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April 8,2004

Via Facsimile - (202)452-3819

JenniferJ. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avcnuc, N.W.
Washington, DC 20551

Re: Proposed Revisions to the Community Reinvestment Act Regulations Docket No. R-1181

Dear Ms. Johnson:

I strongly endorse the federal bank regulatory agencies' (Agencies) proposal to increase the number of hanks and saving associations to he examined under the small institution Community Reinvestment Act (CRA) examination. The Agencies propose to increase the asset threshold from $250 million to $500 million and to eliminate any consideration of whether the small institution is owned by a holding company. This proposal is a major step toward appropriate implementation of the Community Reinvestment Act and should greatly reduce expensive regulatory burden on those institutions newly inade eligible for the small institution examination. However, the proposal should go further. I will explain.

When the CRA regulations were rewritten in 1995, the banking industry recommended then that community banks of $500 million be eligible for a less burdensome small institution examination. The most significant improvement in the new regulations was the addition.of that small institution CRA examination, which. actually did what the Act required: Directed examiners to review the bank's loans and assess whether the bank is helping to meet the crcdit needs of the bank's entire community. It imposed no investment requirement on small banlcs, since the Act is about crcdit, not investment. It added no data reporting requirements on small banks, fulfilling the promise of the Act's sponsor, Senator Proxmire, that there would be no additional paperwork or recordkeeping burden on banks if the Act passed. And it created a simple, understandable assessment test of the bank's record of providing credit in its community: The test considers the institution's loan-to-deposit ratio; the percentage of loans in its assessment

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areas; its record of lending to borrowers of different income levels and businesses and farms of different sixes; the geographic distribution of its loans; and its record of taking action, if warranted, in response to written complaints, if any, about its performance in helping to meet credit needs in its assessment areas.

Since then, the regulatory burden on small hanks has increased tremendously. The massive new reporting requirements under HMDA, USA Patriot Act and the privacy provisions of the Gramm-Leach-Bliley Act are among the regulations causing additional burden. But the nature of community banks has not changed. When a community bank must comply with the requirements of the large institution CRA examination, the expense and operational burden increase dramatically.

The present size of my bank is $210 million. Likely, we will exceed $250 million later this year. When we convert to the large institution examination standards, we will be required tn devote additional staff time to verify compliance with CRA. This imposes a dramatically higher regulatory burden that drains both money and personnel away from helping to meet the credit needs of the institution's community. Yet our primary focus of lending to my community will not change at all. We currently loan Largely to the community and will continue to do so. Yet, it will cost a great deal more money to be the same bank wc are today.

I believe that it is as true today as it was in 1995, as well as in 1977 when Congress enacted CRA, that a community bank meets the credit needs uf its cominunity if it makes a certain amount of loans relative to deposits taken, If a community bank does not loan primarily to its community, it quickly becomes known and profits suffer. A community bank is typically non-complex; it takes deposits and makes loans. Its business activities are usually focused on small, defined geographic areas where the bank is known in the community. The small institution examination accurately captures the information necessary for examiners to assess whether a community bank is helping to meet the credit needs of its community, and nothing 'more is required to satisfy the Act.

As the Agencies state in their proposal, raising the small institution CRA examination threshold to $500 makes numerically more community banks eligible. However, in reality raising the asset threshold to $500 million and eliminating the holding company limitation would retain the percentage of industry assets subject to the large retail institution test. It would decline only slightly, from a little more than 90% to a little less than 90%. That decline, though slight, would more closely align the currenr distribution of assets between small and large banks with the distribution rhat was anticipated when the Agencies

adopted the definition of "small institution." Thus, the Agencies, in revising the CRA regulation, are really just preserving the *status quo* of the regulation, which has been altered by a drastic decline in the number of banks, inflation and an enormous increase in the size of large banks. I believe that the Agencies need to provide greater relief to community banks than just preserve the *status qua* of this regulation.

While the small institution test was the most significant improvement of the revised CRA , it was wrong to limit its application to only banks below $250 million in assets, depriving many community banks from any regulatory relief. Currently, a bank with more than $250 million in assets faces significantly more requirements that substantially increase regulatory burdens without consistently producing additional benefits as contemplated by the Community Reinvestment Act. In today's banking market, even a $500 million bank often has only a handful of branches. I recommend raising the asset threshold for the small institution examination to at least $1 billion. Raising the limit to $1billion is appropriate for two reasons. First, keeping the focus of small institutions on lending, which the small institution examination does, would be entirely consistent with the purpose of the Community Reinvestment Act, which is to ensure that the Agencies evaluate how banks help to meet the credit needs of the communities they serve.

Second, raising the liinit to $1billion will have only a small effect on the amount of total industry assets covered under the more comprehensive large bank test. According to the Agencies' own findings, raising the limit from $250 to $500 million would reduce total industry assets covered by the large bank test by less than one percent. According to December 31,2003, Call Report data, raising the limit to $1 billion will reduce the amount of assets subject to the much more burdensome large institution test by only 4% (to about 85%). Yet, the additional relief provided would, again, be substantial, reducing the compliance burden nn more than 500 additional banks and savings associations (compared to a $500 million limit). Accordingly, I urge the Agencies to raise the limit to at least $1 billion, providing significant regulatory relief while, to quote the Agencies in the proposal, not diminishing "in any way the obligation of all insured depository institutions subject to CRA to help meet the credit needs of their comunitics. Instead, tlie changes are meant only to address the regulatory burden associated with evaluating institutions under CRA."

In conclusion, I strongly support and recommend (1)Increasing the asset-size of banks eligible for the small bank streamlined CRA examination process as a vitally important step in revising and improving the CRA regulations and in reducing regulatory burden; (2) Eliminating the separate holding company qualification for the small institution examination, since it places small

community banks that are part of a larger holding company at a disadvantage to their peers and has no legal basis in the Act.

Community banks will continue to be examined under CRA for their record of helping to meet the credit needs of their communities.

Sincerely,

Gerald F. Martens
Executive Vice President

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