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Jennifer J. Johnson
Secretary, Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

VIA E-MAIL

Re: Written comments on Docket No. R-1386

The National Association of Industrial Bankers (“NAIB”) appreciates the opportunity to submit the following comments regarding 12 C.F.R. Part 345 – Community Reinvestment Act. These comments respond to the request for comments published in the Federal Register on June 23, 2010. The NAIB is the trade association representing industrial banks.

Industrial banks have always considered CRA an important program and take their duties and responsibilities under the law seriously. Regulators and the banks often face unique issues because of the wide variety of businesses conducted by industrial banks. Many are specialized lenders serving a specific nationwide customer base. Others offer a broader array of products and services but not in a specific community or geographic area. Others do serve a specific geographic area.

Some banks, including many specialized lenders, satisfy their CRA requirements by obtaining approval for and operating under a CRA strategic plan. Our members consider it important to continue this option for all banks that have elected to use it, especially specialized banks that have limited or no ability to comply with a traditional lending test in a local assessment area. This is why regulators encourage many banks to use a strategic plan and they have proven fair and effective for those banks.

Other industrial banks have an assessment area adjacent to their main office but may only make a very small percentage of its total loans in that area, so a lending test simply does not work for those banks. Some of those banks primarily rely on community development loans and investments to fulfill their CRA responsibilities. Because the bank may not be able to source a sufficient amount of community development loans and investments in its assessment area, regulators have usually determined whether the bank has made all of the community development loans and investments that are feasible in its assessment area then allowed credit for

qualifying development loans and investments made in areas adjacent to its assessment area and beyond that in other communities. This has proven both workable for the bank and consistent with the letter and spirit of the CRA laws and regulations. But examiners occasionally impose uneven standards. In some cases the regulators have not allowed credit for many otherwise CRA qualifying loans and investments in other areas. Industrial banks believe it would be helpful for all concerned to make clear that a loan or investment or community development activity outside the bank's primary assessment area will be allowed if it is otherwise CRA qualified as long as the bank is meeting its obligations in its primary assessment area.

We will now turn to the specific questions listed in the request for comments in the June 23, 2010 notice.

Geographic scope of assessment area

It makes sense to define an assessment area geographically for banks that serve a specific community or area. This feature of an assessment area was devised when most of the banking system was defined geographically and allowed to operate only in specific areas in one state where the bank had first demonstrated that it would serve public needs and convenience. But today, geography is simply irrelevant to many banks. Many of those banks are defined by the type of customer they serve, not where their customers reside. For those banks, a traditional assessment area is not a natural fit to assess how that bank is serving the needs of low to moderate people and communities.

Our banks support the proven system of designating an assessment area adjacent to the bank's office (or allowing a state wide assessment area as mentioned below), assessing how the bank serves the needs of low to moderate people and neighborhoods in that area, then allowing credit for otherwise CRA qualified loan, investments and activities in other areas. This is fair, workable and fully consistent with the law as it stands now.

For banks not operating under a strategic plan, our members recommend allowing a state wide assessment to ensure that rural communities benefit from CRA programs of industrial banks located in that state. For example, in Utah, where many industrial banks are based, all of the industrial banks are based in Salt Lake City or nearby urban areas. The remainder of the state is rural and many of the most pressing needs of low and moderate income people are in those rural areas. We believe it would be more consistent with CRA goals if these rural communities could be included in a primary assessment area for a bank located in that state.

Clarifying that credit should be allowed for CRA qualifying activities outside the bank's assessment area absent a significant problem in a bank's primary assessment area is especially important. Examiners at times have said that a bank that does not make the majority of its loans in its assessment area cannot get a satisfactory rating. For example, some national lenders have not been given credit for qualifying small business loans if the majority of their loans are not in their assessment area. Some industrial banks make less than 1% of their loans in their assessment area and would be effectively put out of business under that standard. Congress never intended for CRA to effectively prohibit an otherwise lawful and approved business plan. This needs to be clarified.

Performance tests, asset thresholds and designations

Industrial banks not utilizing a strategic plan have noted a wide variation in performance tests among different examiners, especially in giving credit for community development investments both in and outside the assessment area. It should be made clear that community development investments deserve as much credit as a loan, which we believe is the intent of the current law and regulations. Creative programs and solutions should be rewarded, not disqualified on highly technical grounds.

Another suggestion of several members is to base the service test on community needs and service and not limit it to providing financial literacy training to low and moderate income people. Some of our bank members have found that teaching reading skills has a greater impact on eliminating poverty than teaching financial principles. Both should qualify for CRA credit.

Affiliate activities

Our bank members support the continuation of credit for CRA qualified activities by affiliates that the bank presents during the examination as long as those activities are not double counted. In some cases those activities are undertaken on behalf of the bank and may not happen otherwise.

Community Development

As mentioned above, our members believe there should be more flexibility in distributing funds or services that will qualify for CRA credit. Community development should be based on the needs assessment conducted by the bank of its assessment area or under its strategic plan. Qualified service hours should not be limited to providing financial literacy training and board involvement. There are many opportunities for community development that bankers participate in such as neighborhood cleanup, volunteering in low income schools, assisting Habitat for Humanity, etc. All should qualify as service hours.

Small business and consumer lending evaluation and data

Small business data reporting is very time consuming and costly. Consideration should be given to eliminating data reporting for small business credit cards. For the most part, the majority of credit card banks are national lenders and the average size of the loan is much smaller than a traditional small loan. Banks should also get credit for CRA qualified small business loans outside the assessment area regardless of whether a majority of their small business loans are made in the assessment area.

Effect of compliance violations on CRA ratings

Compliance and CRA are different matters and should not be linked. Compliance issues should only affect compliance ratings and not CRA ratings unless the issue is somehow related to a CRA program. In some instances, outstanding CRA ratings have been dropped one or two levels because the bank entered into a consent agreement over an alleged compliance violation in which no wrongdoing was admitted and which was unrelated to any CRA program. CRA ratings are not downgraded for safety and soundness issues. A bank with loan losses and a capital impairment may still have a robust and outstanding CRA program, and deserves that credit when

credit is due. Similarly, our members see no justification for changing CRA ratings when compliance issues arise.

NAIB appreciates the opportunity to submit these comments and commend your efforts to conduct this survey. We are grateful for your consideration of changes to CRA examination standards and requirements that we believe will benefit all concerned.

Please contact this office should you have questions.

Sincerely,

Frank R. Pignanelli
Executive Director