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TESTIMONY OF

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ON

TITLE IV OF H.R. 5094, DEPOSITORY INSTITUTIONS ACT OF 1988

BEFORE THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE

10:00 a.m.
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Room SD-538, Dirksen Senate Office Building

Good morning, Mr. Chairman and members of the Committee. I am pleased to offer the views of the Federal Deposit Insurance Corporation on the various consumer-related provisions in Title IV of the Depository Institutions Act of 1988, H.R. 5094 ("Title IV").

Introduction

Title IV would amend several existing banking consumer-related laws and establish a number of new ones. Specifically, the Title would amend substantially the Community Reinvestment Act of 1977 ("CRA"); require each of the federal bank regulatory agencies to establish a separate division to examine and enforce compliance with applicable consumer protection laws; require banks to offer an account for prescribed checking and check-cashing services; and impose notice requirements on the closing of national bank branches. Title IV also includes two bills previously passed by the House of Representatives: the "truth in savings" bill (H.R. 176) and a bill that imposes additional requirements on banks making home equity loans (H.R. 3011).

As discussed below, we are sympathetic to the social objectives sought through the various provisions of Title IV. We have serious concerns, however, that those provisions -- particularly when taken in the aggregate -- might jeopardize the safe-and-sound operation of many smaller banks where the implementation costs of these new provisions could be quite onerous. Further, imposing these additional costs on the banking industry would be especially unfair since bank competitors in the financial services industry would not be subject to the same requirements. Moreover, certain provisions of Title IV are, to a significant extent, duplicative of existing -- and largely effective -- federal regulations and procedures.

Furthermore, the "agency reform" provisions of Title IV would eliminate the flexibility that is essential to the efficient and cost-effective operation of the FDIC, without improving the effectiveness of our compliance supervision. For these reasons -- as elaborated on below -- we cannot support the provisions of Title IV.

Mandated "Agency Reforms"

Section 411 of Title IV, requiring "agency reforms," would have a disruptive effect on the FDIC's examination and supervisory functions. This section would mandate the creation of a separate "consumer division" in each federal banking agency to oversee the examination and enforcement of consumer-related laws and regulations, including the CRA. Each new division would be staffed with its own corps of consumer compliance examiners charged with conducting separate on-site examinations of insured institutions for compliance with consumer-related laws and regulations.

The FDIC believes the creation of a separate additional examination division would prove costly, inefficient and counterproductive, particularly in our agency which supervises thousands of small banks. It would splinter our examination efforts by requiring the establishment of a parallel corps of examiners devoted solely to consumer compliance. Two corps of examiners supervised by separate divisions would be expensive to administer.

It is estimated that the annual overhead costs for salaries, benefits, travel and other administrative items of operating two separate divisions would be at least $1 million more than retaining the consumer compliance examination program in our Division of Bank Supervision. Also, there would be additional significant costs to the banks as a result of the disruption caused by the presence of two separate examination teams in the banks and the potentially diminished effectiveness and success of supervision in both the safety-and-soundness and consumer areas.

There is an important interrelationship between consumer compliance and safety-and-soundness examinations -- with some correlation between banks with safety-and-soundness concerns and those with compliance problems. As a result, it is important that both functions be managed in a unified and consistent manner. Mandating a separate, special examination and enforcement division would deprive the FDIC of the flexibility needed to structure its compliance operations in the most cost-effective manner and would impose a structure that we believe would be ineffectual and inefficient.

The changes Title IV would impose are unnecessary. In December 1986, the FDIC established an independent Office of Consumer Affairs whose director reports directly to the Office of the Chairman. One of the responsibilities of the Office of Consumer Affairs is to monitor independently the progress and effectiveness of our consumer compliance examination and enforcement program and make appropriate recommendations to the FDIC Board of Directors. This office works closely with our Division of Bank Supervision in monitoring the consumer compliance examination program.

In each of the FDIC's eight regional offices, there is at least one Consumer Affairs/Civil Rights Specialist responsible for overseeing the examination program in the respective regions. We also continue to have a small cadre of field examiners who specialize in consumer compliance examinations.

In addition, the Washington Office of our Division of Bank Supervision was reorganized recently. The reorganization included administrative changes in the handling of consumer-related matters. As a result, we are able to provide improved regulatory oversight in the consumer compliance area. These various efforts taken collectively have enhanced substantially the FDIC's ability to discharge its examination and enforcement responsibilities for consumer compliance laws and regulations.

