VIRGINIA BANKERS ASSOCIATION

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October 25, 2001

Communications Division
Mailstop 1-5
Office of the Comptroller of the Currency
250 E. Street, S.W.
Washington, D. C. 20219
Re: Docket No. 01-16

Robert E. Feldman, Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D. C. 20429
Re: 12 CFR Part 345; RIN 3064-AC50

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D. C. 20551
Re: Docket No. R-1112

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, N.W.
Washington, D. C. 20552
Re: Docket No. 2001-49

Re: Advance Notice of Proposed Rulemaking on the Community Reinvestment Act Regulations; 66 Federal Register 37602; July 19, 2001

Dear Madam/Sir:

I am writing on behalf of the Virginia Bankers Association (the "VBA") to comment on the above proposal. The VBA represents the interests of approximately 160 commercial banks and thrifts doing business in the Commonwealth of Virginia.

As an initial point, the VBA believes the federal banking agencies should avoid making any changes to the CRA regulation that would increase cost burdens on banks. Indeed, the agencies should seek ways to reduce such burdens. In today's competitive environment, minimizing regulatory compliance costs is not just desirable, it is essential for banks to survive and prosper. Significantly, some of our banks' fiercest competitors (e.g., credit unions) are not subject to CRA. We therefore believe it is very important for the agencies to do all they can to minimize the burdens associated with CRA.

With this in mind, we would urge the federal banking agencies to increase the eligibility threshold for the "small bank" standards under the CRA regulation. For a number of years now, a "small bank" has been defined under the regulations as a bank that has assets of less than $250 million and is either independent or an affiliate of a holding company with total bank assets of less than $1 billion. (Thus, a community bank, no matter how small, does not qualify for the small-bank standards under the regulation if it is an affiliate of a holding company with total bank assets over $1 billion.)

The $250 million threshold should be increased, and the holding company limitation should be removed, if for no other reason than to reflect the changes in the

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economy and the marketplace since the CRA regulation was initially promulgated. In particular, the small-bank standards under the regulation recognize that certain banks, by the very nature of their business, serve the credit needs of their entire communities, including low- and moderate-income neighborhoods. Such banks are a "part" of their communities, and making loans available to all segments within their communities is essential for these banks' success. Indeed, some of our community bankers like to joke that CRA lending is their core business. It therefore makes infinite good sense to minimize CRA compliance burdens and costs on such banks, which is what the small-bank standards under the CRA regulation attempt to do.

But today there are many "community" banks with assets greater than $250 million that fall within this category. They are, in fact, doing the same thing as the $100 million asset bank in terms of serving all segments of their community. There is no need, then, to deny these banks the availability of the less burdensome and costly standards under which their CRA performance will be evaluated. One would have to agree that the banks I'm talking about have much more in common with the $200 million asset banks, that do qualify for the small-bank performance standards, than the large multi-state banks that have assets of $200 billion or more. And, yet, these community banks are currently forced to comply with the same CRA regulatory requirements as the large multi-state banks, which have far greater resources available to comply with CRA.

These banks should be treated like what they are – community banks -- and have the small-bank CRA standards available to them. Accordingly, we believe the $250 million threshold should be increased to $1 billion. At the very least, the $250 million threshold should be increased consistent with the growth in the economy.

In addition, the small-bank standards should be available based on bank assets, not holding company assets. It is the bank which is required to meet the credit needs of its entire community, including low- to moderate-income neighborhoods, not the holding company. In our view, there really is no reason to distinguish between the small bank that is independent and the small bank that is an affiliate of a holding company. Both function the same in terms of serving their communities, and, thus, the principle that justifies the small-bank standards (as described above) should apply equally regardless of holding company affiliation.

This is especially true given the current marketplace trend of smaller banks affiliating with one another to take advantage of economies of scale in terms of operation

and compliance costs. There are several of these arrangements here in Virginia, and there will likely be many more in the future. Under such arrangements, each affiliate bank operates entirely independently, as there is typically no geographic overlap among the affiliated banks at all. But the current CRA definition of "small bank" represents a disincentive for these kinds of affiliations, which have proven highly efficient, since it raises regulatory compliance costs, which, again, runs counter to the goal of such affiliations. Accordingly, we believe the definition of "small bank" under the CRA regulation should be revised to eliminate the current holding company limitation.

As additional points, we believe that loan purchases should continue to be treated the same as loan originations in determining a bank's CRA performance. After all, both purchases and originations increase the flow of credit, which is the aim of CRA. Any attempt to treat loan purchases differently than loan originations would introduce new compliance burdens, with no countervailing benefit.

With respect to the "investment test," the VBA urges the agencies to remove it from the regulation. We do not believe CRA authorizes a separate "investment test," and we would note that such test has presented significant difficulties for our banks because of the lack of available qualifying investments in their markets. We would also point out that the investment test has created unnecessary paperwork burdens.

We do believe, however, that the agencies should allow investments to substitute for loans in measuring CRA performance. This would ensure that large banks continue to receive credit for their community development investments, while smaller banks have the ability to take advantage of investment opportunities that may become available to them.

With respect to the activities of affiliates, the VBA believes that depository institutions should continue to have the option to request consideration of affiliate loans for CRA performance purposes. We believe this allows the greatest flexibility to banks and is consistent with the statute.

Finally, the VBA recommends that the current data collection requirements be eliminated. Not only is such collection impermissible under the statute, it also serves no useful purpose. At the very least, institutions making less than 250 reportable loans should be exempt from the data collection.

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In conclusion, we appreciate very much the opportunity to comment on this important proposal, and urge the agencies to work to make the CRA regulation work better for our member institutions.

Sincerely,

Walter C. Ayers
Executive Vice President

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