

May 11, 2005

Communications Division
Public Information Room
Office of the Comptroller of the Currency
250 E Street, SW
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Washington, DC 20219

Attention: Docket 05-04 – Proposed Revisions to the CRA Regulations

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Docket No. R-1225 – Proposed Revisions to the CRA Regulations

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

Re: 12 CFR Part 345 – RIN 3064 – AC89 – Proposed Revisions to the CRA Regulations

Dear Sir or Madam:

In response to the notice of proposed rulemaking published in the *Federal Register* of March 11, 2005, the New York Bankers Association is submitting these comments on the regulations implementing the Community Reinvestment Act (CRA). Our Association strongly supports increasing the asset size threshold for eligibility for the streamlined CRA examination from the current \$250 million to \$1 billion, irrespective of whether a bank is affiliated with a holding company. It is important to remember that the streamlined examination is ***not*** an exemption from CRA, but simply relief from overly burdensome regulatory requirements. Our Association is comprised of the community, regional and money center banks of New York State, which have aggregate assets in excess of \$3 trillion and more than 310,000 New York employees.

The federal bank regulatory agencies (Comptroller of the Currency, Federal Reserve Board, FDIC) requested comments in March on a revised proposal to amend the regulations implementing CRA. The proposal has three parts: first, the threshold for defining a “small bank” for purposes of the streamlined

examination procedure would be increased from the current level of \$250 million in assets to \$1 billion and the current limitation that the bank could not be part of a holding company with more than \$1 billion in assets would be eliminated. Second, banks with assets between \$250 million and \$1 billion would need to achieve a rating of satisfactory on both the streamlined examination procedure and a new “community development” test in order to receive an overall CRA rating of satisfactory. Third, the definition of “community development” would be expanded to include supporting affordable housing for individuals in underserved rural areas and designated disaster areas (in addition to low- and moderate-income individuals) and participating in community development activities that revitalize or stabilize underserved rural areas and designated disaster areas (as well as low- and moderate-income areas).

1. Increased Asset Size

In comments filed in 2001 and again last year, our Association urged that the \$250 million asset limit on streamlined examinations be increased. Whereas only a few years ago, banks with assets below \$250 million accounted for more than 90% of all institutions, today they account for a far smaller percentage. We therefore support the agencies’ proposal to delete the limitation of the small bank definition to banks that are in holding companies with less than \$1 billion in assets and to increase the asset definition for small banks to \$1 billion. The limitations in the small institution examination, to those not part of a holding company of more than \$1 billion, unnecessarily distinguishes between the treatment of community banks based solely on corporate structure. Yet, a community bank and the important role it plays in its local community, does not change by becoming part of a larger holding company.

In addition, the \$250 million definition for small institutions certainly is inapplicable to a State like New York, where institutions many times larger are competing against some of the largest depositories in the nation. Our Association calculated that, based on last year’s call reports, by increasing the asset definition for banks subject to the streamlined examination procedure to \$1 billion, the agencies would continue to subject \$1.697 trillion (98%) of the \$1.733 trillion in assets in insured institutions in New York to a full-scope CRA examination. But, while the overwhelming majority of assets would continue to be subject to the full-scope examination, increasing the asset size of eligible banks to \$1 billion would free approximately 45 banks and thrift institutions from the costs and regulatory burdens of the full CRA exam (fully a quarter of these institutions in the State).

The difference in cost, time and burden between a full-scope CRA exam and the streamlined examination to which smaller institutions are now subject is significant. Many smaller institutions that are not currently eligible for the streamlined examination report that, as the banking agencies’ own data indicates, the cost of a full-blown CRA exam may be three times that of a

streamlined exam. The added cost detracts directly from the resources that community banks have available to serve their local communities. Increasing the size of institutions eligible for the streamlined examination from \$250 million to \$1 billion would, we believe, better serve an objective of the agencies of reducing bank regulatory burden with very little impact on the assets that would continue to be subject to the full-scope examination.

2. New “Community Development” Test

The proposal would also create a new “community development” test for banks with assets between \$250 million and \$1 billion and require a “satisfactory” grade on both the new test and the existing streamlined examination before an institution could receive an overall passing grade under CRA. We have two comments: first, the new test should not apply to community banks between \$250 million and \$500 million in assets. Under the agencies’ original proposal going back to 2001, banks of that size would simply have become subject to the streamlined exam; nothing in the intervening years would indicate a need to alter that result.

Second, our Association is concerned that giving equal weight with CRA lending to a community development test that has not yet been fully implemented and audited could lead to results that could skew CRA ratings. We believe that the community development test for banks between \$500 million and \$1 billion in assets should be implemented, at least initially, as a segment of the overall community lending responsibilities under the streamlined exam. Only if it then proves to have merit equal to the lending test should it be broken out as a separate portion of the CRA exam.

3. Definition of “Community Development”

Our Association also supports inclusion of activities in rural areas in the community development examination standard. Banks located in rural areas of New York State are engaged in a full range of activities in support of their local communities. Without the support of their financial institutions, many rural communities would have difficulty thriving. We believe that including activities in rural areas in the streamlined examination criteria would more accurately reflect the community development activities of banks in such areas.

The New York Bankers Association appreciates the efforts of the agencies to develop new uniform streamlined CRA examination thresholds. We urge that the threshold for the streamlined exam be increased to \$1 billion in assets, irrespective of holding company affiliation; that the new community development test be made applicable only to banks between \$500 million and \$1 billion in assets and be made a segment of the streamlined exam only for those banks; and urge inclusion of bank community development activities in rural and underserved areas.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael P. Smith". The signature is fluid and cursive, with the first name "Michael" being the most prominent.

Michael P. Smith