

Massachusetts Bankers Association

May 2, 2005

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Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
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Office of the Comptroller of the Currency
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Washington, DC 20219
Docket Number 05-04

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No R-1225

Subject: Proposed Revisions to the Community Reinvestment Act Regulations

To Whom It May Concern:

The Massachusetts Bankers Association (MBA), which represents 215 commercial, savings, and cooperative banks and savings and loan members in Massachusetts and New England, appreciates the opportunity to comment in support of your proposal to revise the Community Reinvestment Act (CRA) regulations: with amendments.

The proposal seeks to: increase the number of banks that will be examined under the small institution CRA examination by raising the threshold from \$250 to \$1 billion in assets. It would add a community development (CD) rating to be used for “intermediate” small banks with assets greater than \$250 million up to \$1 billion in assets and expand the definition of “community development” to include a broader array of activities in rural areas.

We commend the Agencies’ ongoing efforts to update and improve the regulations issued under the CRA. The revised proposal is a substantial improvement over the previous interagency proposal and should greatly reduce regulatory burden for those community banks newly made eligible for the small institution examination. We also support a proposed change to add an automatic inflation adjustment of the threshold based on changes to the consumer price index. This would help to ensure that the threshold remains current and appropriate in the future.

While some members of Congress and community groups have expressed some concern regarding the proposed changes, making CRA regulatory exams more streamlined will not change the way community banks do business or reduce the volume of loans or individual bank commitments to communities. As we

have stated previously, our members believe that a more efficient regulatory system will free up human and financial resources that can be redirected to the community and used to originate more low-to-moderate income loans and provide other services.

Under the proposal, CD loans, qualified investments, and the provision of CD services would be evaluated in the context of the bank's capacities, business strategies, the needs of the community and the types of opportunities in the community. These activities would be evaluated together and would result in a single rating for CD. The rating received for the CD test would be equally weighted with the lending test. The "intermediate" small bank would then be required to meet both the streamlined small institution examination, which is primarily a lending test and would also have to meet this new CD test.

Expand the Original Small Bank Test

The Association believes this more flexible approach is an acceptable compromise with two changes. First the Association believes that the Agencies should adopt the original small bank test with a \$500 million threshold without a CD test or criterion. The new CD criterion should be applied only to banks greater than \$500 million up to \$1 billion. Thus, creating a new "medium" bank test. Community banks up to \$500 million now hold approximately the same percent of overall industry assets as community banks up to \$250 million did a decade ago when the revised CRA regulations were adopted. Therefore, this adjustment in the CRA threshold is appropriate if only from an inflationary perspective. This approach is fairer for smaller community banks with limited resources particularly those that are located in suburban communities without urban census tracts, or low-to-moderate income populations but are not what is typically considered rural.

Should the Agencies choose not to follow this recommendation, it will be important to continue to grant CRA credit to these banks when they invest in regional or statewide investments that may not directly benefit the banks' own community because competition for CRA qualified investments is likely to intensify if the CD test is adopted as proposed. However, this is another reason to expand the original small bank test to \$500 million because how does it serve a local Massachusetts community to buy a Chicago housing bond, just to qualify for CRA?

Second, the Agencies proposed a separate CD test. We strongly oppose segmenting the new CD criterion as a distinct test separate from the bank's overall lending test. While a bank's CD performance may be considered as part of the overall CRA rating, a strict differentiation creates the impression that CD lending is different from providing credit to the entire community. The current small bank test considers the institution's overall lending in its community. The addition of a separate category of CD lending (and services to aid lending and investments as a substitute for lending) fits well within the concept of serving the whole community. A new stand alone test would create an additional CD obligation and regulatory burden (especially for smaller banks), eroding the intent of the streamlined exam.

The Agencies propose that an "intermediate" small bank would not be eligible for an overall rating of "satisfactory" unless it received ratings of "satisfactory" on both the lending and CD tests. As stated above, the Association believes that there should not be any segmentation of the lending and CD activities.

The Association supports the elimination of reports on small business, small farms and CD loans for "intermediate" small banks. We consistently receive complaints from our members about the technical difficulties of reporting small business loans and that such data is largely ignored by examiners.

Finally, the Association opposes any incorporation of anti-discrimination laws or other consumer laws on an institution's CRA rating. The circumstances and facts surrounding such laws are often very

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complex and often unclear. For example, in recent years the issue of spousal/joint signature requirements for mortgage applications under Regulation B and HUD RESPA Section 8 applications were not clear to some regulators, many lenders and closing attorneys resulting in a misapplication of the rules. It would have been unfortunate if banks suffered lowered CRA ratings for these citations. We believe it would be a mistake to link these laws to CRA performance and goes beyond the scope of what Congress intended.

In conclusion, the MBA strongly supports increasing the asset-size of banks eligible for the small bank streamlined CRA examination process without a CD test for banks up to \$500 million. This is a vitally important step in revising and improving the CRA regulations and in reducing regulatory burden. The MBA also supports eliminating the separate holding company qualification for the small institution examination, since it places small community banks that are part of a larger holding company at a disadvantage to their peers. Such a result was never contemplated by the original Act. While community banks still will be examined under CRA for their record of helping to meet the credit needs of their communities, the expanded small bank test will eliminate some of the most problematic and burdensome elements of the current CRA regulation for community banks that have been subject to a myriad of new regulations in recent years.

Thank you for the opportunity to present our views.

Sincerely,



Daniel J. Forte
President

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