April 13, 2006 ***Filed by email***

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corp.
550 17th St. NW
Washington D.C. 20429
Comments@FDIC.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington D.C. 20552
Attention: no. 2005-56
regs.comments@ots.treas.gov

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th St. and Constitution Ave. NW
Washington D.C. 20551
Regs.comments@federalreserve.gov

Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Washington D.C. 20219
regs.comments@occ.treas.gov

Re: FDIC (No Docket ID); FRB Docket No. OP-1246; OCC Docket No. 05-21; OTS Docket No. 2006-01; *Proposed Interagency Guidance on Concentrations in Commercial Real Estate*; 71 Federal Register 2302 (January 13, 2006)

Ladies and Gentlemen:

Thank you for the opportunity to file this comment letter with respect to the Proposed Interagency Guidance on Concentrations in Commercial Real Estate ("Guidance"). The Indiana Bankers Association represents more than 200 banks of varying sizes from small, single office banks to large national banks. Member banks are located throughout the state, reflecting diverse communities, populations, economic climates and lending opportunities.

The Guidance is of concern to our members for several reasons. Primarily because it does not appear necessary given the numerous existing regulations and regulatory guidance with respect to credit concentrations. These include, but are not limited to, Regulation H (12 C.F.R. 208) and its Appendix C (Interagency Guidelines for Real Estate Lending Policies).[1] We understand that the Guidance may be designed to give clarification to

[1] The agencies have adopted a uniform rule on real estate lending. See 12 CFR part 365 (FDIC); 12 CFR part 208, subpart E (FRB); 12 CFR part 34, subpart D (OCC); and 12 CFR 563.100–101 (OTS).

existing regulations. It actually appears to confuse existing information from the Agencies, not least of which is in apparently establishing a 'one size fits all' approach to evaluating commercial real estate concentrations.

While we understand that a single approach is easier for examiners and the agencies as there is then one standard under which to evaluate institutions, we do not believe this is either required or wise. We do not believe this approach is consistent with risk evaluations which are already required to be performed by our members to comply with existing laws and regulations. We believe that setting a single standard will increase risk for the banking system by permitting some institutions that have operated with a smaller concentration to increase their concentration and prohibiting others from operating at levels that currently have not posed any risk to the system. Additionally, we believe that limiting the extension of commercial real estate credit in the manner proposed by the Guidance will decrease opportunities for appropriate lending that meets Community Reinvestment Act requirements. This benefits no one, least of all the communities in which our members operate.

We believe that the Guidance, in its current form, will adversely impact many of our members and request that the Guidance be withdrawn. It is a reality that many smaller banks are not able to compete in certain types of lending such as automobile, credit card and even mortgages, with larger national lenders due to economies of scale and automation. Therefore, our members have, in some cases, found themselves best able to compete within the real estate and commercial lending sectors. Delinquency and charge-off experience for commercial loans have, generally, been flat to downward, suggesting that the concerns raised in the Guidance are not concerns affecting smaller institutions. The Guidance would disproportionately effect those institutions which have had to adjust their lending products to meet competitive needs.

We also question the need for the Guidance, at least at this time, given that we have not had a bank failure in nearly two years. We believe existing law and regulation, as well as Agency examination procedures, already give the Agencies the ability to evaluate each institution individually and to take appropriate action if the Agencies believe that a particular institution is operating in an unsafe and unsound manner (including not having performed a risk analysis with respect to commercial real estate concentrations, levels of capital or ALLL).

Some examples from existing Agency materials are provided below to support our request that the Guidance be withdrawn as duplicative and potentially confusing or contradictory and/or as unnecessary.

1. Allowance for Loan and Lease Losses ("ALLL") Already Considers Economic and Other Factors. The ALLL already considers changes in the institution, the economy, and the lending environment (see, for example, the Federal Reserve's Commercial Bank Examination Manual section 2070 et seq). In establishing the appropriate ALLL, bankers already take into consideration the various factors covered in the Guidance.

   See also the Comptroller's Handbook Allowance for Loan and Lease Losses. In 'Risks Associated with the Allowance", the Comptroller recognizes that banks must establish an ALLL because there is credit risk in a bank's loan and lease portfolio, including a bank's commercial real estate loans which is referred to expressly (p.2).
2. Concentrations of Credit. Section 2050 of the Commercial Bank Examination Manual already requires bankers to take into account concentrations of credit. This would include commercial real estate. The approaches to dealing with concentrations include the potential for increasing the ALLL and for increasing the amount of capital to be held.
3. Real Estate Loans. The Federal Reserve already recognizes that whether a bank extends credit secured by real estate, the amount and specific types of real estate lending will vary depending upon asset size, location, competition and other factors (see. Section 2090 et seq). Loan portfolio management already requires that the bank establish Real Estate Loan Portfolio Risk. Therefore, the imposition in the Guidance of a single standard for all banks contradicts this provision and we believe actually increases risk for the banking system.

   The Comptroller's Handbook #213/Real Estate Loans also explicitly requires a bank to have in place policies relating to the appropriate level of concentration in real estate loans (commercial and other types). It recognizes that risk is an interplay between the type of loan (e.g. commercial real estate), the amount in total of loans for that type, interest rates, the value of the collateral and other special terms.

   The Comptroller's Handbook/Commercial Real Estate and Construction Lending reviews the risks of these types of lending and requires banks to take them into account in their policies and procedures.

The Agencies have been moving towards a risk-based examination process in the last few years that takes into account the specifics of the institution being examined, including its community, its lending opportunities, staffing, specific expertise and other factors. We believe that the Guidelines are moving away from this approach and represent a return to an environment focused more on form than substance.

An example of an area where the Guidelines do not distinguish between types of commercial real estate that can have very different repayment concerns is with respect to a true commercial building that houses several retail shops vs. a 35 unit apartment building. Most people will pay their mortgage or rent first, then car payments and thirdly other types of obligations (e.g. rent on my business space). Comparing these two commercial loans, it is more likely that the apartment building will remain current over the building with multiple retail shops in the same community with the same economic environment. Setting a single standard with respect to capital, ALLL and other regulatory requirements under the Guidelines, does not make logical sense given historical data.

For the above reasons, we request that the Guidance be withdrawn. We do not believe it is necessary and may result in unintended negative consequences for smaller to mid-size institutions. Thank you for your consideration of these comments. Please do not hesitate to contact the undersigned if you have questions.

Very truly yours,

James H. Cousins
President and CEO