



## Consumer Federation of America

October 18, 2004

Mr. Robert E. Feldman  
Executive Secretary  
Attention: Comments/Legal ESS  
Federal Deposit Insurance Corporation  
550 17th Street, NW 20429

Re: **RIN 3064-AC50**

Dear Mr. Feldman:

On behalf of the Consumer Federation of America I am writing to register our strong opposition to the proposal by the Federal Deposit Insurance Corporation (FDIC) to rewrite the Community Reinvestment Act (CRA) rules to exempt additional banks from full CRA compliance review. We are disturbed by both the substance of the proposal, but also the procedure used by the FDIC for this rulemaking. The “go it alone” approach your agency has followed is unprecedented for CRA rulemaking. In our view, such an ad hoc approach was unfortunate and unnecessarily divisive. In any case, it has tainted the rulemaking process. CFA urges, therefore, that the proposal be withdraw.

CFA is a national non-profit association of 300 pro-consumer groups established to advance the consumer interest through research, education, and advocacy. [www.consumerfed.org](http://www.consumerfed.org). CFA has long supported CRA as an effective tool for expanding access to responsible credit and other banking services for underserved urban and rural communities. It is our belief that this is the wrong time for the FDIC to be weakening standards when communities across America are experiencing dramatic increases in predatory lending and other abusive financial services practices that thrive due to the lack of mainstream bank activity.

CRA was enacted to encourage banks and thrifts to reach out to serve all parts of the communities for which they are chartered to serve. Since its adoption in 1977, CRA has generated an estimated \$1.75 trillion in capital to credit starved urban and rural communities. There is general consensus among industry and non-industry sources alike that CRA has played a very positive role in making credit available for millions of households, which in turn, has spurred record homeownership rates and other economic expansion in needy areas. Yet the law’s success is dependent upon vigorous and comprehensive enforcement, which begins with the quality of agency compliance examinations.

The proposed rule quadruples (from \$250 million to \$1 billion) the minimum asset size that triggers a more stringent CRA review. It would weaken the lending test and also eliminate the investment and service parts of the CRA exam for FDIC supervised banks that fall into this asset size category. According to FDIC statistics, the proposal would mean that an additional 900 banks will no longer be required to adhere to more comprehensive CRA standards, leaving only a comparative handful of big banks (223 of 5,291, or 4% and only 1% of banks in rural areas) to undergo full CRA review. Adoption of the lighter standard the FDIC is proposing is likely to mean the loss of hundreds of millions of dollars in loans, investments, and services for local communities and would disproportionately impact rural communities and small cities where the market presence of these midsize banks is often great.

The FDIC proposal would add a community development criterion in lieu of the more comprehensive investment and service tests used under current rules (that collectively represents 50 percent of a bank's CRA grade). This proposed new factor would permit banks to satisfy the community development criterion by electing whether to provide community development loans, investments or services instead of evaluating their performance for all three categories, as the rules presently require. This change is likely to result in reductions in the financing of a host of community development activities.

Another harmful aspect of the proposal, which is of particular concern to CFA, is that it would eliminate the service test. The "service test" was instituted in 1995 and is intended to evaluate a bank's record of helping to meet retail banking and other service needs. The inclusion of this test was based on the recognition by regulators that access to deposit services was essential for low and moderate households to gain access to credit. Obtaining a bank loan is difficult without first acquiring a bank account. On an even more fundamental level, access to safe, secure and affordable deposit services is critical for helping to build financial stability. It provides both physical and financial security for handling money, allows families to pay their bills in an efficient and timely manner, offers an opportunity to save money and earn interest on savings.

The deletion of the service test, as the FDIC proposes, will have harmful consequences for low and moderate income consumers. Twenty-five percent of this bank's CRA grade is based on their record of providing retail and other banking services to low and moderate income consumers. The elimination of this component would mean that federal examiners for CRA purposes would stop reviewing the retail transaction account services provided by the exempted banks.

Among other things, the deletion of the service test removes any regulatory incentive for the exempted banks to open and maintain branches and ATM machines serving low and moderate income geographies, to provide affordable banking services and checking and savings accounts necessary for bringing the millions of unbanked households into the financial mainstream and to offer money transfer and remittance services, which are particularly important to new immigrants and ethnically diverse communities.

Another aspect of the proposal we are concerned about is that it broadens the definition of community development in rural areas so that banks could receive positive CRA credit even if these activities are not particularly directed at serving the needs of low and moderate income households, as is presently required. The proposal would be particularly harmful to rural counties, where fewer banks are located.

In short, the fundamental flaw with the FDIC proposal and rule recently adopted by the Office of Thrift Supervision is that they work at cross purposes with CRA's purpose. CRA mandates that banks, regardless of their size, have the same continuing and affirmative obligation to serve the credit and deposit service needs of their local communities, including low and moderate income areas. Indeed, two other banking agencies, the Federal Reserve Board and the Office of the Comptroller of the Currency, did not agree to support this rulemaking because of their recognition of the harm it would cause.

For these reasons, again we urge that the proposal be withdrawn.

Yours sincerely,

Allen J. Fishbein  
Director  
Housing and Credit Policy

202-387-6121