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January 18, 2005

213

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

Attention: 2004-53

Re: Community Reinvestment Act; Comments on Notice of Proposed Rulemaking

Dear Sir or Madam:

Bank Mutual is a federally chartered savings bank and is the fifth largest Wisconsin-based financial institution. While our corporate headquarters is located in Milwaukee, the State's largest metropolitan area, we operate 70 bank offices throughout the State and one office in Minnesota. I have been actively involved in the Bank's CRA efforts for over fifteen years and, based on that experience, would like to offer the following comments.

First, I would like to state that I strongly support the proposed regulations. By giving savings associations much needed flexibility in determining how best they can meet the credit needs of their local communities, I believe the proposed regulations will both reduce regulatory burden as well as increase activities that benefit those communities.

Inclusion of Rural Areas. The proposed regulations would expand the definition of "community development" to encourage savings associations to engage in community development activities outside of their traditional CRA markets. This is a very worthwhile proposal. The current regulatory scheme, with its emphasis on activities that serve or stabilize low- or moderate-income geographies, encourages activities in primarily urban areas. As a result, however, I have no doubt that many rural areas are left underserved.

As an example, while we have numerous bank offices in the Milwaukee and other metropolitan areas, we also have bank offices located in many rural Wisconsin locations including Barron, Dunn, Polk, Washburn, Columbia, Dodge, Green Lake, Shawano, Waupaca, Fond du Lac and Door Counties. By definition, however, none of these counties have a "low- or moderate-income census tract." We also have bank offices in Manitowoc, Sawyer, and Marinette Counties, none of which have a "low-income census tract" and which, combined, have only six "moderate-income census tracts." This is by no means because these counties are in some manner affluent. Rather, it is in the nature of these rural areas to have low- and moderate-income families dispersed throughout the county with the effect that no one census tract will be categorized as low- or moderate-income. If we or other financial institutions developed community activities or services based solely on the credit those activities would garner for CRA purposes, there would be little incentive to target these counties. While I do not believe that this was ever in the spirit or design of the Community Reinvestment Act, I do think that that is an unintended consequence of the current regulatory scheme. The proposed expansion of the term "community development" would go a long way in correcting this result.

The solicitation of comments asks, among other questions, whether a definition of "rural" would be helpful and, if so, how that term should be defined. If the term "community development" were to be expanded to include rural areas, I believe it would be imperative to define that term. Without such a definition, financial institutions would be left to guess whether their activities in certain geographic areas would or would not count for CRA purposes.

In crafting a definition of "rural," I also believe it is important not to unintentionally exclude rural areas that may exist in the areas outlying metropolitan areas. Again, I would like to cite my experience at Bank Mutual. In addition to our presence in what are truly rural counties, we also maintain bank offices in the Appleton-Oshkosh-Neenah, Eau Claire, Green Bay, Janesville-Beloit, Madison, and Sheboygan Metropolitan Statistical Areas. While all of these MSAs have an urban center, a large portion of these areas is also very rural in character and require community development activities commensurate with other rural areas.

<u>Assigned Ratings Proposal</u>. The second portion of the proposed regulations would allow savings associations the flexibility to assign the weight given to the lending, investment and service tests. This is an excellent proposal for several reasons. First, it will allow savings associations to better tailor their CRA programs to meet their communities' needs. Second, it will remove the

artificial and arbitrary 50%-25%-25% weighting system and allow savings associations to assign rankings that more accurately reflect their business operations. Finally, it will permit savings associations to better align their CRA performance to the original intent of the Community Reinvestment Act.

First, although perceived by some community organizations as "watering-down" or "diluting" the CRA regulations, the proposed regulations should ultimately strengthen and enhance community development. Currently, savings associations are compelled to seek lending, service and investment opportunities with little regard as to their communities' actual needs. This is especially true in the investment area. A recent review that my office completed of twelve Wisconsin-based financial institutions indicated the primary investments these institutions relied on were housing authority and other bonds, tax credit funds, or qualified charitable contributions. With the exception of charitable contributions, most of these investments are made at a state or regional level and are made despite an adequate market demand for these products. At the same time, however, the communities that these institutions are located in may have pressing needs for loans or services. Allowing savings associations to assign their own weights to the CRA tests would permit these institutions to devote more of their CRA resources to the real needs of their communities.

Second, savings associations have historically been the nation's home lenders. Yet, in spite of the industry's special character, the current regulatory scheme arbitrarily places 25% of an institution's CRA Rating on the extent to which that institution has made community development investments. As a result of this arbitrary weighting scheme, many savings associations who have lending expertise have had to seek out investment opportunities in areas in which they have little or no experience. Alternatively, a handful of institutions may have devoted substantial resources to developing the necessary expertise to invest directly in federal tax credits or other equity vehicles – investments that can be very complex and often have a higher degree of risk than most institutions desire to carry. In either case, allowing savings associations to assign rankings to the various CRA tests would allow them to better align the CRA process with their actual business operations and, as a result, create a much more efficient process.

Finally, the Community Reinvestment Act's simple mandate is that each financial regulator assess an "institution's record of meeting the <u>credit</u> needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution" (emphasis added). 12 U.S.C. §2903(a). To the extent that savings associations chose to de-emphasize investments (which is really about the deployment of capital) and to emphasize loans better matches the Community Reinvestment Act's mandate for financial institution's to meet the credit needs of their communities.

I appreciate the opportunity to comment on the proposed regulations.

Very truly yours,

James P. Carter
Vice President
Corporate Counsel