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October 14, 2004

Mr. Robert E. Feldman
FDIC, ATTN: Comments/Legal ESS
550 E. 17th Street, NW
Washington, DC 20429

Re: Withdraw Proposal to Weaken CRA

Dear Mr. Feldman:

RE: RIN 3064-AC50

Dear Mr. Feldman:

As a member of the National Community Capital Association (NCCA), I urge you to withdraw your proposed changes to the Community Reinvestment Act (CRA) regulations. If enacted, the FDIC will define small banks as $1 billion and less with those banks having assets between $250 million and $1 billion subject to community development criteria.

Under current regulations, banks with assets of at least $250 million have performance evaluations that review lending, investing, and services to low- and moderate-income communities. You propose that state-chartered banks with assets between $250 million and $1 billion follow a community development criterion that allows banks to offer community development loans, investments OR services will result in significantly fewer loans and investments in low-income communities¯the very communities that the CRA was enacted to serve. Currently, mid-size banks must show activity in all three areas of assessment. Under the proposed regulations, the banks will now be able to pick the services convenient for them, regardless of community needs.

The proposed regulation is in direct opposition to Congressional intent of the law. In a letter signed by 30 U.S. Senators to the four regulatory agencies regarding an earlier proposal (February 2004) to increase the definition of "small bank" from $250 million to $500 million, the Senators wrote, "This proposal dramatically weakens the effectiveness of CRA...We are concerned that the proposed regulation would eliminate the responsibility of many banks to invest in the communities they serve through programs such as the Low Income Housing Tax Credit or provide critically needed services such as low-cost bank accounts for low- and moderate-income consumers."

This proposal would remove 879 state-chartered banks with over $392 billion in assets from scrutiny. This will have harmful consequences for low- and moderate-income communities. Without this examination, mid-size banks will no longer have to make efforts to provide affordable banking services or respond to the needs of these emerging domestic markets.

In addition, your proposal eliminates small business lending data reporting for mid-size banks. Without data on lending to small businesses, the public cannot hold mid-size banks accountable for responding to the credit needs of small businesses. Since 95.7 percent of the banks you regulate have less than $1 billion in assets, there will be no accountability for the vast majority of state-chartered banks.

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Protection Act. The Federal Agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C.

Your proposal is especially harmful in rural communities. The proposal seeks to have community development activities in rural areas counted for any group of individuals regardless of income. This could divert services from low- and moderate-income communities in rural areas where the needs are particularly great. Wyoming and Idaho would have NO banks with a CRA impetus to both invest in and provide services to their communities. Vermont, Alaska, and Montana would only have one bank each. Commenters advocating for this change state that raising the limit to $1 billion would have only a small effect on the amount of total industry assets covered under the large bank tests. I think this would be very hard to justify to the low-income communities in Idaho left without meaningful services.

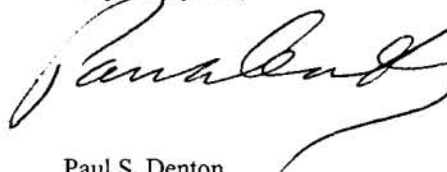
Instead of weakening the CRA, the FDIC should be doing more to protect our communities. CRA covers only banks and does not differentiate between stand-alone banks and banks that are part of large holding companies. All financial services companies that receive direct or indirect taxpayer support or subsidy should have to comply with the CRA. Small banks that are part of large holding companies should have to conform to the CRA's standards that are more stringent.

CRA exams look at a bank's performance in geographical areas where a bank has branches and deposit-taking ATMs. In 1977, taking deposits was a bank's primary function. In 2004, banks no longer just accept deposits: they market investments, sell insurance, issue securities and are rapidly expanding into more profitable lines of business like electronic banking. Defining CRA assessment areas based on deposits no longer makes sense. Customer base should be the focus for CRA assessment. For instance, if a Philadelphia bank has credit card customers in Oregon, it should have CRA obligations there.

The regulators also must protect consumers from abusive lending. The FDIC's proposal completely ignores this issue. Predatory lending strips billions in wealth from low-income consumers and communities in the U.S. each year. Borrowers lose an estimated $9.1 billion annually due to predatory mortgages; $3.4 billion from payday loans; and $3.5 billion in other lending abuses, such as overdraft loans, excessive credit card debt, and tax refund loans. Without a comprehensive standard, the CRA becomes nearly meaningless. The regulation should contain a comprehensive, enforceable provision to consider abusive practices, and assess CRA compliance accordingly, and it must apply to ALL loans.

The impetus for the creation of the CRA was to encourage federally insured financial institutions to meet the credit and banking needs of the communities they serve, especially low- and moderate-income communities. This proposal undermines the intent of CRA, and threatens to undo the years of effort to bring unbanked consumers into the financial mainstream. I urge you to remove this dangerous proposal from consideration.

Very truly yours;



Paul S. Denton
President