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By

April 13, 2005

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: RIN 3064-AC89

Re: Interagency Revisions to Community Reinvestment Act Regulations

Dear Mr. Feldman:

We, the undersigned members of the New York State Assembly, are writing to offer comment on the latest proposed revisions to the Community Reinvestment Act (CRA), published in the *Federal Register* on March 11 and made by the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB) and the Federal Deposit Insurance Corporation (FDIC) – the "federal banking agencies" as they are referred to in the *Federal Register.*

We would like to state at the outset that we are encouraged by the abandonment of the CRA proposal released last fall by the FDIC to allow banks with assets of less than $1 billion to be eligible for the streamlined CRA lending test and exempting them from community service and investment evaluations. Furthermore, that proposal would have permitted FDIC-supervised banks to obtain CRA credit for performing community development activities in all parts of rural counties, without regard to the income levels of such parts. Those rule changes would have left banks with little incentive to invest money in low- and moderate-income communities, and therefore would have reduced the availability of affordable housing and economic development loans in such communities. The New York State Assembly adopted a resolution last month that strongly opposed those proposals, and we are encouraged to see that the federal banking agencies, in light of objections made by the Assembly and many other groups and individuals, have reconsidered their strategy.

We believe that the latest revisions to the CRA, proposed by the federal banking agencies, are an improvement over the aforementioned FDIC proposal. However, we are still

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concerned about some shortcomings that remain in this proposal, and we will address these below.

This new proposal eliminates the separate investment test for banks with assets between $250 million and $1 billion – "intermediate small banks" as they are defined in the proposal. As a result, it is probable that communities will see a reduced level of investment from these banks. The new proposal is an improvement over last year's FDIC proposal by requiring "intermediate small banks" to be evaluated under a separate community development test, which would account for a bank's record of community service and investments, in addition to its record of making community development loans. However, the lack of a specific investment guideline in the new proposal – the omission of which is designed to give banks the flexibility to assess their community's needs and apply their resources accordingly – likely will allow banks to decrease their levels of community investment without suffering proportionately on their CRA evaluation. A more explicit investment criterion should be included in the final rule to ensure that banks continue to invest sufficiently in underserved communities.

This proposal also eliminates the retail portion of the service test for "intermediate small banks." A bank's CRA evaluation, therefore, would no longer include the number and percent of branches they operate in low- and moderate-income communities. In an effect similar to that caused by the elimination of the separate investment test, the elimination of a more explicit standard for measuring bank branches in underserved communities will leave banks less accountable for serving those communities under the CRA. The final rule should include a clear bank branch criterion in order to ensure that underserved communities do not remain underbanked indefinitely.

Finally, the federal banking agencies have invited comment on revising the definition of "community development" to make it more responsive to the community development needs of rural areas. The definition adopted in the final rule should be composed in such a way that it directs community development activities towards low- and moderate-income areas.

In closing, we would like to reiterate that we are encouraged by the improvements contained in the new CRA proposal by the federal banking agencies. That notwithstanding, we hope that the concerns we have addressed in this comment letter will receive your full consideration as you formulate a final rule.

Sincerely,

Catherine Nolan

Assemblywoman Catherine Nolan
Chairwoman, Committee on Banks

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Assemblywoman Aurelia Greene

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Assemblywoman Helene Weinstein

Assemblyman Kenneth Zebrowski