



October 19, 2004

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

RE: RIN3064-AC50 – Community Reinvestment Act

Dear Mr. Feldman,

We appreciate the opportunity to submit these comments in response to the FDIC's proposed changes to the 12 CFR 345 implementing the Community Reinvestment Act (CRA). The Nebraska Appleseed Center for Law in the Public Interest is a non-profit, non-partisan organization committed to positive social change in Nebraska. Nebraska Appleseed works to ensure equal justice for all under the law and to create practical and reasonable solutions to issues faced by low-income and new immigrant community members, as well as children in need of protection. **We write to urge you to withdraw the proposed changes to the regulations implementing the CRA.**

Over the past year and a half, we have been working to increase immigrant and Latino access to mainstream financial services. We have launched this initiative in cooperation with a wide range of community partners, including the regional office of the FDIC, the Nebraska Bankers Association, local community banks and community organizations. Many of our financial institution partners have made reference to CRA credits in our work together, and we are gravely concerned that proposed changes to the CRA regulations will negatively impact banks' efforts to meet the financial and lending needs of the entire community.

As Congress well recognized when it first enacted the CRA, inadequate access to mainstream financial services and credit leaves large segments of the population prey to unregulated and predatory services, and generates ripple effects felt throughout our society. Rather than allowing fringe financial services to skim resources from "unbanked" individuals and small businesses that lack sufficient access to credit, the CRA is meant to ensure that such resources are better utilized by being reinvested in communities, in families' education and housing, and so on. Furthermore, failing to provide access to banking services for whole segments of the population affects the financial health and well-being of our society as a whole, creating significant social and economic costs in other arenas. **The current proposal contradicts the mandate of the CRA to encourage banks to meet the deposit and credit needs of their entire communities, including low- and moderate-income consumers.**

Specifically, the "small bank" asset limit should not be increased to \$1 billion and CRA obligations should not be reduced for banks that fall into the \$250 million to \$1 billion bracket. The FDIC has made great strides in working with financial

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institutions to serve new immigrants, and it is in that context that this policy proposal is particularly surprising. This proposal would reduce incentives for many financial institutions to reach out to marginalized communities – particularly smaller community banks whose entire CRA business model involves targeting this growing market – and it will drastically reduce assets available for community development loans, investments, and services. In Nebraska, under the proposed new rules, **99.4% of Nebraska’s FDIC banks would fall in the category of minimal CRA responsibility**. While we have a relatively small number of institutions in our state, it is critical to note that **almost 20% of Nebraska’s total FDIC bank assets would shift into the category requiring minimal CRA responsibilities** (statistics from the National Community Reinvestment Coalition).

Three other components of the proposed rules concern us: the provision of CRA credit for community development activities directed at *any* individuals who reside in rural areas, the reduced reporting requirements for banks with assets between \$250 million and \$1 billion, and the overly flexible system for assessing bank community development activities.

As a largely rural state grappling with rural development issues, we wish to emphasize the inadequacy of the proposed “broad-brush” approach to rural community development. The proposed community development criteria provide CRA credit for serving *any individual* residing in a rural community. There is no focus on low- to moderate-income rural residents, which is the community in greatest need and with the fewest financial service options. **Allowing credit for generally serving rural communities would allow banks to serve the most affluent rural community members and profitable businesses and receive CRA credit, which contradicts the purpose of the Community Reinvestment Act.**

The elimination of certain reporting requirements for banks that would benefit from the new “small bank” definition **will hinder transparency in banking practices**. It is crucial to have key community development information available so that local areas can assess how well their banks are serving their communities. Without sufficient statistical information, it is difficult for a community to analyze how much effort a bank is making to serve the needs of lower income community members and to hold institutions accountable.

Finally, the new system for assessing mid-sized banks’ community development activities – rather than evaluating lending, investing, and services – **is overly flexible and encourages banks to focus on the easiest activities** rather than those that are most needed by the community and particularly by less privileged members of the community the bank serves. The FDIC has launched a wonderful financial education campaign focused on banking the unbanked and creating more sophisticated financial service consumers. The impact of the new rules would be to reduce financial service options for those benefiting from the FDIC financial education program. It is beneficial to teach people new information, but with that information must come possibilities. CRA performance evaluations should continue to assess the full array of lending, investment and service activities.

Your sister financial regulators, the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, have both rejected similar proposed rules, based on the harm it would cause. It is unclear to us why the FDIC would want to pursue such a policy on

its own despite significant evidence that the policy would divert much needed investment and stifle product innovation to serve our poor, middle-income, and rural communities.

The Community Reinvestment Act has a strong history of strengthening the financial health of our communities – to the benefit of banks and community members alike. The new proposal may be beneficial to banks in the short term, through cutting expenses related to the CRA examination process. In the long term, however, it will decrease asset-building for lower income Americans, limiting the number of people moving out of the low- to moderate-income category, and ultimately hurting both banks and communities.

The CRA has proven to be a critical community development tool. The current proposal blatantly contradicts the CRA’s statutory mandate to continually and affirmatively meet community needs. We respectfully urge you to withdraw it. “Eliminating burden” on banks under the CRA is a meaningless effort if at the same time we hollow out the CRA’s effectiveness in accomplishing its mission. We thank you for the opportunity to weigh in on this important issue, and hope that you will give serious consideration to our comments.

Sincerely,

NEBRASKA APPLESEED

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Executive Director/Lawyer

Darcy Tromanhauser
Coordinator, Immigrant Civic Participation and Integration Program

Cc:
National Community Reinvestment Coalition
Senator Chuck Hagel
Senator Ben Nelson
Representative Lee Terry
Representative Tom Osborne
Office of the First Congressional District of Nebraska