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INDEPENDENT COMMUNITY BANKERS *of* AMERICA

April 4, 2006

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

Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket Number R-1243

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Docket Number 05-22

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

Re: Burden Reduction Recommendations – Prompt Corrective Action and the Disclosure and Reporting of CRA-Related Agreements – EGRPRA

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the sixth and final group of agency rules being reviewed to

[1] The Independent Community Bankers of America represents the largest constituency of community banks of all sizes and charter types in the nation, and is dedicated exclusively to representing the interests of the community banking industry. ICBA aggregates the power of its members to provide a voice for community banking interests in Washington, resources to enhance community bank education and marketability, and profitability options to help community banks compete in an ever-changing marketplace.

With nearly 5,000 members, representing more than 18,000 locations nationwide and employing over 265,000 Americans, ICBA members hold more than $876 billion in assets $692 billion in deposits, and more than $589 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

identify those that are outdated, unnecessary, or unduly burdensome. The review is being conducted under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The rules being reviewed in this round are those related to prompt corrective action and the disclosure and reporting of Community Reinvestment Act-related agreements, commonly referred to as "CRA Sunshine."

Overview of ICBA Comments

The requirement to disclose and report CRA-related agreements does not seem to be a significant burden for community banks. At the same time, though, there does not appear to have been any serious analysis of the information that has been filed, diminishing the value of the data. ICBA would not object to the requirement being eliminated.

Disclosure and Reporting of CRA-Related Agreements

The Gramm-Leach-Bliley Act requires banks and non-governmental entities (NGEs) to report certain agreements designed to help the bank meet its CRA responsibilities. The provision, familiarly known as "CRA Sunshine," was added to the statute to shed transparency on the process.

Effective April 1, 2001, the federal banking agencies adopted rules outlining which agreements are covered and what reports are required. Under the rules, each party to a covered agreement entered into after November 12, 1999, must disclose the agreement to the appropriate banking agency. For agreements entered after May 12, 2000, the parties must also file an annual report with the agency on the disbursement, receipt and use of funds under the agreement.

To be covered and subject to reporting, an agreement must meet five specific conditions. The agreement must:

1. Be written. The agreement does not need to be a legally binding contract. A press release by both parties announcing the understanding would be sufficient.
2. Involve a bank and an NGE, usually a community group.
3. Exceed certain dollar thresholds. For commitments other than loans, the amount must be over $10,000 in any calendar year. For loan commitments, the principal balance(s) involved must be over $50,000 in any calendar year. In either case, the recipient of the funds does not have to be a party to the agreement.
4. Allow the bank to meet its CRA obligations, including an understanding whether the NGE will comment on the bank's CRA performance.
5. Be entered into after a "CRA communication" from the NGE to the appropriate authorities at the bank about the bank's CRA performance.

Anecdotal evidence suggests that few, if any, community banks are affected by the requirement. In fact, the number of annual reports filed with the banking agencies has steadily decreased since the requirement first went into effect. Now, only a "handful" of reports are filed annually, and the agencies believe that some of the reports filed may

not be necessary. Meanwhile, community groups and large banks subject to CRA Sunshine have been lobbying Congress to repeal the requirement.

ICBA polled a non-statistically representative sample of our leadership bankers. The respondents ranged in size from $25 million in assets to $1.7 billion in assets and were located in all markets, but primarily suburban and rural communities. While ICBA members are seriously committed citizens in their communities, none reported having discussions with community groups about their bank's CRA obligations or performance. None of the respondents had entered into agreements that obligated them to file a report under the CRA Sunshine requirement, and none was aware of any other bank in their area that had been subject to the requirement.

Furthermore, it does not appear that there has been any significant analysis of the CRA Sunshine reports that are filed. Although the goal of the requirement is to shed transparency on the process, the information is not publicly available and none of the agencies post information about these reports on their websites. In fact, a representative from one agency informed the ICBA that the only way to obtain the information would be to file a Freedom of Information (FOIA) request. Therefore, ICBA believes this regulatory obligation could be eliminated.

As for the interagency regulations regarding prompt corrective action, ICBA has reviewed them with its members and has no burden reduction recommendations or comments at this time.

ICBA appreciates the opportunity to comment on the sixth and final group of agency rules being reviewed to identify those that are outdated, unnecessary, or unduly burdensome. If you have any questions about our letter, please do not hesitate to contact me at 202-659-8111 or Karen.Thomas@icba.org.

Sincerely,

Karen M. Thomas

Karen Thomas
Executive Vice President
Director, Government Relations Group