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August 30, 2010

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Attn: Docket ID OCC-2010-0011

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th St. and Constitution Ave, NW
Washington DC 20551
Attn: Docket No. R-1386

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: RIN 3064-AD60

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: ID OTS-2010-0019

Re: Community Reinvestment Act Regulation Hearings

Dear Sir or Madam:

The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision (collectively "the Agencies") are holding a series of joint public hearings to receive public comments on the agencies' regulations regarding a financial institution's performance under the Community Reinvestment Act (CRA). The Independent Community Bankers of America[1] (ICBA) appreciates

[1] The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an everchanging marketplace.

With nearly 5,000 members, representing more than 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold $1 trillion in assets, $800 billion in deposits, and $700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

the opportunity to provide written comment to the Agencies on whether and how the agencies should revise their CRA regulations to better serve its goals.

The CRA is intended to encourage banks to help meet the credit needs of their communities consistent with safe and sound operation of their institutions. Agencies are required to encourage banks to help meet the credit needs of the local communities they are chartered to serve and to consider this record in evaluating certain applications.

It is important to ensure that regulatory requirements, guidelines and actions by examiners are flexible and do not create unnecessary burdens. Community banks must be able to support their communities based on market needs, local opportunities and the bank's strategic strengths. Community banks should not be required to expend resources that do not directly benefit the local community but should be given credit for activities that benefit the entire community. Additionally, performance context should always be carefully considered and applied.

Asset Thresholds and Designations

As long as community banks are subject to CRA, ICBA strongly supports a tiered CRA regulatory system with a streamlined examination for community banks to minimize regulatory and paperwork burden. To be equitable, banks should be evaluated against their peers, not in the same context as banks hundreds of times their size that stretch from coast to coast. Assessing the CRA performance of a $500 million bank or a $1 billion bank using the same criteria as for a $500 billion bank is inappropriate.

Additionally, expanding eligibility for the streamlined small bank and intermediate small bank exams would provide needed regulatory burden relief. Compliance costs can more substantially increase when community banks are not examined using the streamlined procedures. Therefore, ICBA supports increasing the eligibility threshold for the streamlined small bank and intermediate small bank CRA exams, and supports less frequent CRA exams for small, well-rated banks.

Ratings and Incentives

The CRA requires that federal bank regulators evaluate how each FDIC-insured institution affirmatively meets "the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound

operation of such institution," and take that record into account when evaluating an application for a deposit facility by the institution.

Community banks, as integral parts of their communities, rely on vibrant communities to thrive. Community banks are locally owned and operated institutions that are integral parts of their communities and engage in community reinvestment and community development on a daily basis. Community banks generally serve only their local communities with deposit, lending and other banking services. In addition, local community bankers frequently play a key role in many civic activities, such as serving on a development corporation board, hospital board, chamber of commerce or school board. Currently, this type of participation only qualifies a bank as a good corporate citizen. This type of community support should be given additional CRA credit.

Volunteer work at organizations that help low- and moderate- income residents by community banks and their employees should also be given appropriate credit. Many community banks and their employees spend countless hours working to develop affordable housing, revitalize neighborhoods, and enhance the economies of cities and rural communities through organizations such as Habitat for Humanity, Food Banks, and Meals on Wheels. ICBA supports this type of community reinvestment and community development as a means of addressing these needs and believes it should be given proper CRA credit.

Additionally local access to credit and equity capital is an essential ingredient for creating and retaining jobs. Over the last 20 years, banks have been consolidating into large multi-state operations. One of the collateral effects is that local community groups no longer have access to a local decision-maker in these banks, one who is integrally involved with the community. In contrast, the local community banker understands community needs and can make quick decisions regarding funding for housing, job-creating small businesses and other local economic needs. Such is not the case when a funding request must go through a branch of a multi-state bank and is then forwarded to an office many miles away where the request can become mired in a bureaucracy.

Compliance and Recordkeeping

Most community banks are facing compliance and recordkeeping challenges brought about by additional regulations and restrictions placed on banks. The additional requirements and restrictions placed on banks significantly increase the time that compliance officers, managers and bank professionals have to spend ensuring that they provide the information to regulators, document bank

transactions and provide disclosures to customers. While it is not overwhelming to comply with an individual regulation in and of itself, the requirements imposed cumulatively by the banking regulators are onerous, especially for small banks.

