

# THE FINANCIAL SERVICES ROUNDTABLE



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October 20, 2004

Robert E. Feldman  
Executive Secretary  
Attention: Comments/OES  
Federal Deposit Insurance Corporation  
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**RICHARD M. WHITING**  
EXECUTIVE DIRECTOR AND  
GENERAL COUNSEL

Re: Community Reinvestment Act Regulations; RIN 3064-AC50

Dear Sir or Madam:

The Financial Services Roundtable (the "Roundtable")<sup>1</sup> appreciates the opportunity to comment on the proposed amendments ("Proposed Rule") to the Community Reinvestment Act of 1977 ("CRA") issued by the Federal Deposit Insurance Corporation ("FDIC").

## **Background**

The FDIC is proposing to amend the definition of "small institution" under CRA to mean an institution with total assets of less than \$1 billion, without regard to any holding company assets.

In addition, for banks with assets between \$250 million and \$1 billion, the proposal would add a new community development criterion to the small bank performance standards that would provide these institutions with a choice among community-based lending, investment, and service activities.

## **Roundtable Comments**

The member companies of the Roundtable are committed to the main goal of CRA, which is meeting the credit needs of all communities. The Roundtable supports the FDIC's proposal to increase the asset size limit of banks eligible for the streamlined small-bank CRA examination.

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<sup>1</sup> The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Roundtable member companies provide fuel for America's economic engine accounting directly for \$18.3 trillion in managed assets, \$678 billion in revenue, and 2.1 million jobs.

Although a vast majority of our member companies would not be directly affected by the proposed change, we support the common sense approach taken by the FDIC. There have been many changes in the industry since this streamlined CRA examination process was first contemplated in the revised 1995 CRA regulations.

- Factors increasing the overall asset size of institutions have created a large disparity between the institutions currently eligible for the streamlined examination and all other institutions; and
- Institutions are subject to additional regulatory burden due to regulations such as the USA Patriot Act, the privacy provisions of the Gramm-Leach-Bliley Act (“GLBA”), Home Mortgage Disclosures Act (“HMDA”) and the Sarbanes-Oxley Act.

The Roundtable does not believe that making the proposed changes to CRA will affect the requirement that all financial institutions meet the credits needs of their communities. In fact, we believe that removing some of the burdens on institutions would enhance their ability to make loans to low- and moderate-income neighborhoods. For these reasons, we support the FDIC’s proposal and urge the other regulatory agencies to adopt similar rules.

In addition to the Proposed Rule, we request that the FDIC and the other banking agencies continue to review and update CRA to reflect the changes that have taken place in the financial services industry over the past decade.

### **The Industry Has Changed Dramatically since the Initial Rule was Adopted**

The 1995 revised CRA regulations added the small institution CRA examination process. The initial definition of small institution was \$250 million in 1995. Since that time, there have been numerous changes in the industry. The number of institutions qualifying for this definition has significantly decreased. Banks’ assets have increased due to inflation, merger activity and decreased barriers to entry into the banking system. The result has been a large disparity between the banks that qualify for the streamlined examination and those that do not.

Regulators have acknowledged these changes. In February 2004, the Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (“Board”), the Office of Thrift Supervision (“OTS”) and the FDIC (collectively, the “Agencies”), proposed to raise the asset threshold for a small institution from \$250 million to \$500 million. In their proposed rulemaking, the Agencies cited the increased consolidation within the industry, inflation, and the need to reduce regulatory burden as reasons for justifying the increase in the definition of small institution.

Response to this proposal was overwhelming. As the Proposed Rule states, over 900 comment letters were submitted. Despite the obvious need for a change, no initial action was taken. We commend the FDIC for its commitment to re-examine this issue. Roundtable member companies support raising the small institution threshold to \$1 billion to ensure that CRA regulations accurately reflect that current state of the financial services industry.

### **The Proposed Rule Would Ease Increasing Regulatory Burden on Institutions**

The FDIC has undertaken the task to review all regulations that are outdated, unnecessary or unduly burdensome under the under Economic Growth and Regulatory Paperwork Reduction Act of 1996 (“EGRPRA”). The Roundtable supports the FDIC’s efforts to reduce regulatory burden for all financial institutions.

Financial institutions are currently subject to significant compliance burdens and reporting requirements under CRA, the USA Patriot Act, HMDA, the privacy provisions of the GLBA, and the Sarbanes-Oxley Act. Compliance with these laws requires an enormous commitment of personnel and financial resources.

The Roundtable believes that the FDIC’s proposed rule would alleviate some of the burdens created by the regulations listed above by reducing the paperwork and reporting requirements associated with CRA examinations. This would allow banks to focus on providing loans to all members of the community, including low- and moderate-income neighborhoods.

### **The Proposed Rule Would Not Affect Community Lending**

A streamlined CRA examination does not mean that these institutions will not be subject to CRA requirements. Under the streamlined examination, the institution must still demonstrate that it is meeting the credit needs of the community. This examination includes an assessment of whether the bank is meeting the credit needs of the community. Among the factors considered for each institution are: (1) the institutions’ loan-to-deposit ratio, (2) percentage of loans in its assessment areas, (3) record of lending to borrowers of different income levels and businesses and farms of different sizes, (4) the geographic distribution of its loans, and (4) its record of taking action, if warranted, in response to written complaints about its performance in helping meet the credit needs in its assessment areas.

A streamlined CRA examination is more cost effective and efficient for institutions because they are not required to collect specific loan data, which requires significant commitments of personnel and systems. Instead, examiners

may look to existing files for information. This change would allow institutions to use their resources to meet the needs of the consumer.

### **The Other Agencies Should Adopt a Similar Definition for Small Institution**

The Roundtable believes that it is important for all of the regulatory agencies to adopt rules similar to the FDIC's proposal. We applaud the OTS for adopting a rule that will raise the definition of small thrift institutions to those with \$1 billion in assets. We urge the Board and the OCC to follow suit so that institutions under their jurisdiction, and consumers in the communities in which they operate, may also benefit.

### **Conclusion**

The Roundtable supports the FDIC's proposal to increase the level at which an institution is eligible for the streamlined CRA examination process. We believe that changes in the industry have created the need for action at this time.

The Proposed Rule would reduce reporting requirements under CRA and alleviate the overall regulatory burden that is overwhelming financial institutions. These changes would not hinder community based lending, but would enhance the goals of CRA and better serve the consumer. We applaud the OTS for also recognizing the need for this change. We encourage the OCC and the Board to adopt similar rules.

If you have any questions or comments on this matter, please do not hesitate to contact me or John Beccia at (202) 289-4322.

Sincerely,

*Richard M. Whiting*

Richard M. Whiting  
Executive Director and General Counsel