April 4, 2006

Ms. Jennifer J. Johnson
Secretary
Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, DC 20551
Docket No. R-1243

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Docket No. 2005-53

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, DC 20219
Docket No. 05-22

Re: Request for Burden Reduction Recommendations; Rules Relating to Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements; Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review 70 Fed. Reg. 287 (January 4, 2006)

Dear Sir or Madam:

America's Community Bankers (ACB)[1] is pleased to comment on the federal banking agencies' (the Agencies)[2] review of regulatory burden imposed on insured depository institutions. Required by section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA),[3] the agencies are reviewing and identifying outdated, unnecessary and unduly burdensome regulatory requirements. This comment letter responds to the request for comments on rules relating to prompt corrective action (PCA) and the disclosure and reporting of CRA-related agreements.

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[1] America's Community Bankers is the national trade association partner for community banks that pursue progressive, entrepreneurial and service-oriented strategies to benefit their customers and communities. To learn more about ACB, visit *www.AmericasCommunityBankers.com*.

[2] Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS).

[3] Pub. L. 104-208, September 30, 1996.

ACB Position

ACB strongly supports the interagency effort to reduce regulatory burden. ACB believes that effective regulation is an important element of our banking system. However, the burden imposed by outdated and unnecessary rules precludes community banks from reaching their full potential as financial service providers. Our comments and suggestions below reflect the need to ensure that community banks are able to remain competitive and provide products and services that are relevant in today's marketplace.

At this time, ACB does not have any recommendations regarding the possibility of achieving burden reduction through revision of the PCA regime established by Congress and the Agencies' implementing regulations. These provisions generally are used by regulators when an institution is experiencing capital or enforcement issues. Upon completion of the Basel capital process, we note that it may be necessary for legislative or regulatory changes to align the PCA regime with the final capital standards.

ACB believes that the CRA disclosure and reporting requirements contained in section 711 of the Gramm-Leach-Bliley Act (GLB) should be repealed by Congress. Under section 711, parties to certain CRA-related agreements must make the agreements available to the public and to the appropriate federal banking agency. While ACB supports the intent of CRA, we do not believe that section 711 of GLB furthers the purposes of the CRA. Section 711 adds an additional layer of complexity to the already daunting challenge of complying with CRA requirements. The CRA reporting and disclosure requirements impose significant paperwork, regulatory and cost burdens on banks that far outweigh any benefits. Community banks, especially small and mid-sized banks, are forced to spend considerable resources complying with the disclosure, reporting and recordkeeping requirements of section 711. Moreover, the CRA reporting requirement increases regulatory burden on the federal banking agencies as well as consumer groups.

This law does not further the interests of communities; instead, it results in wasted resources for that could be better deployed to serving the affordable credit and financial services needs of communities. This law discourages fewer creative and innovative partnerships in the community because of competitive and privacy concerns. The irony of the regulation is the better that an insured institution is at forging partnerships or arrangements with nongovernmental entities or persons in furtherance of CRA, the more significantly it is burdened. OTS Director John Reich noted in testimony before the Senate Banking Committee that removing the CRA reporting requirement contained in section 711 of GLB would "reduce regulatory burden on depository institutions, nongovernmental entities (i.e., consumer groups) and other parties to covered agreements, as well as the Federal banking agencies. **There are no safety and soundness concerns about the repeal of this law**."[4]

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[4] Statement of John M. Reich, Vice Chairman, Federal Deposit Insurance Corporation on Consideration of Regulatory Reform Proposals, June 22, 2004. (Emphasis added)

Short of Congressional repeal of the law, ACB strongly urges the agencies to completely overhaul the regulations implementing section 711 of GLB. The implementing regulations are overly broad and contribute significantly to the regulatory burden and costs associated with complying with the statutory provisions. Community banks believe that the entire regime should be greatly simplified and designed to minimize regulatory burden. This would be consistent with both the statute and its Conference Report, which require that the Agencies ensure that the regulations prescribed do not impose any undue burden on the parties and that proprietary and confidential information is protected.

In particular, the terms that trigger a disclosure under the definitions contained in statute should be narrowly defined. For example, an "agreement" should be defined as a binding contract between the parties.

The triggering factor for most potentially covered agreements is the determination of whether the agreement is with a non-governmental entity or person that has had a "CRA communication" with the insured institution. ACB believes that a nongovernmental entity or person should have commented or testified or discussed or otherwise contacted an institution or affiliate about providing or refraining from providing comments or testimony to a federal banking agency or comments for a public file about such performance for a "CRA communication" to be initiated. The current regulations result in subjective judgments being made about whether a "CRA communication" has occurred because the definitions are not clear. This results in inconsistent application and compliance. The regulations should enable the parties to make more objective decisions about whether the reporting requirement has been triggered.

ACB also believes that the Agencies should carefully review the exemptions available under the statute and interpret those exemptions broadly in a way that achieves the objective of the law while minimizing regulatory burden.

ACB appreciates the opportunity to comment on this important matter. If you have any questions, please contact Patricia Milon at (202) 857-3121 or pmilon@acbankers.org.

Sincerely,

Patricia A. Milon
Chief Legal Officer and Senior Vice President,
Regulatory Affairs