WISCONSIN BANKERS ASSOCIATION

(283)

April 5, 2004

VIA FACSIMILE

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
202-452-3819
Docket No. R-1181

Communications Division
Public Information Room
Office of the Comptroller of Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
202-874-4448
Attention: Docket No. 04-06

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
202-898-3838
Attention: CRA Comments

Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
202-906-6518
Attention: No. 2004-04

RE: Community Reinvestment Act Regulations

Dear Sir/Madame:

The Wisconsin Bankers Association (WBA) is the largest financial institution trade association in Wisconsin and represents 320 state and nationally chartered banks, savings banks and savings and loan associations located in communities throughout the state. WBA appreciates the opportunity to comment on the proposed amendments to the Community Reinvestment Act (CRA or Act) regulations.

The WBA applauds the federal banking regulatory agencies' (Agencies) ongoing efforts to examine the CRA regulations and agrees with the Agencies' general assessment that the "fundamental elements of the regulations are sound." In that regard, the WBA intends to address only two issues contained in the proposal: 1) the definition of "small institution;" and 2) changes to the credit terms and practices provisions impacting CRA evaluations.

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The Agencies Should Amend The Definition of "Small Institution" By Increasing The Total Assets Threshold And Disregarding Holding Company Assets.

The WBA fully supports the Agencies' proposal to expand the number of banks, savings banks and saving associations that will be examined under the small institution Community Reinvestment Act examination. The Agencies propose to increase the asset threshold from $250 million to $500 million and to eliminate any consideration of whether the small institution is owned by a holding company.

This proposal is clearly a major step toward an appropriate implementation of the Community Reinvestment Act and should greatly reduce regulatory burden on those institutions newly made eligible for the small institution examination. However, the $500 million threshold, suggested nearly 10 years ago, is no longer sufficient to carryout the intent of raising the threshold—to reduce unwarranted regulatory burden on small institutions. In the last decade, the regulatory burden on small institutions has been explosive, including massive new reporting requirements under HMDA, the USA Patriot Act and the privacy provisions of the Gramm-Leach-Bliley Act. But the nature of small institutions has not changed.

When a small bank, savings bank or savings and loan association must comply with the requirements of the large institution CRA examination, the costs to and burdens on that community institution increase dramatically. For instance, converting to the large institution examination requires, among other things, that the institution devote additional staff time to documenting services and investments, and begin to geocode all loans that might have CRA value. This imposes a dramatically higher regulatory burden that drains both money and personnel away from helping to meet the credit needs of the institution's community.

While the small institution test was the most significant improvement to CRA when it was last revised, it was off the mark when it limited its application to only institutions below $250 million in assets. As a result, many community institutions were deprived of any regulatory relief. Currently, an institution with more than $250 million in assets faces significantly more requirements that substantially increase regulatory burdens without consistently producing additional benefits as contemplated by CRA. Therefore, the WBA urges the Agencies to increase the asset threshold for the small institution examination to at least $1 billion.

Raising the limit to $1 billion is appropriate for two reasons. First, keeping the focus of small institutions on lending, which the small institution examination does, would be entirely consistent with the purpose of CRA, which is to ensure that the Agencies evaluate how institutions help to meet the credit needs of the communities they serve.

Second, raising the limit to $1 billion will have only a small effect on the amount of total industry assets covered under the more comprehensive large bank test. And, pursuant to the Agencies' own findings, raising the limit from $250 to $500 million would reduce total

industry assets covered by the large bank test by less than one percent. According to December 31, 2003, Call Report data, raising the limit to $1 billion will reduce the amount of assets subject to the much more burdensome large institution test by only 4% (to about 85%). Yet, the additional relief provided would, again, be substantial, reducing the compliance burden on more than 500 additional banks, savings banks and savings and loan associations (compared to a $500 million threshold). Therefore, the WBA urges the Agencies to raise the limit to at least $1 billion, providing significant regulatory relief while, to quote the Agencies in the proposal, not diminishing "in any way the obligation of all insured depository institutions subject to CRA to help meet the credit needs of their communities. Instead, the changes are meant only to address the regulatory burden associated with evaluating institutions under CRA."

To summarize, the WBA strongly supports increasing the asset-size of institutions eligible for the small institution streamlined CRA examination process as a vitally important step in revising and improving the CRA regulations and in reducing regulatory burden. The WBA also strongly supports eliminating the separate holding company qualification for the small institution examination, since it places small community institutions that are part of a larger holding company at a disadvantage to their peers and has no legal basis in CRA. While community institutions, of course, will still be examined under CRA for their record of helping to meet the credit needs of their communities, this change will eliminate some of the most problematic and burdensome elements of the current CRA regulation from community institutions that are drowning in regulatory red-tape.

The CRA's Credit Terms and Practices Regulations Should Not Be Amended Because Existing Laws Adequately Address Predatory And Abusive Lending.

To be sure, the WBA and its members detest predatory and abusive lending practices. In fact, the WBA has worked for over two years to draft predatory lending legislation for Wisconsin. And, we are happy to report that the legislation has passed both the state senate and assembly and now awaits Governor Doyle's signature. However, WBA vehemently opposes amendments to CRA regulations that expand existing provisions, which identify activities that are considered "predatory" or "abusive."

The CRA regulations already expressly provide that violations of certain laws can adversely affect an institution's CRA rating. In addition, abusive credit terms and practices generally should not be regulated through CRA because Congress enacted other laws for that purpose, such as the Equal Credit Opportunity Act, the Fair Housing Act, the Home Ownership and Equity Protection Act, the Real Estate Settlement Procedures Act, the Truth In Lending Act, and the Federal Trade Commission Act. Furthermore, numerous states are in the process of enacting or have enacted predatory lending legislation.

Considering the various existing laws and mechanisms already in place to detect and address predatory or abusive lending practices, the WBA fails to understand how an

amendment to the CRA regulations will improve the excellent strides already made to curb this type of activity. Moreover, the inevitable increase in compliance costs resulting from the use of CRA examinations to detect and deter abusive practices would not be justified because regulated financial institutions are *not* responsible for the bulk of these abuses. Therefore, the WBA is adamantly and unequivocally opposed to any amendment to the CRA regulations in this respect.

Conclusion.

The WBA recognizes the importance of the Community Reinvestment Act and is supportive of the Agencies' ongoing efforts to ensure the Act continues to fulfill its purpose. Therefore, the WBA generally supports the proposed changes to the small institution asset-size threshold and urges the Agencies to increase the asset amount to $1 billion rather than only $500 million. However, the WBA resolutely opposes any change to the Act's regulations that expand existing CRA provisions related to credit terms and practices.

The WBA urges the Agencies to carefully consider these comments and on these very important issues. Once again, the WBA appreciates the opportunity to submit comments on the proposed revisions to the CRA regulations.

Sincerely,

Kurt R. Bauer
Executive Vice President/CEO