As detailed in our CRA testimony presented to this Committee in March, 1988, in the recent past the FDIC has had to draw examiners away from specialty areas, including consumer compliance, to address the very serious safety-and-soundness problems in the industry. As a result, the number of consumer compliance examinations declined.

The examiner shortfall was attributable not only to the substantially increased number of problem banks, but also to an FDIC policy decision in 1978 to reduce its number of bank examiners. At that time it was thought that our regulatory responsibilities could be accomplished with fewer traditional on-site examinations, especially for banks with satisfactory ratings. To supplement our reduced examination efforts, we used increased offsite surveillance, brief visitations, reliance on state regulators where appropriate, and increased market discipline. Although this level of supervision may have been appropriate when the decision to reduce the examiner force was made, conditions changed. Over the past three years we have increased our staff substantially and will continue to do so. In particular, we are dedicated to reestablishing a strong and credible program for consumer compliance examinations and enforcement within our established supervision division.

Despite insufficient staffing and the recent record numbers of bank failures, we have increased the number of consumer compliance examinations and examiner training programs over the past two years. In fact, the number of examinations increased by 97 percent during the past year alone. We expect the number of compliance examinations to increase by approximately another 60 percent in 1988. We have gone to a two-year consumer compliance examination cycle for 1, 2 and 3-rated banks. Four- and 5-rated banks will be examined at least once a year.

We are continuing to evaluate our compliance enforcement program. As a result of this evaluation, we plan to further strengthen our cadre of consumer compliance examination specialists, as well as provide enhanced consumer compliance training to our safety-and-soundness examiners so that they may more effectively supplement the work of the consumer compliance specialists. When this program is fully implemented, we will have a consumer compliance coordinator in each of our field offices -- currently numbering 94 -- in addition to the one or more Consumer Affairs/Civil Rights Specialists now in each of our eight regional offices. These specialists are compliance experts, who will be charged with a continuing responsibility to maintain a compliance enforcement program which is both timely and effective.

In light of this progress and our continuing efforts to improve on that record, we believe a legislatively mandated consumer examination division would be unwarranted and counterproductive. No hearings have been held in the House on this issue. When the structure, costs and benefits of such an approach are thoroughly analyzed, the facts show that the measure is inappropriate especially for the FDIC. Consequently, we urge Congress to reject this effort to manage the examination and enforcement functions within the FDIC.

Amendments to the Community Reinvestment Act of 1977

Title IV of H.R. 5094 would make significant and far-reaching changes in the Community Reinvestment Act -- changes which we believe, for the most part, are unnecessary. Many of the provisions entail significantly increased CRA requirements and accountability in the context of bank holding company applications. We believe that most of those requirements would prove to be costly and counterproductive. However, since those provisions are within the purview of the Federal Reserve Board we will not address them. Instead, we will limit our comments to the other CRA changes contained in the bill.

Written Evaluations. Title IV would require that after each CRA examination the federal banking agencies prepare a written evaluation of, and attach a numerical rating to, the institution's record in meeting the credit needs of its community. Summary CRA assessments are now a part of the public file in connection with applications submitted to the FDIC and are provided to the public upon request. Consumer and community groups can monitor an institution's performance by obtaining the CRA statement, the HMDA-1 forms and HMDA aggregation tables.

The bill also would require public disclosure of a bank's numerical rating. The release of ratings could impair the examination function by:

- Deterring open and frank discussions between a financial institution and its regulator and create an adversarial relationship;

- Adversely effecting institutions that have a compliance problem but are trying to correct it; and

- Causing institutions to use the ratings as a federal endorsement standard in advertising.

The FDIC currently uses numerical examination ratings as an <u>internal</u> method of summarizing a bank's CRA performance, as it does in its safety and soundness supervision. Each bank's rating is a subjective judgment made by the FDIC for supervisory purposes only. Those ratings are not intended to provide banks with a "Good Housekeeping seal of approval."

The federal bank regulators currently release aggregate CRA performance ratings to the public through the Examination Council. The FDIC also provides its ratings and the open section of examination reports to institutions under its supervision.

