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BANKERS of AMERICA**

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July 30, 2009

Robert E. Feldman, Executive Secretary  
Attention: Comments  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
*Attention: RIN number 3064-AD45*

Jennifer J. Johnson, Secretary  
Board of Governors of the  
Federal Reserve System  
20th Street & Constitution Avenue, NW  
Washington, DC 20551  
*Attention: Docket No. R -1360*

Office of the Comptroller of the Currency  
250 E Street, SW, Mail Stop 2-3  
Washington, DC 20219  
*Attention: Docket ID OCC-2009-0010*

Regulation Comments,  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
*Attention: OTS-2009-0010*

Re: Proposed Amendments Regarding Community Reinvestment

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)<sup>1</sup> welcomes the opportunity to comment on this interagency proposal that would revise the rules implementing the Community Reinvestment Act (CRA) based on provisions in the Higher Education Opportunity Act (HEOA), enacted on August 14, 2008. Under the existing CRA regulations, education loans are evaluated as consumer loans. An institution's consumer lending must be evaluated if consumer lending makes up a substantial majority of an institution's business.

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<sup>1</sup>*The Independent Community Bankers of America represents nearly 5,000 community banks of all sizes and charter types throughout the United States and is dedicated exclusively to representing the interests of the community banking industry and the communities and customers we serve. 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 20,000 locations nationwide and employing nearly 300,000 Americans, ICBA members hold \$1 trillion in assets, \$800 billion in deposits, and \$700 billion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at [www.icba.org](http://www.icba.org).*

Section 1031 of the HEOA revised the CRA to require the federal bank and thrift regulatory agencies (collectively, the "Agencies") to consider low-cost education loans that an institution provides to low-income borrowers when evaluating its record of meeting community credit needs. In accordance with the recently enacted HEOA, the Agencies are proposing to implement regulations that would require them to consider, as a factor, low-cost education loans provided to low-income borrowers in the bank's assessment area who have an individual income of less than 50% of the area median income, when evaluating and rating a bank's community reinvestment record. The proposal defines "low-cost education loans" as (1) education loans originated by a bank through a Department of Education loan program or (2) any private education loan, as defined in the Truth in Lending Act, including loans under a state or local education loan program, originated by a bank for a student at an institution of higher education, with interest rates and fees no greater than those of comparable education loans offered through loan programs of the Department of Education.

ICBA understands and appreciates the intent of Congress and the Agencies to make college more affordable to lower income individuals, especially in today's economic environment where attending college can seem like an unattainable goal. Nevertheless, we have strong concerns with this proposed rule because it would require community banks to provide education loans when many of these institutions are not in the business of providing such loan products to their customers. Therefore, ICBA strongly urges the Agencies to exempt small and intermediate small banks from this standard in their CRA evaluation, or financial institutions that do not, in their normal course of business, provide education loans to consumers. Alternatively, the Agencies could also expressly state in the regulation that financial institutions could receive positive consideration if they provide low-cost education loans to low-income borrowers, but that no financial institution's CRA rating will be negatively impacted if it fails to provide such education loans.

This proposed rule, as written, makes the assumption that all financial institutions provide federal and/or private education loans, when in actuality, education loans are a niche product that some, but not all, financial institutions specialize in. In reality, many small banks located in smaller communities do not provide these loan products to their customers and are not set up to do so. The financial institutions that specialize in education lending are geared to do so, and many have secondary markets specifically set up for this purpose. For these financial institutions, which tend to be student loan companies or large national banks, it makes practical sense to consider, as a factor, the low-cost education loans they provide to low-income borrowers when assessing their record of meeting community credit needs.

Furthermore, most community banks today are focused on a specific geographic area and service the community's lending activities for that region only. In many communities, demand for higher education loans from small private lenders, such as community banks, may be very limited. The purpose of the Community Reinvestment Act (CRA) is to encourage banks and savings associations to meet the credit needs of borrowers in their communities, including low- and moderate-income neighborhoods. Therefore, community banks should not be required to expend resources that do not directly benefit

their local communities. Performance context should always be carefully considered and applied, and for that reason, the aforementioned exemption or clarification should be included in the final rule.

Finally, in preparing the final rule, ICBA urges the Agencies be cognizant of the overall regulatory burden that disproportionately impacts community banks and threatens their continued viability. Regulatory burden is one of the top concerns of community bankers today, and the burden has been increased dramatically in recent years as Congress and the regulators constantly impose new reporting, disclosure and compliance requirements. These additional requirements place a heavy and unnecessary burden on community banks that already are effective in meeting the needs of their communities, due to their small structure and vested interest in the communities they serve.

ICBA appreciates the Agencies' continued and ongoing attention to CRA and welcomes the opportunity to continue working with the Agencies on streamlining the requirements and eliminating unnecessary burdens. If you have any questions about our letter or need additional information, please do not hesitate to contact me at 202-659-8111 or by email at [Elizabeth.Eurgubian@icba.org](mailto:Elizabeth.Eurgubian@icba.org).

Sincerely,

/s/

Elizabeth A. Eurgubian

Regulatory Counsel