NORTH DAKOTA
BANKERS ASSOCIATION

April 3, 2006

Robert Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429

Via Email:
Comments@FDIC.gov

Re: Proposed Guidance - Concentration in Commercial Real Estate Lending; Sound Risk Management Practices

The North Dakota Bankers Association ("NDBA") appreciates this opportunity to comment on the proposed Guidance, "Concentrations in Commercial Real Estate Lending, sound Risk Management Practices". NDBA is a statewide trade association for banks and federal thrift associations. Our 93 members operate 300 facilities throughout North Dakota.

Each banker with whom NDBA discussed the proposed Guidance is concerned about how the proposed guidance will actually be applied and about its negative effect on capital. One banker noted the proposed "Guidance" includes "a lot of good ideas", that his bank already had incorporated several of its recommendations into the bank's commercial real estate risk management program and, would be looking at incorporating others into its program. However, the same banker, having read the proposed Guidance, observed that he was uncertain and uneasy about the capital requirements for banks that are deemed to have concentrations in commercial real estate lending and whether his bank would be able to implement the whole range of recommendations of the guidance without hiring additional, specialized, full-time staff. Our bankers also have asked us whether examiners will regard the proposed Guidance as a *de facto* regulation and have noted it disregards the role of banker experience and judgment. We believe our members' concerns are valid and deserve serious consideration.

Like community banks throughout the United States, North Dakota banks have been forced to diversify their operations by increasing their commercial real estate portfolios. The vast majority of banks which have done so to the extent that they will be deemed to have a commercial real estate concentration are well aware of the historic volatility of the commercial real estate markets and have adapted to those risks by establishing appropriate risk management techniques, including adopting conservative loan to value ratios for commercial real estate loans and making the loans only to customers who are highly experienced and, themselves, financially strong and committed enough to guarantee the loans. The proposed Guidance does not recognize these critical aspects of the current community bank involvement in the commercial real estate loan market to the detriment of community banks and commercial activity.

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The proposed Guidance is filled with warnings that banks which are deemed to have Federal concentrations of commercial real estate loans can expect to face regulator demands for higher capital requirements. At the same time, however, the proposed Guidance makes no clear statement about the levels of capital may be demanded. No doubt, this approach is intended to display regulatory flexibility. However, for banks which are engaged in commercial real estate lending, an undefined requirement for more capital, can be menacing. Our banks tell us they are maintaining appropriate levels of capital for their commercial real estate loans. Even so, we have every reason to believe, that our banks will take serous heed of the warning of the proposed Guidance and assume commercial real estate operations will carry a significant added capital and regulatory burdens if the Guidance is adopted in its current form. The result of this heavy handedness is completely predictable: commercial real estate loans from community banks will be less available and cost more than similar loans from less regulated lenders (such as the Farm Credit System and credit unions). **To put it directly, we strenuously object.**

The summary for the proposed Guidance states that it is being issued because of agency observations and concerns about "some" institutions. The issuance of a regulatory Guidance is not a targeted response to that. Instead, it is yet other example of applying a "one size fits all" solution to a problem that apparently is discrete and individualized. And, as is usual when that approach is taken, it is our community banks which suffer disproportionately adverse effects. If the agency summary is accurate and the concern is isolated as indicated current regulations and supervisory tools are adequate to address those individual banks which are not being prudent in their commercial real estate loan activities.

In summary, NDBA urges the agencies to reconsider issuance of the proposed Guidance because it imposes an undue regulatory burden and capital on community banks. We suggest, instead, that problems with individual institutions be addressed individually.

Thank you for your consideration of our concerns and comments.

Sincerely Yours,
NORTH DAKOTA BANKERS ASSOCIATION

Marilyn Foss

Marilyn Foss
General Counsel