BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

RONALD REAGAN BUILDING
300 SOUTH SPRING STREET, SUITE 1700
LOS ANGELES, CA 90013

Public: (213) 897-2000
Telephone: (213) 897-2015
Facsimile: (213) 897-4951
E-Mail: robyn.smith@doj.ca.gov

January 9, 2006

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

RE: RIN No. 3064-AC97 – Comments to Proposed Revisions to Community Redevelopment Act Examination Regulations

Dear Mr. Feldman:

On behalf of the Attorney General of the State of California, I am writing to comment on the Community Redevelopment Act (the "CRA") examination regulations proposed by the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System ("FRB"), and the Federal Deposit Insurance Corporation ("FDIC") (hereinafter, collectively referred to as the "federal agencies"). As you know, the CRA is the primary law that requires federal financial institutions to address the needs of low- and moderate-income communities. The Attorney General is therefore concerned about maintaining the appropriate stringency of CRA examinations, which are crucial to improving the lives of those who reside in the poorest California communities by increasing the stock of low-income rental housing, increasing home and small business ownership, and encouraging economic development.

The Attorney General applauds several of the proposals that will encourage financial institutions to increase their investments and services in the neediest communities. First, the Attorney General supports the federal agencies' proposals to provide financial institutions with credit for financing community development in geographical areas impacted by disasters, with a focus on activities that are most responsive to the needs of low- and moderate-income consumers. In light of California's extensive history of natural disasters, the Attorney General strongly supports CRA examination requirements that encourage financial institutions to help the poor families that are most devastated by such disasters.

Second, the Attorney General supports the federal agencies' proposal to add questions and answers to CRA exams regarding community development services with an emphasis on low-cost banking services for low- and moderate-income consumers. The Attorney General, however,

is concerned that financial institutions will seek credit under this new provision for banking services that are harmful to the economic health of these consumers, such as payday loans, bounce protection plans, and tax refund anticipation loans. The Attorney General therefore requests that the federal agencies clarify that institutions will not get credit and will be penalized for the types of expensive services that negatively impact the long-term economic health of low- and middle-income communities.

Finally, the Attorney General supports the federal agencies' proposal to add questions and answers to CRA exams clarifying the obligation of mid-size banks to offer community development loans, investments, and services in low- and moderate-income communities. The Attorney General is disappointed, however, that these questions and answers do not include any requirements concerning brick-and-mortar branches. The location of physical branches in these communities is vitally important because, as set forth in a recent FRB study, racial disparities in high-cost home lending are reduced when banks conduct lending through branches rather than brokers. In addition, if access to branches is not available in under-served communities, low-income and immigrant families will become further dependent on the expensive services offered by check cashing stores and payday lenders. Thus, the Attorney General therefore requests that the federal agencies add brick-and-mortar branch requirements to the questions and answers applicable to mid-size banks.

The Attorney General has additional concerns regarding the federal agencies' proposals. The proposal for a new question and answer which would provide CRA credit for financing middle- and upper-income housing developments in distressed or under-served rural middle-income census tracts would allow financial institutions to demonstrate compliance by providing home financing to <u>any</u> individual, regardless of his or her income or need. In existing CRA questions and answers, however, the federal agencies provide credit for mixed-income housing developments. This type of housing reduces segregation by income and is worthy of CRA credit if the housing contains a significant number of poor families. Thus, the Attorney General requests that the federal agencies provide CRA credit for the financing of low-income or mixed-income housing in distressed or under-served rural areas, rather than for the financing of middle- and upper-income housing.

As a final request and comment with respect to all of the proposals of the federal agencies, the Attorney General urges the agencies to add examination questions and answers regarding fair lending practices, such as whether an institution complies with anti-predatory lending and anti-discrimination laws when it makes a high concentration of subprime loans to immigrants, the elderly, minorities, low-income borrowers or to communities recovering from natural disasters or experiencing shortages of credit. In light of the recent proliferation of high-cost financial services targeted primarily at the most vulnerable consumers, financial institutions should be encouraged to

continue to provide affordable services that will contribute to the long-term well-being of poorer communities.

Overall, the proposal of the FDIC, the OCC, and the FRB to strengthen examination requirements will further the CRA's statutory purpose of obligating financial institutions to meet the community development and credit needs of the communities in which they do business. The Attorney General is concerned, however, that these proposals do not adequately address a troubling trend in low- and moderate-income communities–the banking options for the working-poor, immigrants, women, elderly consumers, and minority consumers are becoming more and more limited as financial institutions reduce their physical presence and the availability of affordable services, leaving a vacuum filled by check cashers, payday lenders, and subprime lenders. The Attorney General therefore urges the OCC, the FDIC, and the FRB, to adopt additional CRA examination regulations aimed at encouraging fair lending practices in low- and moderate-income communities.

Sincerely,

ROBYN C. SMITH
Deputy Attorney General

For BILL LOCKYER
Attorney General