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September 10, 2002

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Communications Division
Office of the Comptroller of the Currency
250 E Street, SW
Public Information Room
Mailstop 1-5
Attention: 1557-0081
Washington DC 20219

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal Division
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

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

RE: Consolidated Reports of Condition and Income, 7100-0036

To Whom it May Concern:

The Independent Community Bankers of America[1] (ICBA) welcomes the opportunity to comment on the Call Report and TFR changes proposed by the Office of the Comptroller

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[1] *ICBA is the nation's leading voice for community banks and the only national trade association dedicated exclusively to protecting the interests of the community banking industry. ICBA has 5,000 members with branches in 17,000 locations nationwide. Our members hold nearly $511 billion in insured deposits, $624 billion in assets and more than $391 billion in loans for consumers, small businesses, and farms. They employ more than 231,000 citizens in the communities they serve.*

of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation and the Office of Thrift Supervision. The banking regulatory agencies propose the changes to help them better plan their examinations of banking institutions and to monitor off-site the extent of, changes in, and performance of subprime lending programs at banking institutions.

ICBA is very concerned that many more community banks will face new reporting burdens as a result of the proposed changes, more than the agencies anticipate. We expect that a number of loans that community banks make, particularly in rural or relatively low income areas, will have at least one of the characteristics that classify the loans as "subprime" according to the proposal.

Definitions

The proposal defines a *subprime lending program* as the regular or targeted acquisition, through origination or purchase, of loans to subprime borrowers that will be held in portfolio or accumulated for resale.

According to the proposal, *Subprime lending* refers to loans to borrowers who have weakened credit histories. The characteristics of a subprime borrower typically include a history of paying debts late, personal bankruptcy filings, or a high debt service-to-income ratio. These borrowers therefore pose a higher risk of default than do traditional borrowers at banking institutions.

Characteristics of a Subprime Loan

The proposal includes a list of characteristics, "one or more" of which are indicative that the loan is subprime. These include:

- Two or more 30-day delinquencies in the last 12 months, or one or more 60-day delinquencies in the last 24 months;
- Judgment, foreclosure, repossession, or charge-off in the prior 24 months;
- Bankruptcy in the last 5 years;
- Relatively high default probability as evidenced by, for example, a credit bureau risk score (FICO) of 660 or below (depending on the product/collateral), or other bureau or proprietary scores with an equivalent default probability likelihood; and/or
- Debt service-to-income ratio of 50% or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.

Institutions that have identified borrowers as "subprime" based on their own internal rating systems should be reported as such. Institutions need not report prime loans that developed credit problems after acquisition; loans that were originated as part of a subprime program but have been upgraded to prime programs due to performance; or community development loans as defined in Community Reinvestment Act regulations that have government guarantees, or have risk mitigated by other features. Institutions that extend credit to subprime borrowers as part of their standard community lending

process or make loans to subprime borrowers as an occasional exception would not be subject to the new reporting requirements.

ICBA Views
ICBA recognizes the need for the banking regulators to have the appropriate tools to measure and monitor significant risk to individual banks and the industry as a whole. However, we remain concerned that the proposed definition of "subprime" loans will result in more community banks being forced to segregate data and report loans on the new reporting schedules than the approximately 130 institutions that the proposal indicates are targeted. The agencies have indicated that they do not consider institutions to be subprime lenders that extend credit to subprime borrowers as part of their standard community lending process or that occasionally make subprime loans as an exception to prime programs. Yet, a loan that displays **only one** of the listed characteristics discussed above is generally considered "subprime." This is a much more stringent standard than that applied by Fannie Mae and Freddie Mac when purchasing loans, both Government Sponsored Enterprises (GSEs) that are prohibited from buying subprime loans. Both GSEs look at more than one characteristic in assessing subprime status, recognizing that certain characteristics can offset others. We also question why the agencies have selected the FICO score of 660 as being the determinant of a subprime versus prime loan, a number not specifically used as a determining level by the two GSEs.

The proposal indicates that institutions that extend credit to subprime borrowers as part of their standard community lending process or make individual subprime loans on an exception basis are not subject to the new reporting requirements. Yet, many community banks may find that because of their geographic location and local geographic markets, a number of their customers may, for example have credit scores of 660 or below, either because the bank serves a relatively low income community or the community has suffered significant economic stress due to a factory closing or problems in agriculture. Will these banks be considered subprime lenders falling under the new reporting requirements? Many community banks have a long history of managing borrowers that have credit concerns, such as those located in agricultural areas, and pose less risk to the banking system than lenders that are trying to rapidly grow relatively new subprime lending programs. In our view, it is only the latter group that should be subject to the proposed detailed reporting.

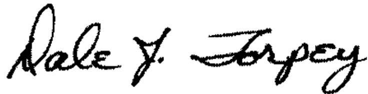
The agencies propose that the new information regarding subprime lending be accorded confidential treatment on an individual institution basis, at least for the first year or two of reporting after which treatment will be evaluated. We agree that this information should receive confidential treatment. The level of subprime loans may or may not provide information about an institution's financial health. It provides no information about the institution's ability to manage and absorb the risk associated with the loans. It is one piece of information that, if used in isolation, could be damaging to an institution and to the FDIC insurance funds should the information become public. In addition, community banks do not want to be known publicly as "subprime" lenders as they believe that customers generally try to avoid doing business with lenders with such a reputation.

ICBA is also concerned that lenders may not be capturing or have readily accessible the information they need for the new reporting requirements, to determine if the loans are "subprime" by the regulators' definition, or may not have the data about the loans in the format called for in the new schedules. As such, the new reporting requirements will pose a significant regulatory burden on **all** institutions to review every loan in their portfolio to assess it for subprime characteristics and determine whether they meet the threshold for reporting.

Again, ICBA is very concerned that more banks, particularly community banks, will be faced with significant new reporting and compliance burdens as a result of the proposed changes. More than the 130 banking institutions that the agencies anticipate being affected.

We appreciate the opportunity to comment.

Sincerely,



Dale Torpey
Chairman
ICBA Lending Committee