As an alternative to the provision in Title IV, we suggest that -- in addition to the FDIC's current practice of providing ratings and comments to institutions -- <u>the regulators also prepare a summary assessment, without a rating, which the bank would be required to include in its public CRA file</u>.

It is important that evaluations of a bank's performance focus on a careful summary that cannot be done in a mechanical shorthand, single-digit rating.

Mandated Performance Rating System. Title IV also would require that the federal bank regulators adopt a prescribed numerical CRA-rating system. The ratings would range from "1-excellent" to "5-poor or substantial noncompliance."

The agencies already have a joint CRA assessment rating system that provides a comprehensive, uniform and subjective means for regulatory agencies to evaluate the performance of a financial institution. A copy of an explanation of that system is attached. The current rating system was developed jointly by the agencies through the Examination Council. It was adopted only after the agencies sought, received and carefully considered public comments on the system. Thus, we believe that a statutorily mandated CRA rating system is not necessary. More fundamentally, we question whether a supervisory tool such as a rating system should be legislated or is better left for agency design and revisions as necessary.

The House Banking Committee Report alleges that, under the current CRA rating system, ratings have been inflated because 98 percent of the depository institutions are in the two highest categories of performance. We believe, however, that the reason the aggregate ratings are high is because banks are in substantial compliance with the regulation. The small number of consumer complaints and protests we have received and the few public comments we have found in the banks' CRA public files support this finding.

Because the agencies have a defined uniform rating system already in place, with no evidence that it is inadequate, we see no reason to introduce a new, statutorily mandated CRA rating system. We plan to review that system and consider possible revisions on a continuous basis.

Performance Data Collection. Title IV also would require that the banking agencies develop a joint format for collecting data from depository institutions in connection with CRA examinations. This data would include, in part, low- and moderate-income housing loans, small business and small farm loans, financial investments in local community development projects, and participation in government and private loan insurance programs for housing, small businesses and small farms.

This requirement would impose a serious burden upon regulators and examiners. The burden would carry over to financial institutions as the regulators request them to submit the data. That burden would be particularly onerous if those institutions must develop a data capture and maintenance system in order to have the information readily available.

This provision would require that the prescribed data be collected in a way similar to that under the Home Mortgage Disclosure Act ("HMDA"). HMDA has proven to be very costly and time consuming for the agencies, and the data collected under HMDA have been only moderately useful to consumers. A 1984-1985 survey by the Federal Financial Institutions Examination Council ("Examination Council") of the central depositories on the use of HMDA data showed that approximately 64 percent of the responding depositories said that their HMDA data had been used by the public. The depositories that kept records on the number of data requests reported only one to five requests in two years. The HMDA aggregation project presently costs the agencies approximately $180,000 per year to administer and this cost is predicted to rise considerably next year. The costs of such collections would increase significantly if HMDA is expanded through the "backdoor" -- namely, with the proposed new data collection requirements under the CRA.

There has been no cost-benefit justification for this provision relative to either consumers or to the federal banking agencies. In addition, this data-collection requirement would conflict with the Congressional mandate to reduce the paperwork burden on financial institutions.

Notice of Examination. Section 405 of Title IV would require that the federal banking agencies provide public notice of a CRA examination on the same day the examination begins. The duration of a CRA review is usually only one to three days in smaller banks. Thus, it is unlikely that publication on the date the examination commences would allow for public comments to reach the examiner in time to respond to them during the examination. Also, there are times when examinations must be rescheduled on very short notice.

The present system allows for public comments to reach our CRA examiners. We encourage consumer and community organizations to submit CRA-related comments to the regulatory agencies and banks on an ongoing basis and not only when an examination is about to occur, which may be only once every two years. Our regulations require that each bank maintain a public file of comments on its CRA performance. A bank's CRA file is reviewed by our examiners during the course of an examination. The proposed publication requirement may discourage interim comments, and thus be counterproductive. This would be particularly unfortunate because the existence of public comments is one factor we use in scheduling a CRA examination.

In addition, the regulatory agencies have complaint- and CRA-protest procedures in place that indicate where and to whom consumers may write to comment on an institution's CRA performance. Thus, we believe the CRA publication requirements are unnecessary.

Establishment of Community Review Boards

Section 412 of Title IV would require that each Federal Reserve Bank establish a "Community Review Board" that is heavily weighted with consumer-oriented representatives. The Board of Governors of the Federal Reserve System presently has a 30-member Consumer Advisory Council with a more balanced representation of financial institutions and consumers. The proposed legislation would not only prove costly, but largely duplicative.

