington Post,* Nov. 25, 2009. http://www.washingtonpost.com/wp-dyn/content/article/2009/11/24/AR2009112401604.html (accessed Jan. 2010).
[24] ibid.
[25] ibid.

Questioning the Wisdom and Equity of TARP

The case of Park National Bank illustrates that the Troubled Asset Relief Program as it currently exists places smaller, community-based banks (CBBs) at a distinct disadvantage. In doing so, TARP blatantly undermines several of the FDIC's stated goals:

- Encourage institutions to increase lending throughout their communities;
- Increase the provision of financial services to minorities and the economically disadvantaged, effectively banking the "unbanked";
- Diversify and decentralize our financial sector by discouraging the formation of banks that are "too big to fail."

The "on the ground" experience of my organization and others fighting across the county for economic revitalization, proves that it is CBBs who keep credit flowing when times get tough; who keep rates down when their customers are hurting; who are financially prudent but also flexible, understanding, and trusting; and who reach out to blacks, Hispanics, and other "high risk" groups typically overlooked by mainstream finance. Our experience shows that however well-run and well intentioned U.S. Bancorp may be, it fails to measure up to Park National's record in any of these areas.

What then is the wisdom of a program that allows a model financial institution to die while saving banks that have ignored the call to increase lending and to bank the unbanked? Why was $180 billion worth of TARP funding allocated to only the 100 largest banks, while 661 banks with assets under 10 billion collectively received a mere $25 billion? [26] If we seek greater economic stability, then how does withholding crucial assistance from community-based banks advance the FDIC's goal of avoiding a future in which banks become "too big to fail"?

The facts just don't make sense. The FDIC's words and actions do not align. Rather than act in the interest of FBOP and our nation's CBBs, the FDIC further consolidated the banking industry by forcing the sale of FBOP Corp. and its nine local banks to U.S. Bancorp. We demand to know why.

The following details tell the story of only one bank, but without action and reform they will be repeated across the United States.

Details of the Seizure

On October 30, 2009, the FDIC seized the assets of FBOP Corp. and its Chicago Metro-area banking facilities, operated by Park National Bank. Invoking the cross-guarantee authority, a mechanism used by the FDIC only six times in twenty years, the agency seized Park National Bank along with its sister banks under FBOP Corp.[27] Despite the fact that PNB was profitable and well-capitalized, it was unable to compensate for the heavy losses suffered by FBOP and

[26] Hopkins, Cheyenne. "Huge Gains for Small Banks in the Public Eye and Washington." *American Banker*, Jan. 12, 2010. http://www.financial-planning.com/news/ICBA-Obama-Menzies-2665369-1.html (accessed Jan. 14, 2010).
[27] Sidel, Robin. "When Bad Banks Sink Good Ones." *The Wall Street Journal,* Nov. 3, 2009. http://online.wsj.com/article/SB125720151735123867.html (accessed Jan. 2010).

several of its institutions in the South and West, which were particularly hard hit by the mortgage crisis. As a result, PNB was sold to U.S. Bancorp along with FBOP's eight other banks, at a cost to the FDIC of $2.5 billion.[28] A pillar of our community and an exemplary bank was lost.

The FDIC maintains that the seizure and sale was "the least costly" option on the table,[29] but the facts suggest otherwise. There is significant evidence that the seizure and sale was not only misguided, but unjustifiable and unnecessary.

The seizure occurred only hours after the United States Secretary of the Treasury, Timothy Geithner personally awarded $50 million in tax credits to Park National Bank-an indication of confidence in the bank's stability, and an acknowledgement of its vital role in community reinvestment and economic recovery. Furthermore, the FDIC inexplicably disregarded FBOP Corp.'s request for a one-week grace period following the seizure to formalize the acquisition of $600 million in private equity, which FBOP had secured to help stabilize its struggling banks.[30]

The cause of FBOP's trouble was largely traceable to its $896 million portfolio of Fannie Mae and Freddie Mac preferred stock, $855 million of which had to be written down as losses following the federal takeover of the mortgage giants.[31] Far from being risky investments, preferred holdings in Fannie and Freddie was cast as one of the safest bets a bank could buy. The preferred stock was rated AA by the S&P and had a risk rating of 20%- the same risk rating as U.S. Agency bonds or "cash in bank."[32] Banks were allowed by a *special regulatory exception* to purchase preferred holdings in both Fannie and Freddie, and the FDIC lifted all limits to the amount banks could invest in these Government Sponsored Enterprises (GSEs)- up to 100% of their tier 1 capital if they chose.[33]

As late as August 2008, all three major rating agencies classified these GSE's ability to meet financial obligations as "strong." The FDIC and other regulatory agencies never alluded to the amount of GSE securities a bank was holding, or to whether such assets were concentrated. Hence, the day before the securities were declared worthless there was no effort to alert banks that the value of this preferred stock was going to zero.[34]

