

May 5, 2005

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW,
Washington, D. C. 20429

Community Reinvestment Act Comments
RIN 3064-AC89

Dear Mr. Feldman:

I appreciate the opportunity to once again comment on the proposed revisions to the Community Reinvestment Act on behalf of State Bank of Southern Utah. State Bank is a small bank with approximately \$400 million in assets and 13 offices located in southwestern Utah and headquartered in Cedar City, Utah. Our bank made comments on the previous proposal in September and we are disappointed by your revised proposals because we believe it could be almost as difficult, if not more difficult, to comply with as the big bank exam that we complied with in 2004. It appears to us that in your haste to cater to community groups you are turning an “intermediate bank” CRA exam into two exams and placing us in “double jeopardy” without gaining much credit for legitimate reinvestment into our communities. I will present comments below that I believe justify changes in your proposal and reduce significantly the compliance burden while still complying with the intent of the legislation.

Request for Comments

- Is there another appropriate asset threshold to use when defining intermediate small banks, and, if so, why?

Yes, the asset threshold should be \$1 billion dollars and probably be capped out at \$2 billion dollars. According to American Bankers statistical analysis from FDIC data, at the time CRA went into effect the small banks with assets under \$250 million dollars in assets held about 14 % of the banking industry assets (13.84%). Today banks with assets under \$1 billion dollars only represent about 14% of industry assets (13.96%). (See attached charts from the American Bankers Association). How then, can anyone factually say that banking institutions are escaping compliance with the spirit of the law as originally implemented if the threshold for small bank exams are increased to \$1 billion? You are simply recognizing that by not changing minimum asset size for a number of years that we must play “catch up” to reflect the time value of money and the changing size of institutions. May I once again state that the small bank exam does a very good job of measuring how a bank is doing in community reinvestment; it gives no one a “free ride” nor “gut” the regulation. It effectively measures how banks are lending in their communities, looks at small business/small farm lending, investments for community development, and looks at the location of loans relative to different income categories by census tract. If the FDIC does not have a predisposed bias against community banks and wish for them to be regulated out of existence you will recognize the changing dynamics and allow the higher threshold. State Bank of Southern Utah strongly supports a

minimum threshold of \$1 billion to define intermediate small banks. Any bank under that asset size should fall under the small bank test. If there is some reason that the FDIC cannot meet that threshold it should at least raise the threshold to a minimum of \$500 million. The current proposal offers less relief from regulatory burden than was proposed earlier this year and adding a new test to \$250-500 million banks undermines the purpose of this effort and adds untested requirements to banks our size.

- Should the regulation allow for adjustment of the asset size for small and intermediate small banks based on changes in the Consumer Price Index?

Yes, if this feature had been a part of the original regulation the asset size would now be over \$300 million. This change should make it so that the regulation will not have to be revised as often because it adjusts for the time value of money as measured by the CPI.

- How has the public used the Small Business/small farm data gathered from the existing small bank data gathering?

State Bank has had no requests for data collected from small farms and small businesses under our CRA collection procedures. We have had few requests to see our public file.

- Does the proposal provide more flexibility in how an intermediate small bank may apply its community development resources through a more strategic use of loans, investments and services?

The proposed regulation seems to allow more flexibility by allowing consideration of the “number and amount of community development loans, the number and amount of qualified investments, and the provision of community development services, by an intermediate small bank” would be “evaluated in the context of the bank’s capacities, business strategy, the needs of the relevant community, and the number and type of community development activities”. It also says these investments could be judged over a “multi year” period if they will have multi year effects. However, State Bank of Southern Utah sees this flexibility offset by the fact that this CD test will be separate, and if a small intermediate bank fails either of the two parts of the exam it gets an overall unsatisfactory rating. In our opinion, this is double jeopardy, and very different than the original proposal we commented on in 2004. The bank would be much more favorable to this proposal if it were not a separate test.

- Does the proposal to evaluate all community development activities of the intermediate small banks under one test have the potential to make the evaluation of those banks’ community development performance more effective than under the current regulation?

Not in the case of State Bank of Southern Utah, because if we are subjected to a totally new proposal with untested rules and guidelines we would probably opt to take the big bank test, which we have passed on one occasion.

- Should the community development test for intermediate small banks be separately rated as proposed? If so, should an intermediate small bank 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?

No, the community development test should be part of the overall CRA exam. It is not fair or reasonable to add a new test to the proposal and then require banks to clear two hurdles instead of one to receive a satisfactory CRA rating. The current proposal offers less relief from regulatory burden than was proposed earlier this year. It would be much more equitable to raise the small bank threshold to at least \$500 million and the facts show that this still covers more total bank assets than when the original \$250 million threshold was set. (See the ABA-FDIC Analysis).

- The federal banking agencies seek comment on whether the existing definition of community development provides sufficient recognition for community services to individual residing in underserved rural areas.

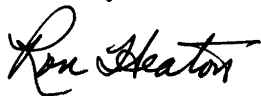
State Bank of Southern Utah believes that the definition of rural should include all areas designated “nonmetropolitan” by the OMB. While this is not the perfect definition, it is the best we can identify that will be uniform. You may have to add some counties that border metropolitan areas but are rural.

- Final comments on identifying rural underserved populations:

State Bank of Southern Utah favors a definition that includes any rural area that has been targeted by a governmental agency for development and any rural area or county designated as a CDFI investment area. There also needs to be parity between the number of low and moderate income census tracts in rural areas with the number of low and moderate income tracts in urban areas. Because of the trend to the center in all income figures in non metropolitan census tracts, State Banks believes the regulators should raise the low and moderate income levels to 90% or 100% of non-metropolitan median income. If that is not possible then any county whose median income is under 90% of the state-wide median income should qualify.

I appreciate the opportunity to comment on this regulation, but am disappointed that the agencies have changed the proposal so much from the original proposal. Apparently the agencies have been overly influenced by community groups who have made many comments. I believe the factual information favors my comments.

Sincerely,



Ronald W. Heaton
President/CEO