The FDIC does not have a consumer advisory council similar to the Federal Reserve Board's; however, we have stepped up our outreach efforts to both consumers and bankers. During 1987 and 1988, we held two sessions with community groups and consumer protection and civil rights organizations in Washington for an exchange of views on community reinvestment and other consumer-related issues. We found these meetings productive and plan to continue such events. We also conduct in various parts of the country compliance seminars where CRA and other consumer-related laws and regulations are addressed.

Financial Services Account

Section 422 of Title IV would require banks to establish a "Basic Financial Services Account" that includes a transaction component permitting up to ten withdrawals per month and a government check-cashing feature. We generally favor efforts to encourage the offering of such "life-line" services. In November, 1986, the FDIC joined the other federal bank regulators in adopting the Examination Council's "Joint Policy Statement on Basic Financial Services." A copy of that statement is attached.

The policy statement is in place and appears to be successful. A new American Bankers Association survey shows that 52 percent of all banks -- and 70 percent of those with assets of $1 billion or more -- offer some type of basic banking account. This is up from 44 percent one year ago. Thus, although we favor the furnishing of "life-line accounts," given the banking industry's current adherence to the regulators' policy statement, legislation seems unnecessary.

With regard to government check cashing, we continue to question the extent of problems in this area. Our records do not indicate a significant number of complaints or inquiries concerning government check cashing. We believe the registration process necessary to establish the customer account would be a paperwork burden on institutions, adding to the costs ultimately passed on to consumers.

Truth in Savings and the Home Equity Loan Requirements

The FDIC supports clear and uniform disclosures in connection with the making of bank loans and the offering of deposit products. However, we are concerned that the "truth-in-savings" and home-equity-loan requirements -- when layered on top of the other provisions in Title IV -- would impose significant and, for many banks, unmanageable new burdens on the industry.

If "truth-in-savings" legislation is to be enacted, it should apply to all financial entities, including investment companies. Many consumers today have their savings in money-market funds, rather than banking institutions. If the public is to benefit from disclosures of the cost and terms of savings accounts, consumers must be able to compare all savings-type accounts, not just those offered by financial institutions. We therefore prefer S. 1507 to its counterpart in Title IV. In addition, we believe a standardized method of calculating interest, as proposed in the Senate bill, would make disclosures less confusing and voluminous.

With regard to the home-equity-loan disclosures, this bill parallels in many respects the requirements of the FDIC's uniform adjustable rate mortgage rule. Although we endorse the objective of providing consumers with pertinent disclosures, additional disclosures may be unnecessarily confusing for consumers and unduly costly to banks.

Equal Credit Opportunity Act Amendments

Section 481 of Title IV would amend the Equal Credit Opportunity Act ("ECOA") to specifically subject business and commercial loans to the recordkeeping requirements and adverse action notices imposed under ECOA. We are concerned about the additional recordkeeping and administrative burdens this provision would impose upon the industry. At a minimum, we suggest that small banks be exempted from this requirement. In addition, a provision in Title VIII of H.R. 5094 would amend the ECOA to ensure that credit is not denied to individuals on the basis of any course of study pursued. Our records do not reveal a problem in this area. Therefore, we question the necessity of the provision.

Other Provisions

CRA Exception for Failed and Failing Banks. Section 403 of Title IV would prohibit the Federal Reserve Board from approving certain applications by bank holding companies unless -- with specified exceptions -- the bank holding company has an "imputed community reinvestment rating" of "2" or better under the prescribed rating system. One specific exclusion from the general rule would apply to banks acquired by bank holding companies under Section 13(f) of the Federal Deposit Insurance Act ("Act").

Section 13(f) involves only FDIC-assisted emergency interstate acquisitions. We prefer that this exclusion be broadened to clarify that not only banks acquired under Section 13(f) of the Act, but all failed or failing banks acquired by bank holding companies through transactions under Section 13(c) of the Act, would be excluded from a bank holding company's "imputed rating." This suggested amendment would be consistent with the objective of affording relaxed CRA treatment to transactions involving failed and failing banks.

