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October 31, 2001

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

Re: Docket No. 2001-49

To Whom It May Concern:

ING Bank, fsb ("ING DIRECT") is pleased to provide comments in response to the Advance Notice of Proposed Rulemaking ("ANPR") published on July 19, 2001 (66 FR 37602). ING DIRECT is a Federal savings bank with its home office in Wilmington, Delaware. ING DIRECT provides retail banking services through three distribution channels: direct mail, telephone call centers, and the Internet. ING DIRECT has no branches, but has depositors and borrowers from New York to California. Although ING DIRECT currently has more customers within the geographic assessment area surrounding its home office than outside the area, that proportion is expected to decrease over the years as ING DIRECT services are discovered and accessed nationwide.

ING DIRECT believes strongly in both the letter and the underlying spirit of the Community Reinvestment Act ("CRA"). The community served by ING DIRECT from its single home office, though, is national in scope, not just Wilmington. ING DIRECT submits this comment to urge you to make changes essential to keep CRA vibrant and relevant to the changes in the market for financial services.

In adopting the Gramm-Leach-Bliley Act, Congress clearly intended to enable financial institutions that are supervised by the banking agencies to take advantage of changes that occur in the technology for delivering financial services and any emerging technological means for providing financial services to customers or allowing customers to use financial services. Especially now, the banking agencies should encourage, not discourage, technological innovations that allow customers the greatest personal security in obtaining banking services. What could be more safe than banking from home?

Congress and the Federal banking agencies have given strong signals encouraging the development of distribution channels that are alternatives to traditional branches and that allow banking institutions to compete effectively in the financial marketplace. The decisions made now with respect to CRA should not undermine that momentum.

Regulated depository institutions should not be prevented from competing directly with other, unregulated, financial service providers, just because of CRA. It would not make sense for CRA to become a straitjacket that prevents certain business models from being implemented in the regulated banking environment. As customers turn to financial service providers who provide more convenient and effective services, more resources will become unavailable to fulfill the goals of the CRA.

The last significant changes to the CRA regulations, in 1995, recognized that the CRA requires the Federal banking agencies to assess an institution's record of meeting the credit needs of its local community. Neither the term "community" nor "assessment area" is defined in the CRA. Thus, it is left to you to adopt appropriate regulations and definitions to ensure that financial institutions are fulfilling the CRA's goal of building communities.

Until now, you have based assessment areas on the physical location of deposit-taking facilities. An assessment area may not extend beyond the line of the relevant CMSA or state, and must include geographies in which the financial institution has its main office, branches, or deposit-taking ATMs, if any. For an institution with one deposit-taking office, its assessment area cannot cover a very large area. At the same time, the institution is required to make a high percentage of its loans within this narrowly defined assessment area if it hopes to obtain an outstanding CRA rating, even if most of its deposits, in fact, originate from other parts of the country.

In adopting implementing regulations under the CRA, you can revise your definition of assessment area away from this traditional notion to reflect this new reality. Deposits come to direct banks not from branches but from remote customers who bank by mail, telephone, and over the Internet. Clearly, current CRA regulations are too rigid. More flexible assessment areas, including national, regional, or state assessment areas, are warranted.

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We are not suggesting that an institution's assessment area be defined without any regard for the locales from which it obtains its deposits. But an institution should be authorized to identify the geographic areas from which it is obtaining deposits and define its assessment area or areas in such a way as to encompass a majority of those deposits.

A flexible assessment area that is national or regional or is geographically defined by each institution with respect to the major sources of its deposits, without regard to MSA or political boundaries, would better reflect the deposit-taking activities not only of direct

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banks like ING DIRECT, but also traditional banks which are now accepting substantial volumes of deposits through the Internet from customers outside of their local communities.

By enabling an institution to define its assessment areas based on where it provides banking services rather than arbitrary boundaries around where its deposit acceptance facilities are located, the institution's CRA efforts would not need to be concentrated around the institution's home office, but instead could be satisfied by lending to qualified borrowers and neighborhoods throughout the country. This in turn could lead to the satisfaction of currently unmet credit needs in more diverse locales.

In many ways, the recommended nationwide assessment area would parallel the military personnel community identified in the CRA. Institutions which predominantly serve military personnel may define the community which they serve as the "entire deposit customer base without regard to geographic proximity." (12 U.S.C. § 2902(4)). An assessment area encompassing their entire customer base makes sense for institutions, like ING DIRECT, which have customers dotted throughout the country.

We appreciate this opportunity to comment on the ANPR and look forward to the further elaboration of these ideas in your next proposed rule.

Sincerely,

*(Electronically mailed)*

Hudson White  
Executive Vice President and Chief Financial Officer  
ING DIRECT

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