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October 15, 2001

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th St. N.W.
Washington, D.C. 20429

ATTN: Comments/OES

VIA E-mail: www.fdic.gov/regulations/aws/publiccomments/index.html

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

ATTN: Docket No. 2001-49

VIA E-mail: www.regs.comments@ots.treas.gov

Docket No. 01-16
Communications Division
Public Information Room
Mailstop 1-5
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

VIA E-mail: www.regs.comments@occ.treas.gov.

Dear Sirs,

The following comments regarding the current Community Reinvestment Act "CRA" regulations are submitted in response to the request for comments from interested parties published in the Federal Register on July 19, 2001, and by the FDIC in FIL-65-2001 dated August 2, 2001.

We appreciate the opportunity to submit these comments and hope you find them helpful.

STATEMENT OF INTEREST

This letter is submitted on behalf of depository institution members of the Utah Association of Financial Services ("UAFS"). This trade association represents many Utah based financial institutions. These include Utah chartered FDIC insured industrial banks, a federal savings bank, an OCC chartered non bank bank, and non depository finance companies. As of June 30, 2001, Utah industrial banks had total assets of \$89.2 billion. This represents over 90% of all assets held by Utah chartered depository institutions and the majority of all financial institution assets in Utah. All UAFS member depository institutions are subject to the Community Reinvestment Act and currently have satisfactory or outstanding CRA ratings.

PRELIMINARY INFORMATION

Most depository institution members of UAFS operate differently than a traditional commercial or community bank. They offer a limited number of products and services to a limited group of customers. In almost all instances, these customer groups are spread across the nation. In one survey conducted three years ago, all of the UAFS member industrial banks indicated that over 99% of all business was conducted with customers outside of Utah.

During the past several years, new technology has resulted in the development of many new financial products and services and ways to deliver them. One of the best examples is credit cards and the impact they have had first as an efficient provider of credit and more recently as a payment system. Emerging as a significant product only 30 years ago, credit cards now dominate the consumer credit and payments markets. That industry is, in turn, dominated by large often branchless issuers serving nationwide or worldwide customer groups from a single office using electronic delivery and processing systems. Some, but by no means all, of the Utah industrial banks are included in this group of institutions. This evolution is inevitable and healthy, and has helped propel the U.S. financial services industry into a position of world leadership.

These developments in the financial markets have required corresponding changes in the regulatory system. Recognizing the need to accommodate newer kinds of banks, the federal banking regulators modified their respective CRA regulations to accommodate this increasingly diverse group of financial institutions. Community development investments

and service programs were added to the list of qualifying activities, creating four classes of institutions for assessment purposes, and providing different primary assessment activities for each category.

We believe the revised regulations provide workable and logical standards for assessing CRA compliance. In particular, we believe the "limited purpose" and "wholesale institution" classifications, when reasonably applied, work well for assessing CRA compliance by a non traditional institution that does not provide a full range of banking services or did not offer those services to all of the residents of a limited geographical area. With modest modifications and changes in interpretation recommended below, these classifications and standards should be retained.

SUMMARY OF RECOMMENDATIONS

Our specific recommendations include the following:

- *Remove all references to specific products and services from the definition of a "limited purpose" institution and apply the definition to any institution that does not offer a full range of products and services or does not primarily serve the residents of the bank's primary assessment area.*
- *Continue to define the primary assessment area as a geographical area adjacent to the bank's main and retail branch offices.*
- *Broaden the scope of community development investments and service to include programs designed to benefit the community as a whole, not just to low and moderate- income communities.*
- *Make it easier to design and implement strategic plans.*
- *Simplify CRA reporting by removing the requirement for certain types of information that are of little value.*

RECOMMENDATIONS

1. **Remove all references to particular products and services from the definition of a "limited purpose" institution.**

As originally adopted, a "limited purpose" institution was designed to accommodate non bank banks, industrial banks, credit card banks, and other non traditional institutions that did not provide a full range of products and services to residents of a specific geographical area. The classification itself was not defined except in general terms. It was left to the good judgment of the examiners to decide how each particular institution should be classified.

The limited purpose category worked well until 1998, when a list of questions and answers ("Q&As") about CRA was issued by FFIEC. Among other things, the Q&As defined a "limited purpose" institution as one that only offered consumer credit cards or auto loans. That dramatically limited the scope of the category. In fact, it virtually eliminated the category from actual use. We believe this an error. Those particular products are mentioned in the regulation, but only as examples, not requirements. (In the regulation, they are preceded by "such as").

This affected many institutions that previously qualified as limited purpose. Those that offered any product other than auto loans or consumer credit cards were suddenly put into a category designed for a traditional community or regional bank and subjected to standards with which they could not comply under their original business plans. Even institutions that offered only one product to a limited group of customers could no longer qualify as limited purpose if that product was not on the list.