The records and requirements necessary to document proof of complying with CRA are inconsistent and time-consuming. For example, when providing financial literacy to a school, one community banker noted that to verify whether the financial literacy program was for low- and moderate- income families, the bank was required to prove how many students participated in the subsidized, free lunch program. Another community banker was not allowed to use participation in the subsidized, free lunch program to determine if the school qualifies as serving low- and moderate- income students. This type of inconsistency, coupled with the amount of documentation required to support the qualification, makes complying with this provision of CRA burdensome and ineffective.

However, financial literacy efforts are valuable services that ensure local communities and their residents are economically vibrant and thriving and therefore should be given CRA credit whether or not they are provided to low- and moderate- income individuals. In addition to ensuring the ongoing economic vitality of the local community and its residents, consistent recordkeeping and requirements would reduce the burdensome paperwork required for this provision and would allow community banks to reallocate and redirect both human and financial resources to their communities and customers.

In addition to the inconsistency among different examiners, there is also inconsistency between examinations. After an examination, one community banker, located in a rural area, was asked to shrink its CRA assessment area. After the next examination, he was asked to extend its CRA assessment area. ICBA has long been a proponent of examination consistency in regulatory treatment. Barring a significant reason for disparate treatment, ICBA finds that consistency helps reduce burden, primarily by eliminating confusion among bankers and examiners.

Community Development

The definition of “community development” includes activities in distressed or underserved middle-income rural areas, and disaster areas designated by federal, state, or local governments.

ICBA appreciate that the current definition of community development gives credit for activities that benefit rural residents and communities even if not targeted solely to low- and moderate-income individuals or areas. Such a definition recognizes the unique challenges of rural areas, where inadequate public infrastructure is a significant roadblock to economic development and where demographic patterns often make it difficult to segregate low- and moderate- income geographies.

However, it is difficult for community banks to further engage in community development loans or investments that revitalize or stabilize a neighborhood because of the mixed message received from regulators. Financing community projects that revitalize or stabilize a neighborhood generally requires the cooperative efforts and financing of several sources. Absent outside capital support or significant cash flow from various sources, loans provided by a community bank will receive critical review by most regulatory agencies, which directly counters the intent of CRA to encourage community development loans.

Credit Unions Should Not Be Exempt from CRA

While this solicitation for comment is intended to focus on potential changes to the CRA regulations, we must submit our strong objection to credit unions' statutory exemption from CRA and request that the agencies support any statutory change that would regulate all entities that provide financial services to their communities.

The credit union industry has become a full and direct competitor with community banks. Today's credit unions have virtually no limit to their customer base and the "common bond" requirement has become meaningless. For example, NCUA gave the Los Angeles Financial Credit Union approval to serve: "Anyone who lives, worships, works in, or attends school in Los Angeles County." This encompasses a county of more than 10 million people and a geographic area larger than the states of Delaware and Rhode Island combined.

Furthermore, studies show that credit unions are not meeting the needs of low- and moderate- income residents. A 2009 study by the National Community Reinvestment Coalition determined that large credit unions do not serve people of modest means as well as mainstream banks, which must comply with the requirements of the CRA. This study highlighted how banks "consistently exceed credit unions' performance in lending to women, minorities, and low and moderate-income borrowers and communities." A 2003 Government Accountability Office study found that credit unions serve a more affluent

clientele than banks. This GAO study concluded that "credit unions overall served a lower percentage of households of modest means than banks."

We will continue to strongly recommend to Congress that credit unions be required to comply with CRA requirements in the same manner and with the same asset size distinctions, as banks and thrifts and request the agencies' support in this effort.

Conclusion

ICBA greatly appreciates the opportunity to comment on this important topic. Community bankers are strongly committed to the goals of the Community Reinvestment Act; indeed, community investment and development are at the core of each community bank's mission. However, many community banks are faced with increased compliance challenges that make it costly and burdensome to comply. Maintaining and updating lengthy records for the minimal benefit received is inefficient. Additionally, differing interpretations for similar or identical rules adds to regulatory burden.

Community bankers' primary goal is to ensure their local communities are vibrant and thriving and they know that engaging in civic activities, local organizations and providing for the deposit and lending needs of their community is good business practice. The health of the bank is closely interwoven with the ongoing economic vitality of the local community and its residents.

Thank you for the opportunity to provide information to enhance the regulations implementing the CRA. If you have any questions or need additional information, please contact me at 202-659-8111 or at Lilly.Thomas@icba.org.

Sincerely,

Lilly Thomas
Vice President and Regulatory Counsel