Branch Closing Exception for Failed and Failing Banks. Section 432 of Title IV would require national banks that propose to close a branch to provide notice of the proposed closing to the Comptroller of the Currency within specified time periods. We defer to the Comptroller as to his substantive comments on this provision. But -- similar to our immediately preceding comment on Section 403 of the Title -- we request that the specified exceptions to the branch closing notification requirement in the Title be expanded to include all failed and failing bank situations. We also request that "bridge banks," which are national banks organized by the FDIC to operate closed banks until they can be sold, also be excluded.

Conclusion

In conclusion, we believe that Title IV of H.R. 5094 would impose unreasonable and costly new burdens on financial institutions and regulators at a time when safety-and-soundness pressures are of particular concern. Thus, we cannot support the provisions in Title IV. In particular, we believe the "agency reforms" would eliminate the flexibility that is essential to an efficient and effective supervisory program. We acknowledge the need for improvement in our consumer compliance operations. However, we have taken steps to bolster our programs.

We recognize the positive social objectives of Title IV. However, we are concerned about the effect those provisions in the aggregate would have on the banking industry and the consumer who would ultimately bear the costs. Moreover, these requirements would not apply to banks' financial services competitors. This inconsistent treatment of financial service providers would be unfair and anti-competitive.

Additionally, there has been no major review or study of the cost, burdens, and benefits of the proposed consumer laws or the numerous consumer protection laws enacted over the past 20 years. We urge the appropriate committees of the Congress to provide for such reviews, especially with respect to the cumulative impact of the various laws on the financial institutions industry and the general public. Pending the completion of such a study, we urge a moratorium on further broad new initiatives in the consumer protection area such as those contained in Title IV.

Thank you Mr. Chairman and members of the Committee, for giving the FDIC an opportunity to express our views on these issues. We will be pleased to respond to any questions.

Attachments

UNIFORM INTERAGENCY COMMUNITY REINVESTMENT ACT (CRA) ASSESSMENT RATING SYSTEM

Introduction

The purpose of the rating system is to provide a uniform means for regulatory agencies to identify quickly those institutions which require varying degrees of encouragement in helping to meet community credit needs. This provides a comprehensive and uniform system for evaluating the performance of federally regulated financial institutions examined under the various assessment factors of the Community Reinvestment Act and facilitates more uniform and objective CRA ratings.

The rating system ranks financial institutions on a scale from 1 through 5 with a "5" representing the lowest level of performance under the Act and, therefore, the highest degree of concern. Level "3" reflects performance which is less than satisfactory.

This system further employs five "performance categories" or components from which the overall composite CRA rating is derived. The performance categories represent a grouping of the various assessment factors contained in the implementing regulation for the Act. Each performance category is evaluated on a scale of 1 to 5 with a "5" representing the lowest level and therefore the worst performance. As explained later, each performance category includes a narrative description for each rating level.

Overview

Each financial institution is assigned a composite CRA rating that is based upon the institution's performance in meeting various community credit needs. An examiner begins to evaluate the institution's record in meeting community credit needs by first reviewing its financial condition and size, legal impediments, and local economic conditions, including the competitive environment in which it operates. The type of community in which the institution is located will also have a significant bearing on how the institution fulfills its obligations to the community. Community credit needs will often differ with the specific characteristics of each local community, resulting in a variety of ways an institution may meet those needs. To maintain a balanced perspective examiners must carefully consider information provided by both the institution and the community.

Composite Rating

The performance categories are individually assigned a numeric rating. In assigning the overall composite CRA rating, the performance categories will be weighed and evaluated according to how well the institution meets the descriptive characteristics listed below.

Rating (1) — The institutions in this group have a strong record of meeting community credit needs. Both the board of directors and management take an active part in the process and demonstrate an affirmative commitment to the community. Institutions receiving this rating normally rank high in all performance categories. Such institutions have a commendable record and need no further encouragement.

Rating (2) — Institutions in this group have a satisfactory record of helping to meet community credit needs. Institutions receiving this rating normally are ranked in the satisfactory levels of the performance categories. Institutions in this category may require some encouragement to help meet community credit needs.

Rating (3) — Institutions in this group have a less than satisfactory record of helping to meet community credit needs. The board of directors and management have not placed strong emphasis on the credit needs of the community. Institutions receiving this rating have mixed rankings surrounding the mid-range levels of the performance categories. Such institutions require encouragement to help meet community credit needs.