The problem that caused in terms of CRA compliance was temporarily solved by applying modified standards to the traditional categories of institutions. But the result is awkward and illogical. A bank that only issues business cards to the customers of specific companies cannot be logically classified as a full service commercial bank serving all the residents of a specific geographical area. Even if the performance context is considered, the designation given by regulators puts a financial institution with a specialized or limited product line at a disadvantage. A better long-term solution is needed.

Because of the remarkable diversity of financial institutions, we believe the best way to apply the regulations is to allow examiners the latitude to classify an institution in the category that best describes its particular operations. The CRA regulations must accommodate an increasingly diverse group of financial service providers. It makes sense that any institution that only offers a single product to a limited group of customers should qualify as limited purpose regardless of the kind of product it offers. It also makes sense to classify any institution that predominately offers a limited number of products as limited purpose even if it offers other products that are tangential to that core product, such as offering a home equity loan to car buyers as part of an auto loan program. The best standard would be to classify each institution in the category that best describes its specific set of products and services. That would allow a bank that offers customized products, even a fairly large number of them, to be classified limited purpose if it is not trying to be the primary provider of financial services to all the people in a particular community.

2. The current standards and definitions should be retained for primary assessment areas.

The current standards for primary assessment areas work well. Under these standards, the bank's primary assessment area is its local community. That is where the bank can make the biggest difference and provide the greatest benefits. When it has done all it feasibly can to comply with CRA in its primary assessment area, investments and activities in other areas can be taken into account.

Proposals have been made to change assessment areas for institutions serving national markets from the community where the bank is based to the communities where its customers reside. Those changes would be very counterproductive in most instances. With few exceptions, it is not feasible for a bank to manage comprehensive CRA programs in areas where it does not currently have any presence.

A bank needs a substantial local presence to properly understand the needs of a particular community and the opportunities available to serve those needs. A bank providing specialized products and services nationwide will not have any presence in the vast majority of the communities where its customers live or conduct their business.

3. The scope of community development investments and services should be broadened.

The scope of qualifying investments and services is too limited and should be expanded. Currently programs that support job training, job creation and education may not qualify if they are not given for the sole purpose of, and to the limited areas containing low and moderate-income people.

Education is a good example. Programs to teach basic financial skills are not provided in many schools. This may be for lack of funds. If a bank is meeting the needs of the community and its schools with this type of assistance, it should be considered as a qualified service endeavor, regardless of the location in the assessment area where it is performed. The mere fact that some of the students do not qualify as low or moderate-income should not disqualify that type of program. This type of training is imperative to the future success of children and aimed to avoid financial pitfalls that may occur without such instruction.

In addition to geographies, the qualified service definition should be expanded to include services performed that supplement staffing needs of non-profit organizations that benefit low and moderate-income individuals or geographies. For example office work or other duties performed that save the organization labor costs.

There are instances where an investment in an economic development program is considered for CRA purposes regardless of whether it directly benefits low to moderate-income individuals. This precedent, established by the agencies, is the investment in a Small Business Investment Corporation. It would make sense to permit similar investments.

4. Procedures and standards pertaining to strategic plans should be simplified.

Most institutions encounter substantial difficulty getting a strategic plan approved or amended. This option should be more generally available, but not mandatory. It can be particularly useful for an institution that does not readily fit into one of the other categories. The flexibility a strategic plan can offer is important because of the proliferation of financial services and financial services providers over the past several years. No one can know now what new kinds of institutions will emerge in the future. No one can anticipate all of the CRA programs that might be devised in the future. Encouraging a strategic plan for those that do not readily fit another category will result in more novel and effective programs, especially if the scope of community development investments and service is expanded.

Requiring a strategic plan would be a considerable problem for many institutions unless the option becomes more flexible, as recommended above.

5. Reporting requirements should be simplified.

Our members have found that CRA data reporting for small business loans is of little or no value, particularly in view of the high cost to collect and prepare the data for reporting. This is very costly for some. Costs for a few have been as high as \$15,000.00. Small business reporting requirements are also burdensome for banks providing revolving lines of credit accessed by a credit card. In addition to the poor cost to benefit ratio, the funds expended to collect this data could be used instead to increase investments in and services provided to CRA programs.

In closing, we want to express the commitment of our member institutions to the development of beneficial and effective CRA programs. Our members understand that communities and individuals cannot develop and thrive without access to affordable financial services. We are strongly committed to ensuring that all responsible citizens can obtain the financial services they need.

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We believe the recommendations set forth in this letter will enable our members to better serve those needs. Your careful consideration of these comments is greatly appreciated.

Very truly yours,

Douglas Foxley
Executive Director