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Capital for Communities –
Opportunities for People

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May 10, 2005

Docket Number 05-04 – RIN 1557-AB98 - CRA Regulations
Office of the Comptroller of the Currency
250 E Street, SW ,
Mail Stop 1-5
Washington, DC 20219

Regulation BB, Docket Number R – 1225 – CRA Regulations
Jennifer J Johnson, Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW ,
Washington, DC 20551

RIN 3064 – AC89 – CRA Regulations
Robert E Feldman, Executive Secretary
Attention Comments
Federal Deposit Insurance Corporation
550 17th Street, NW ,
Washington, DC 20429

Dear Sirs and Madam

On behalf of Community Reinvestment Fund, USA ("CRF"), I appreciate this opportunity to comment on the Joint notice of proposed rulemaking, as published in the *Federal Register* on March 11th, 2005 that would revise certain provisions of the Community Reinvestment Act ("CRA") regulations

BACKGROUND

Community Reinvestment Fund is a national nonprofit financial services organization headquartered in Minneapolis, MN. We provide new loan capital for community-based development lenders by operating a secondary market for their loans CRF purchases performing economic development and affordable housing loans from private nonprofits, governmental and quasi-public agencies We pool these loan obligations and transform them into securities through the process of securitization. These securities are then sold to banks, thrifts, insurance companies, pension funds and other qualified institutional investors As of March 31st, CRF and its New Market Tax Credit affiliates had purchased or funded approximately $454 million in loans from 114 lending organizations in 25 states and the District of Columbia In turn, we have provided nearly $428 million to those selling organizations for reinvestment in their communities

Last year, CRF passed a major milestone in the securitization of community development assets, when it began issuing rated securities backed by affordable housing and small business loans In July, we completed the sale of our first rated debt offering, with the highest class of certificates in this offering receiving an "AAA" rating from Standard & Poor's These certificates are backed a pool of loans totaling $84 7 million and which consist of 45 multifamily, low-income housing tax credit properties in four states In November, CRF issued its first rated securities collateralized by small business loans The $51 million issue included $47 million in asset-backed securities, which received a "AAA" rating from Standard & Poor's and were sold to institutional investors.

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CRF has also been instrumental in developing the New Markets Tax Credit ("NMTC) program administered by the Treasury Department's Community Development Financial Institution's Fund ("CDFI Fund") and the Internal Revenue Service In the course of the first two rounds of funding for this program, we have received $312 5 million in tax credit investment authority and we believe this program will bring much needed capital to low-income communities

COMMENTS ON PROPOSED CHANGES TO CRA REGULATIONS

CRF believes the Community Reinvestment Act has been extremely effective in encouraging banks to finance revitalization activities in distressed communities across the country We support the efforts of the three federal banking agencies to strike reasonable balance between " the desire to make changes that might 'fine tune' the regulations, with the need to avoid unnecessary and costly disruption to reasonable CRA policies and procedures that the industry has put into place under the current rules. " We offer specific comments on the key aspects of the joint proposal below

SIZE THRESHOLD

CRF opposes raising the threshold for a "small bank" to banks with assets of less than $1 billion - up significantly from $250 million or less, under the current rules - regardless of any holding company size or affiliation The interagency proposal issued in February 2004 would have increased the asset size for a "small bank" to $500 million or less. We are not convinced by the agencies' arguments that such a large increase in the size of a "small bank" is necessary Should the agencies determine that a change in definition is necessary, we believe it would be more prudent to raise the asset size to the $500 million level and if this proves to be too low, then the threshold could be increased at a later date Adopting an intermediate step like this seems to make more sense, especially in light of the absence of any holding company considerations. By taking a more modest approach, regulators could observe the effects of this change on the flow of CRA loans, investments and services to distressed communities without committing to such an enormous increase that could have a negative impact on community revitalization activities

CRF supports the agencies' proposal to adjust the asset size for small and intermediate small banks based on changes to the Consumer Price Index We agree that using such an index to adjust for the effects of inflation makes sense and aligns the CRA rules with other federal lending regulations

COMMUNITY DEVELOPMENT TEST FOR INTERMEDIATE SMALL BANKS

CRF believes the proposed community development test could be an effective tool for evaluating the CRA performance of the new so-called "intermediate small banks". In our comments on the FDIC's proposal last year, we supported the concept of establishing a separate community development test rather than adding another criterion to the existing streamlined test for small banks *However, we believe it is essential that the new community development test should encourage banks to engage in more than one type of CRA activity* In other words, the community development test should not be a way for institutions to simply opt out of one or more of the three types of CRA activities (lending, investments and services) simply because this new test provides flexibility for banks in meeting their CRA requirements. We recommend designing an incentive system that would reward banks if they engage in more than one type of CRA activity – and especially in investment activities Such a system might award "extra credit" or require that a bank could only achieve an "Outstanding" rating on its community development test if it engages in at least two of the three CRA activities Or assure a bank of receiving an "Outstanding" rating on the community development test, if that institution makes "qualified investments" in addition to offering community development loans and/or services in its assessment area