Rating (4) — Institutions in this group have an unsatisfactory record of helping to meet community credit needs. The board of directors and management give inadequate consideration to the credit needs of the institution's community. Institutions receiving this rating generally rank below satisfactory in the majority of the performance categories. Such institutions require strong encouragement to help meet community credit needs.

Rating (5) — Institutions in this group have a substantially inadequate record of helping to meet community credit needs. The board of directors and management appear to give little consideration to the credit needs of the institution's community. Institutions receiving this rating generally rank in the lowest levels of the performance categories. Such institutions require the strongest encouragement to be responsive to community credit needs.

Performance Categories

For purposes of evaluating an institution's CRA performance the various assessment factors and criteria are grouped into the following "performance categories":

I. Community Credit Needs and Marketing
The institution is evaluated in this category on its activities in determining the credit needs of its community and in marketing its services. Included in this category are assessment factors (a), (b) and (c) in addition to how well the institution delineated its community and other technical compliance regarding the posted notice and maintenance of public files.

II. Types of Credit Offered and Extended
The institution is evaluated in this category on the

types and amounts of credit extended to the community and the degree to which those extensions are, in fact, helping to meet the community's needs. Included in this category are assessment factors (i) and (j) plus the institution's CRA statement.

III. Geographic Distribution
The geographic distribution of the institution's loans and any practices meant to discourage applications are considered in this category, as well as the impact of the opening or closing of any offices and the services offered at those facilities. Included in the category are assessment factors (d), (e) and (g).

IV. Discrimination or Other Illegal Credit Practices
The institution's compliance with anti-discrimination and of the credit laws is evaluated in this category. The category includes assessment factor (f). The rating to be assigned here corresponds to the institution's composite compliance rating.

V. Community Development and Other Factors
The institution is evaluated in this category on its participation in community development and/or other factors relating to meeting local credit needs. Included in this category are assessment factors (h), (k) and (l).

Each of the performance categories and the level of performance relating to each category are described in greater detail below.

Performance Category Ratings

I. Community Credit Needs and Marketing
(Assessment Factors (a), (b), (c) and Community Delineation)

Rating Level 1 — The institution has actively undertaken steps to determine community credit needs. These activities may include:

- Identifying the demographic makeup (racial/ethnic groups and low- and moderate-income areas) of its community and making meaningful contacts with a reasonably full range of organizations (civil, religious, neighborhood, minority, etc.) to assist in determining the credit needs of all segments of its community;
- Taking into consideration comments to the public file which describe existing unmet credit needs; and
- Contacting local government officials to identify any needs of private lender participation in existing or prospective community development or redevelopment programs. (In rural areas the local government body may be the county supervisor's office or other appropriate office.)

The institution has actively undertaken marketing and credit related programs appropriate to the size and capacity of the institution and the nature and location of the community. These programs should reach all segments of its community. Community segments should include low- and moderate-income residents, small businesses and, where applicable, owners of small farms. Management has also established working relationships with real estate brokers and others who serve low- and moderate-income areas and who may provide assistance for small or minority businesses. There is evidence that senior management is aware of community concerns and activities.

Rating Level 2 — The institution has undertaken activities to determine its community's credit needs. As a result of these activities, the institution is generally aware of the credit needs within its community, including low- and moderate-income areas. The institution has initiated a dialogue with community representatives such as local government, neighborhood, religious, and minority organizations, or small business and small farm organizations. The institution has undertaken marketing and credit related programs but the programs are not ongoing or comprehensive. Senior management demonstrates an awareness of community concerns and activities.

Rating Level 3 — The institution's activities to determine community credit needs are limited. The institution's employees may serve as volunteers on community organization boards and committees. However, the institution has notestablished a systematic method to determine how or if its employees' volunteerism assists the institution in meeting its CRA goals. The institution's advertising may be principally deposit oriented. In addition, the institution generally has made no efforts to market its services on an equal basis to all segments of its community. Marketing and credit related programs do not include a mechanism for reaching low- and moderate-income areas within the delineated community. The institution's marketing effort does not adequately focus on marketing the types of credit for which the institution has identified a need (or a need is otherwise apparent). There may also be some concern about the community delineation.

