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VIA ELECTRONIC MAIL

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RE Risk-Based Capital Guidelines; Implementation of New Basel Capital Accord, Docket No. 03-14 ("Basel II requirements")

Dear Sirs:

On behalf of the CRA Qualified Investment Test Coalition, I submit this comment letter on the Basel II proposed rule. We understand that members of Congress, in an October 24,2003 letter to each of the respective agency principals, have also drawn attention to the concern that the Basel II requirements might have an unintended consequence with respect to CRA-related investments, particularly given the present level of such marketplace holdings by depository institutions. Additionally, we are aware that

other comment letters have been filed, or are forthcoming, from depository institutions and non-profit entities, which also draw attention to the concern noted in this letter.

The CRA Qualified Investment Test Coalition was formed earlier this year to monitor proposed regulatory and other changes to the qualified investment test of the Community Reinvestment Act. The coalition strives to provide objective information to the regulatory agencies about how a proposed regulatory change likely will impact market conditions and legal requirements relating to CRA qualified investments as well as to offer suggestions on how to improve the administration and functioning of the qualified investment test. Our members include those involved with creating and supplying CRA qualified investments to the marketplace; the end users of the CRA qualified investments also have participated in our outreach and other communications with the regulatory agencies. Apart from this proposal, we extend our gratitude to the OCC for their recent final rule on Part 24 with respect to investments designed primarily to promote the public welfare. The Coalition supports that final rule, although we would hasten to add mutual funds to the rule's list of permissible investment conduit vehicles. Of course, we also look forward to an opportunity to comment on the CRA rule and its related additional Interagency Questions and Answers, once those respective proposals are put forward for public review.

The Coalition commends the U.S. bank regulatory authorities who have worked very hard on an exceedingly complex proposal, and have calibrated the new risk based system to reflect appropriate, but unique, domestic needs, including with respect to the so-called, "Legislated Program Equity Exposures." As with Basel I, the U.S. bank regulators are to be complimented for their monumental efforts to devise an international accord useful to all the signatory countries, while also balancing the unique needs pertaining to domestic issues arising out of the U.S. bank regulatory framework. Likewise, during consideration of Basel I, the U.S. bank regulators were very receptive and extraordinarily flexible in modifying the proposed rule to avoid unintended marketplace and regulatory consequences. It is with that same spirit in mind that the Coalition now seeks a review of a likely unintended consequence of Basel II.

The materiality test of the proposed rules as set forth on page 45928 of the pertinent Federal Register notice, for which comment is sought with respect to the materiality thresholds although there seems to be a typographical error in the same section pertaining to a request for comments on the exclusions from the equity capital charge, may negatively affect the desirability of making a CRA qualified investment. Specifically, the proposed rule's materiality test would appear to be triggered using a calculation that looks at an institution's aggregate equity investments, including CRA qualified investments, as a percentage of a depository institution's capital; higher capital charges would be imposed if and when the materiality threshold was triggered. This contrasts with other portions of the proposed rule, where CRA qualified investments along with all other so-called "Legislated Program Equity Exposures" are excluded from higher capital charges due to government oversight and restrictions. In general, a 10% of Tier 1 and Tier 2 average capital test would be utilized as a test of materiality under the proposed rule, but in certain other instances, a test for 5% of such capital is proposed. In light of the historic performance of marketplace holdings of Legislated Program Equity Exposures as well as the likely adverse consequences on the desirability of CRA investments resulting from a materiality test that includes CRA related investments and other Legislated Program Equity Exposures as part of its formula calculations, the regulators may wish to revisit whether the proposed

capital percentage triggering test levels are unduly low, especially if, as suggested, a formula of smaller sized aggregate equity exposures, which excludes Legislated Program Equity Exposures, is used in connection with the final rule's capital percentage materiality calculation.

The Coalition would join with others who have suggested that the Basel II rules should exclude all CRA related investments that qualify under the **Part** 24 regulations from the rule's proposed materiality test calculation. The Coalition believes that this solution will avoid disruptions in the qualified investment test marketplace. The Coalition further posits that no apparent regulatory purpose would be served by including CRA qualified investments and other Legislated Program Equity Exposures in the materiality test calculation of the proposed Basel II rules.

We thank you for your consideration of these comments. We would be pleased to respond to any request for additional information in connection with your review of this proposal.

Sincerely,

Timothy R. McTaggart

Timothy R. McTaggart

Submitted on behalf of the
CRA Qualified Investment Coalition