While TARP was created expressly to assist banks hit by GSE write downs, it had the affect of inhibiting bank holding companies such as FBOP from raising private capital. Initially assured that it would receive TARP funds, FBOP went through an extended period of deferrals and delays, as guidelines were rewritten and policies changed. Its ability to raise capital was inhibited all the while by a lingering assumption that TARP funds were forthcoming. Ultimately, the FDIC

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[28] Sidel, Robin. "When Bad Banks Sink Good Ones." *The Wall Street Journal,* Nov. 3, 2009. http://online.wsj.com/article/SB125720151735123867.html (accessed Jan. 2010).
[29] Ibid.
[30] Yerak, Becky. "Regulators Seize FBOP Banks." *Chicago Tribune*, Oct. 30, 2009. http://archives.chicagotribune.com/2009/oct/30/business/chi-fbop-seize-oct30 (accessed Jan. 2010).
[31] O'Hara, Carolyn. "Chicago Community Morns Loss of Local Bank." *PBS News Hour*. Dec. 23, 2009. http://www.pbs.org/newshour/updates/business/july-dec09/parkbank_12-22.html (Accessed Jan. 14, 2010).
[32] Martin, Noll. *Statement on GSEs*. Jan. 14, 2010.
[33] Ibid.
[34] Ibid.

denied FBOP's request for $500 million in TARP funds to salvage its balance sheets.[35] The reason? It lacked the necessary matching equity infusion.

Still, the reputation of FBOP was such that upon finally receiving a clear denial, the bank was able to raise $600 million in private capital investment. But the FDIC had already made up its mind; it was already reviewing bids for FBOP. Unbelievably, as the FDIC acted on October 30th, legislation that could have prevented FBOP's seizure was sitting on President Obama's desk, waiting to be signed into law.

The Worker, Homeownership, and Business Assistance Act of 2009 was signed by the President on November 6, one week after the seizure and sale of FBOP Corp. The Act extends the Net Operating Loss (NOL) carryback period for businesses from two years up to five, and applies to any NOL arising in years ending after Dec. 31st, 2007 and beginning before January 1st, 2010.[36] The law effectively allows business to spread their losses for a single fiscal year in this interval over the preceding five years.[37] If FBOP had been able to exercise this option, it could have spread its $855 million in losses from GSE preferred stock holdings appropriately over the preceding five years, and forwards as necessary into the succeeding twenty years. The ability to do so would have infused approximately $200 million into FBOP subsidiary banks and only enhanced FBOP's ability to raise private capital. Just one week would have saved FBOP, and ergo Park National Bank, from seizure.

We have come here today to ask, WHY? To the residents of communities served by PNB, this seizure and sale are incomprehensible. Why was a financially successful, model community-based bank not only allowed to die, but prevented from saving itself? Why was the FDIC so inflexible that it would not grant the seven days needed to save FBOP? Why were TARP funds withheld from smaller financial institutions, and why is there *still no relief* for our community-based banks?

The FDIC has made a profound error. At every turn it's policies and decisions not only disadvantaged FBOP, but effectively blocked it from saving itself. Our coalition has worked tirelessly over the last three months to bring this issue to the attention of our municipal, state, and federal representatives. Both the City Council of Chicago and the State of Illinois have supported our efforts and have issued resolutions urging investigation into the seizure. They have done everything in their power to aid and assist us.

We presumed, we hoped, that the buck stops here with the United States Congress- the voice of the people of the United States. Imagine our frustration when we learned that in fact, the buck does not stop here; that there was nothing our congressional representatives could do to alter the FDIC's decision. If the FDIC cannot be held accountable by our congressional representatives, then by whom? By what power? Who is regulating the regulators?

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[35] Yerak, Becky. "FBOP Owner Was Told It Would Get TARP Funds." *Chicago Tribune,* Nov. 3, 2009. http://archives.chicagotribune.com/2009/nov/03/business/chi-tue-fbop-nov03 (accessed Jan. 2010).
[36] Curtis. "New Law Signed by President Obama Extends the Net Operating Loss Carryback Period for All Businesses." *Tax Group Client Alert.* Nov, 2009.
[37] Ibid.

Chairwoman of the FDIC Shelia Bair is on record as supporting the need for increased checks and balances on the regulatory system. She has said, "I think there is too much power concentrated, frankly, with institutions and within the regulatory system, in a way that is not helpful."[38] Ms. Bair has said publicly that a concentration of power in any regulatory agency is undesirable:

> *"We don't want all the concentration of power in one place… If that single monolithic agency makes the right decisions, then maybe you've got a really efficient regulatory system. But if that single monolithic agency makes the wrong decisions, if it becomes captive of these big institutions that it regulates...we're in real trouble, because there's nobody else that can raise a hand and say, you know what? You're wrong."*[39]

Respected members of Congress, today we are raising our hand. We are saying that the Federal Deposit Insurance Corporation was wrong. It was wrong to seize FBOP Corp. without considering the ramifications to numerous communities; it was wrong to deny FBOP access to TARP funds; and it was wrong to deny FBOP the mere seven days needed to save itself and to preserve Park National Bank.

