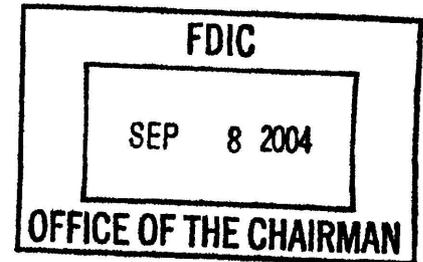


United States Senate
WASHINGTON, DC 20510-2002

September 8, 2004



The Honorable Donald Powell
Chairman
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, DC 20429

Dear Chairman Powell,

I am writing to express my concerns regarding the Federal Deposit Insurance Corporation's rule making process involving the Community Reinvestment Act proposal to raise the small bank threshold from \$250 million to \$1 billion in assets. While I disagree with the substance of the proposal and believe that it will result in a reduction in lending, investments, and services to underserved communities, I am particularly disturbed by your agency's apparent disregard for the integrity of the regulatory process.

The FDIC's unilateral issuance of a controversial proposal to revise the CRA involved a clear departure from precedent. Your proposal was released after the four federal bank regulatory agencies failed to reach a consensus on their February 6, 2004 joint CRA proposal which would have, among other things, increased the small bank threshold to \$500 million. Until now, the federal bank regulatory agencies have always issued joint CRA proposals and final regulations. When they have been unable to reach a consensus on a CRA revision, the agencies have either jointly withdrawn the proposal or continued to work towards consensus. When the regulators last revised the CRA regulations in 1995, the four bank regulatory agencies undertook a deliberative process that involved a series of public hearings and an extension of the comment period. It is my understanding that no public hearings were held during your rule making process.

I am further concerned about the apparent rushed nature of the FDIC's deliberations on this matter. In less than a month after the last meeting of the regulators, the FDIC staff issued a recommendation increasing the small bank CRA threshold without undertaking an analysis of the potential impact the revised regulations would have on low- and moderate-income neighborhoods across the United States. Moreover, it is my understanding that the FDIC Board's public meeting was announced with less than two business days notice rather than the typical seven days and that at least one member of the FDIC Board was unavailable to meet in person and was given a limited opportunity to review the proposal. In addition, a majority of the Board rejected a request to delay the vote on such a controversial proposal and instead voted along party lines to release the proposal.

The fact that the Board issued this new proposal in August and is only allowing a 30 day public comment period is further evidence that your agency is departing from the established practice of allowing the public a full and fair opportunity to comment on the agency's proposal. During the rule making process that produced the 1995 CRA regulations, the regulators provided 90 days for comment on the initial proposal and an additional 45 days on a new proposal. The apparent determination on the part of the FDIC Board to rush to a final vote on the proposal in October, shortly after the expiration of the comment period, raises questions as to how genuinely deliberative a process this will be.

Any regulation proposed and adopted by a federal banking regulatory agency must be based on a rule making process that is seen as open, deliberative, and fair. The FDIC's approach to the revision of the CRA regulations has undermined the credibility of the rule making process.

Sincerely,

A handwritten signature in cursive script that reads "Paul Sarbanes". The signature is written in black ink and is positioned above the printed name. It features a long horizontal line extending to the right from the end of the name.

Paul S. Sarbanes