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In particular, ***we are concerned that the new community development test not become a "back door" to eliminating the investment test.*** In it's November 2004 proposal to amend the CRA rules, the Office of Thrift Supervision ("OTS") requested comments on whether or not the investment test should be eliminated from the evaluation of large depository institutions CRF believes the investment test is a critical component of the CRA framework because it encourages the creation of new and more efficient ways of delivering credit to borrowers While loans are still the predominant mechanism for conveying credit to borrowers, the rapid growth of structured finance products – created through the process of securitization – has revolutionized the delivery of credit As noted above, CRF has pioneered the development of securities collateralized by community development assets – both affordable housing and small business loans The securities that we issue, CRF Revenue Notes, are deemed to be "*qualified investments*" for purposes of the investment test under the CRA regulations Thus many of our investors are seeking "investment test credit" when they purchase or invest in our securities The very existence of this test has helped to spur the development of innovative new debt instruments as well as to maintain strong demand for established investment vehicles, such as the Low Income Housing Tax Credit, that are vital to expanding the supply of affordable housing, and it is spurring similar demand for New Market Tax Credits among banks

As for how the community development test should be structured, we strongly support a separately rated test for intermediate small banks In addition, an intermediate small bank should be required to achieve a rating of at least "satisfactory" under both the small bank lending and community development tests to achieve an overall "satisfactory" CRA rating. Lastly, in order for the community development test to be meaningful, it should be weighted equally with a bank's lending test performance in assigning an overall CRA rating

Finally, ***we believe that the agencies should consider providing additional guidance*** for banks (as well as CRA examiners) as to how to appropriately assess the needs of a community, engage in different types of community development activities, based on those needs and the bank's capacities, and deploy community development resources strategically to meet those needs There should be a set of objective standards for examiners to rely on when evaluating how well a bank has assessed the needs of its community and addressed those needs through its own community development activities Given the latitude accorded banks by the proposed community development test, the agencies need to more clearly articulate how banks go about understanding the needs of their communities and responding to those needs through their activities

The San Francisco Federal Reserve Bank recently introduced one example of an excellent new resource that could assist banks with their community assessments. This Bank has produced and published individual "environmental assessments" for each of its nine district states These assessments contain an environmental scan that includes the demographic, economic, governmental, and financial characteristics of each state – as viewed through the community development lens Each report details the specific needs and resources in each state for four key community development areas affordable housing, small business, poverty and asset accumulation, and issues specifically affecting native peoples and immigrants Environmental assessments like these (if made available for all 50 states) could serve as invaluable tool for banks and examiners when judging how well an institution has assessed and responded to the needs of its community(ies) through its CRA activities.

COMMUNITY DEVELOPMENT DEFINITION

CRF supports the changes made to expand the definition of community development Adding references to individuals in "underserved rural areas" to the existing language related to "affordable housing" and "activities that revitalize or stabilize low- or moderate-income geographies" improves the definition of community development by

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expanding the range of CRA eligible activities in which banks may engage We agree with the approach reflected in the proposed amendments that the "provision of affordable housing" may meet a critical need of individuals in certain underserved rural areas, even if those individuals do not meet the technical definition of "low- or moderate-income" in the current regulations. Moreover, unlike the FDIC's August 2004 proposal, this new definition of community development ensures that banks *will not be able* to make mortgage loans to wealthy individuals living in rural areas *and receive* CRA credit for such loans

The expanded definition also addresses the unique challenges associated with conducting CRA activities in rural areas By adding the phrase "underserved rural areas" to "activities that revitalize or stabilize low- and moderate-income geographies," banks would be able to invest community development resources in many underserved rural counties that would not otherwise qualify for such investments because they lack low- or moderate-income census tracts We support the purpose of expanding the definition of community development with this language to enable banks to serve rural areas that do not meet the technical definition of "low- and moderate-income" census tracts but that are in decline and therefore, in need of revitalizing or stabilizing activities We are please to see that the agencies' proposal is careful not to include "activities that benefit primarily higher-income individuals in underserved rural areas or rural areas that are not underserved "

EFFECT OF CERTAIN CREDIT PRACTICES ON CRA EVALUATIONS

CRF supports the proposed revision to the regulations that would penalize a bank's CRA rating if it or an affiliate is engaging in discriminatory or illegal credit practices, either under the law or existing regulations. We believe this is an appropriate and effective means of discouraging banks and their affiliates from engaging in improper and illegal lending activities that run counter to the spirit and the intent of the Community Reinvestment Act.

CONCLUSION

In closing, we would like to commend the three banking agencies for seeking a collaborative and responsible approach to revising the CRA regulations that balances the credit needs of distressed communities with the regulatory burdens imposed on smaller banks We also strongly support the view expressed by the agencies that " it is both worthwhile and possible to improve the CRA rules in ways that reduce unnecessary burden while at the same time maintaining and improving the effective implementation of the CRA " We would respectfully urge you to consider the comments we have shared with you in this letter In addition, we would encourage the bank regulators to ask the Office of Thrift Supervision to consider aligning its CRA rules with those that you are proposing in this Joint Notice We believe it is critical for all depository institutions (including thrifts) to adhere to a uniform and consistent set of CRA regulations Should you or your staffs have any questions regarding the information contained in this letter, please do not hesitate to contact me directly.

Sincerely,

Frank Altman
President and CEO