October 10, 2006

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

also sent via e-mail to
Comments@FDIC.gov

Re: Response to FDIC's Notice and Request for Comment;
Industrial Loan Companies

Dear Executive Secretary Feldman:

On behalf of the Community Bankers Association of Illinois (hereinafter, "CBAI"), I appreciate this opportunity to respond to the FDIC's "Notice and Request for Comment" concerning questions and emerging issues relating to Industrial Loan Companies (hereinafter, "ILCs") and their supervision. CBAI is a community bank trade association having nearly 500 members, each of which is dedicated exclusively to providing financial services in its market and none of which is authorized to sell facial tissue, automobile tires or pharmaceutical products.

With all due respect, I hope that in gathering and processing information resulting from the Notice and Request for Comment the FDIC is not short-sighted in its analysis of the risks to safety and soundness and the risks to the Deposit Insurance Fund. Many of the questions asked in the Notice and Request for Comment are phrased in terms of whether, and to what degree, the ILC would face safety and soundness risks or would pose a threat to the Deposit Insurance Fund. It occurs to CBAI that the threat to safety and soundness and the threat to the Deposit Insurance Fund might come *from* unchecked growth of ILCs with huge competitive advantages over community banks that might struggle to compete given the legal and fiscal constraints that the community bank faces.

If ILCs limited their activities to those of finance companies (as the FDIC historically described the ILCs of the early 20th Century in "The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective"), the context of today's discussion would be entirely different. The current discussion and debate relates to giant commercial entities seeking to charter ILCs, and one or more of these commercial giants has not earned the benefit of the doubt that it (or they) will limit ILC activity to a very narrow business plan that does not include competing unfairly in the retail banking business. We know, or we should know, that one or more of these ILC applicants has grander designs than they are indicating at this time.

That the FDIC is asking "Do ILCs owned by commercial entities have a competitive advantage over other insured depository institutions?" (Question #9 in the Notice and Request for Comment) leaves a lot to the imagination. Would a giant retail chain that could put an ILC branch on its premises and effectively sell banking services within a few feet of its affiliated pharmacy, automobile repair shop, vision care center, and

grocery section have an advantage over a bank or thrift that by law cannot offer such options? Would a giant retail chain that has significant business relationships with a supplier of goods have a business advantage when it seeks to acquire that supplier's deposit or loan account at the retail giant's ILC?

In Question #8, the Notice and Request for Comment asks if there is "a greater likelihood that conflicts of interest or tying between an ILC, its parent, and affiliates will occur if the ILC parent is a commercial company or a company not subject to...consolidated Federal supervision." The answer is, "Yes." But furthermore, such conflicts or tying might not be "curable" by laws or regulations, since the conflicts or tying might be subtle influence felt by suppliers or others who do a high volume of business with the retail giant and who might feel that their business interests will be furthered if they purchase financial services from the retail giant's ILC. It is possible that the retail giant's ILC may not be overtly committing an illegal act of tying or engaging in an impermissible conflict of interest, but certain economic realities might lead to the same effect.

CBAI recognizes the fact that the FDIC is now in the middle of a major policy debate regarding the chartering and granting of deposit insurance to ILCs owned by giant retail chains. We appreciate the FDIC's efforts to survey interested parties through the use of the Notice and Request for Comment. Unfortunately, the very fact that the FDIC is compelled to ask a litany of questions regarding the dangers posed by ILCs to the safety and soundness of the banking system and regarding the FDIC's own authority to check or to limit the financial appetite of one or more of these ILCs speaks volumes about the risks, known or unknown, that may surface in the path ahead. These risks are not limited exclusively to the ability of these ILCs to comply with laws and regulations and to avoid safety and soundness complications; instead, the risks also include the risks to the safety and soundness of banks and thrifts that may have to compete at a substantially unfair disadvantage.

Because there remain so many questions about the threat posed by ILCs and the uncertain ability of regulators to predict, to affect, or to remedy the consequences, CBAI urges the FDIC to extend its current moratorium on the granting of deposit insurance to these ILCs.

Thank you for your attention and consideration.

Sincerely,

Jerry D. Cavanaugh
General Counsel
Community Bankers Association of Illinois