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January 21, 2005

Regulation Comments No. 2004-53
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, N.W.
Washington, DC 20552

Re: OTS Community Reinvestment Act Proposal

Ladies and Gentlemen:

We are a Michigan bank and appreciate this opportunity to provide comments to the OTS' proposed rulemaking regarding the Community Reinvestment Act "Proposal". As bankers, we strongly support the proposal to permit large financial institutions to determine the relative weights to be applied to the three CRA sub-tests in deriving the overall CRA rating.

CRA Proposal

The Proposal is entirely consistent with the text and congressional purpose of the Community Reinvestment Act, which is to encourage depository financial institutions to help meet the *credit* needs of the local communities in which they are chartered. (12 U.S.C. 2901). We believe the Proposal, which permits institutions to align their community reinvestment activities in accordance with their business focus and their experience and expertise is also consistent with, and is an extension of, applying performance context. Furthermore, this goal is achieved without eliminating investment and service activities.

Nowhere in the statute is there authority for the federal banking agencies to prescribe regulations related to investments and services. These subtests were created by regulation, and we believe the agencies exceeded their statutory authority in creating them. While there arguably exists a need to tailor CRA requirements to certain, non-traditional institutions that may not provide the type of lending contemplated under the law, we do not believe it is appropriate to impose industry-wide any requirements other than those permitted by the statute.

The irony is that these exceptions, created to accommodate special-purpose institutions, became the rule for all institutions, even if many institutions have no particular expertise in, for example, investments. Thus, a federal savings bank, which typically places a great emphasis on mortgage lending, is currently permitted to count only 50% of its lending toward its CRA rating. This is a

distorted result and one that forces institutions to engage in activities that are inconsistent with their business focus and even their expertise.

The substantial majority of depository financial institutions engage primarily in lending activities. Outside of CRA requirements, many conduct investment activities only to the extent of managing assets and liabilities as necessary to balance lending and liquidity. Because of the fairly rigid 3-part CRA sub-test scheme now in effect, many banks are compelled to seek out investment opportunities that have little or no relation to the bank's business model.

The result is that, for too many banks, investments are sought out and made purely to satisfy regulatory requirements, and it is uncertain whether such activities necessarily benefit communities more than straight lending would. Under the proposal, financial institutions would have the flexibility to focus more on those activities that are more aligned with their expertise and resources.

On the other hand, the Proposal is ideal because if an institution has successfully made CRA investments and those investments have benefited communities in the manner contemplated under the statute, then those institutions would be permitted to continue to make them and earn credit for them. We also support maintaining a minimum 50% weight given to lending, as again, credit is the central tenet of the statute.

Finally, we agree that the Proposal is more consistent with the "performance context" approach in that institutions would not be subject to evaluation under the fairly strict 50-25-25 rule now in place. If the performance factors currently applied in the regulation suggest a different ratio or balance among the three tests, then an institution would be free to adjust its activities accordingly.

How much deference the OTS should give to an institution's determination is an important policy consideration. First, any limits should be based on the overall purpose of the statute. Thus, as long as an institution is meeting the credit needs of the communities it serves; there should be no basis for a material criticism of an institution's election. On the other hand, the OTS in its capacity of regulator should retain a degree of discretion to challenge an institution whose activities it deems to undermine the purpose of CRA. We have noted that the OTS currently gives deference to institutions in determining their performance context.

The OTS also asks whether the investment test should be eliminated in its entirety. We do not believe there is any statutory basis for the investment test; investment activities, nevertheless, have been part of CRA for a number of years and have produced many positive outcomes. As long as the OTS adopts a rule that permits institutions to determine their own weighting, and such determination is accorded deference, we do not perceive the need to eliminate the investment test. Indeed, preservation of the investment test would encourage those institutions that have made successful investments to continue to do so.

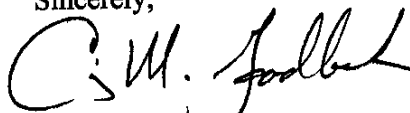
As bankers, we also support liberalization of the concept of "community development" as applied to rural areas. We agree that lending and investment opportunities in rural areas that are qualified for CRA consideration can be limited, and in such circumstances, a financial institution



can be left with few options on complying. We support the proposed clarification as a means of relieving this burden, that is, such activities that benefit persons and areas in rural locations can be qualifying even as to non-low- and moderate-income persons or areas.

We appreciate this opportunity to submit this letter on the OTS Proposal. The Proposal would give financial institutions needed flexibility in complying with the CRA, and yet remain consistent with the statute's purpose. For these reasons, we strongly support the Proposal. If you have any questions or comments, please feel free to contact the undersigned.

Sincerely,



Craig M. Goodflock
President and Chief Executive Officer