Conclusion

We believe that it is not too late to save our bank, that the injustice done to the superlative institution that was Park National Bank can be undone. We ask this Subcommittee to urge the FDCI to re-assess and reverse their actions regarding FBOP. We ask that Congress exercise its full power to ensure that other community-based banks across our nation do not meet a similar fate to that of PNB. Financial reform legislation is still pending in the U.S. Senate, and will come before you again for reconciliation. Use that opportunity to create a level playing field for community-based banks and to increase the access of *all* communities to the banking services and credit they need to recover from the Great Recession.

We have ridden for fourteen hours on a bus to be here, and tonight will make the fourteen-hour trip back home because many among us cannot afford overnight accommodations. That is how important this issue is to our communities.

We have not come in self interest, but in the interest of justice and fairness. We have not come simply on behalf of our community, but on behalf of communities across the nation. We do not represent a single political allegiance, ethnic group, or socioeconomic class. We are a coalition as diverse as America, and we have come here as Americans who demand a say in our economic future. We are asking that you, our elected representatives, exercise your power to reform misguided policies and to hold regulatory agencies accountable for their actions.

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[38] "FDIC's Bair: Bank Bailouts were 'Not a Good Idea.'" *PBS News Hour*. Int: Solman, Paul. Nov. 13, 2009. http://www.pbs.org/newshour/bb/business/july-dec09/fdic_11-13.html (accessed Jan 2010)
[39] Ibid

I am grateful to have had the opportunity to testify here today on behalf of my organization and my community. I hope that I have alerted you to the vital importance of our nation's community-based banks. On behalf of my community and concerned citizens everywhere, I urge you take immediate legislative action to foster and support the role of community-based banks in the American economy.

Policy Recommendations: Community-based Banks and Banking

Congress is currently in the process of passing financial reform legislation. When the final reform bill returns to the House of Representatives, we strongly urge you to support or incorporate the following recommendations:

1. Community Banking Departments:
   (a) Each bank operating one or more branches in a metropolitan (or other designated geographical area) should be required to establish a Community Banking Department (CBD). The CBD would develop programs that are specific to the areas the bank serves and that recognize and respond to the different needs of such areas.

   (b) Federal bank regulators (e.g., FDIC, OCC, the Federal Reserve System and Department of the Treasury) should also establish Community Banking Departments. These CBDs would work with those created by banks in developing and assessing the effectiveness of the various programs implemented by the CBDs.

2. A TARP II should be established using the unspent and repaid TARP funds. Unlike TARP I, TARP II funds should be directed to community-based banks and used for lending to small and medium sized businesses in these banks' geographical areas of operation.

3. Community-based banks receiving funds under TARP II should develop lending programs in consultation with an advisory committee drawn from community organizations. These programs should focus on pursuing partnerships with Community Development Corporations in the geographical area served by the bank.

4. Community Reinvestment Act (CRA)
   (a) Modernize the Community Reinvestment Act (CRA) to increase transparency, accountability and stability in the financial system by addressing historical imperfections in the execution of the law. Specifically:
      (i) Make CRA cover all lending;
      (ii) Institute a meaningful grading system, with real consequences for banks;
      (iii) Require public hearings and appeals on bank examinations and grading.

   (b) In selecting a purchaser for an FDIC-closed bank, the FDIC should assess the community service history of the acquiring bank, and preference banks with a strong record of local service over other bidders. This assessment of community service should be based on the metrics contained in the proposed Community Reinvestment Act reform legislation embodied in HR 1479 and HR 767.

5. In determining which banks should purchase an FDIC-closed bank, the FDIC should seek to reduce concentration in banking and encourage diffusion of assets among medium and small sized banks.

6. We recognize the real costs of regulation. However, we believe that the regulatory structure should not facilitate regulatory "shopping" by banks. Therefore, we believe that legislation proposing the creation of a Consumer Financial Protection Agency (CFPA) should be amended to reinstate the role of the CFPA as a regulator of small banks. At the same time, the costs of regulation should be adjusted to represent risk levels rather than size based economies of scale. Thus, the regulatory costs for community-based banks should be, in part, underwritten by the charges to banks with lower community service scores and/or with a higher risk asset base.

7. Congress should develop legislation similar to the Glass-Steagall Act. This legislation should reinstate the distinction between commercial and investment banking and require financial institutions to choose which of these activities they will pursue.

8. Congress should pass the "Too Big to Fail, Too Big to Exist" legislation proposed by Vermont Senator Sanders (or similar legislation).

9. We also support the provisions of the Consumer Financial Protection Agency Act that would limit fees, particularly overdraft fees, charged by banks. These fees, often embedded in account opening procedures, are a significant drain on the finances of low-income communities.