The New York State Small Business Development Center

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October 19, 2001

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Docket No. 2001-49
Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552

Dear Sir/Madam :

The New York State Small Business Development Center has found the Community Reinvestment Act (CRA) to be extremely valuable in increasing lending and investing to our State's small business community, especially in the minority and disadvantaged communities. The regulatory changes to CRA during 1995 strengthened the law by emphasizing a bank's performance in providing services and in making loans and investments. The federal banking agencies must now update the CRA regulations in order to further reinvestment in low-and moderate-income communities as well as underserved minority communities.

Changes to the CRA regulation in 1995 have been significant and positive. The Department of Treasury's study on CRA found that lending to low-and moderate-income communities is higher in communities in which banks have their CRA assessment areas than in communities in which banks are not examined under CRA. In New York State, CRA has opened new markets and improved capital access to thousand of small businesses.

To preserve the progress in community reinvestment, the federal banking agencies must update CRA to take into account the revolutionary changes in the financial industry. The Gramm-Leach-Bliley Act of 1999 allowed mergers among banks, insurance companies, and securities firms. Banks and thrifts with insurance company affiliates are now aggressively training insurance brokers to make loans. Securities affiliates of banks offer mutual funds with checking accounts. Mortgage company affiliates of banks continue to make a significant portion of the total loans, often issuing more than half of a bank's loans.

The CRA regulation now allow banks to choose whether the lending, investing, or service activities of their affiliates will be considered on CRA exams. This is like choosing the loans to be reviewed during an exam. The SBDC urges the regulatory agencies to mandate that all lending and banking activities of non-depository affiliates must be included on CRA exams. This change would assess the CRA performance of banks that are spreading their lending activity to all parts of their company, including mortgage brokers, insurance agents, and other non-traditional loan officers. Ending the optional treatment of affiliates also stops the manipulation of CRA exams and makes exams more consistent in their scope.

The CRA procedures for assessment areas need to be revisited if CRA is to capture the activities of banks in the rapidly evolving financial marketplace. CRA exams scrutinize a bank's performance in geographical areas where a bank has branches and deposit-taking ATMs. CRA exams of large, non-

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traditional banks scrutinize a tiny fraction of bank lending. This directly contradicts the CRA statute's purpose of ensuring that credit needs in all the communities in which a bank is chartered are met.

Segments of the banking industry may seek to weaken the CRA regulations and examinations. The SBDC opposes the elimination of the investment test since low-and moderate-income communities continue to experience a shortage of equity investments for small business and other pressing economic development needs.

The present CRA exams are reasonable and are not burdensome for banks. I would urge the regulatory agencies to consider these additional policies:

- Purchases of loans must not count as much as loan originations on CRA exams.
- The emphasis on quantitative criteria must remain in CRA exams.
- The Federal Reserve Board must enact its HMDA.
- The service test must be enhanced by data disclosure.
- The Gramm-Leach-Bliley Act of 1999 prohibited banks with failing CRA ratings from expanding into the insurance and securities business. This provision should apply to the bank acquiring another institution as well as a bank being acquired.

The review of CRA regulations is vital to the country. The federal banking agencies must hear the diverse voices of America's communities as they consider a regulation that ensures community credit needs.

Thank you.

Sincerely,

James L. King
State Director

JLK/ch