Rating Level 4 — The institution's efforts to determine community credit needs are very limited and fail to address major segments of its community. Management has not established a dialogue with organizations representative of the community, including any which represent low- and moderate-income or minority neighborhoods within the delineated community. The institution's marketing and credit related programs are limited or poorly conceived. There may also be some concern about the community delineation. Senior management is unaware of special needs of low- and moderate-income residents, small business and small farms.

Rating Level 5 — The institution has not undertaken any meaningful efforts to determine community credit needs. Management has limited knowledge regarding the community's demographic characteristics. The institution's marketing and credit related programs are either non-existent or have repeatedly excluded low- and moderate-income areas within the delineated community. There may also be some concern about the community delineation.

II. Types of Credit Offered and Extended
(Assessment Factors (i), and (j) and CRA Statement)

Rating Level 1 — The institution has investigated the need for different types of credit within its community such as residential mortgage loans, housing rehabilitation and home improvement loan, and small business or farm loans, including the need for private, as well as, government-insured, guaranteed, or subsidized forms of such loans. It has then made an explicit effort to assure that its loan policies are responsive to the needs and has examined the extent to which it and other institutions within the community are meeting the need for such loans. The institution's CRA statement lists the types of loans found to be needed in the community. The involvement by the institution in the making of each type of loan listed in the statement demonstrates an affirmative effort to make such loans and to do its share in meeting existing needs, consistent with its resources and capabilities.

Rating Level 2 — The institution's CRA statement and loan portfolio indicate that it has investigated the need for residential mortgage loans, housing improvement/rehabilitation loans, small business and farm loans, and private, as well as government-insured, guaranteed, or subsidized forms of such loans within its community. It has made an explicit effort to assure that its loan policies are responsive to the needs found. The institution's performance in this category is distinguished from a 1-rated institution primarily in the extent to which it is marketing the availability of loans and/or in the degree to which the types and volume of loans being made match the community's most pressing credit needs.

Rating Level 3 — The institution may not be offering one or more types of credit listed in its CRA statement, despite a capacity to do so. The institution's loan portfolio and other sources, including peer analysis, may indicate that the institution's share of loans of a type or types identified as needed in the community, including any low- and moderate-income areas, is marginal or somewhat below average, particularly with respect to extensions for residential housing, small business or farm credit.

Rating Level 4 — The institution's record of offering and of making loans reveals that it is doing relatively little to help meet known or demonstrated credit needs for residential, small business or small farm credit, particularly for residents of low- and moderate-income areas. Its participation in private, as well as government insured, guaranteed or subsidy loan programs is either prefunctory or nonexistent, under circumstances where the need for such loans has been identified and the lender can articulate no objective supportable reason for its low level of participation.

Rating Level 5 — The institution is unwilling to adapt its credit offerings to serve demonstrated unmet credit needs in its community, particularly for housing, small business or small farm credit. This rating would be particularly appropriate where the lender's failure to meet these needs was cited in a previous examination.

III. Geographic Distribution
(Assessment Factors (d), (e) and (g))

Rating Level 1 — The geographic distribution of the institution's credit extensions, applications and denials indicate that the institution is making the substantial portion of its credit available to all areas within its community. The institution has reviewed the geographic distribution of its credit extensions, applications and denials in a manner appropriate to the size and capacity of the institution and the nature and location of the community. Where that review has disclosed a very low level of applications from or loans to a particular neighborhood or area, especially low- or moderate-income areas, the institution has reviewed its marketing practices to determine what, if any, impact they may have had on the distribution. Where appropriate, the institution has either revised its marketing practices or lending policies or both. The institution's officers are reasonably accessible to all segments of its community and banking hours are tailored to meet the convenience and the needs of its customers. Finally, the institution considers, in advance, the potential impact of opening and closing offices on its ability to continue offering reasonably equal services throughout its community.

Rating Level 2 — The geographic distribution of the institution's credit extensions, applications and denials indicate that the lender is making credit available to all areas within its community. The institution has taken steps to eliminate unreasonable lending patterns disclosed by examiners or which have resulted from the review of the institution's policies or practices. The geographic distribution of applications reveals no pattern suggestive of any practice of discouraging or "prescreening" applications. The institution's record of opening and closing offices and the provision of services at its offices do not reflect any disparate treatment of minority or low- and moderate-income neighborhoods. Offices are reasonably accessible to all segments of its delineated community. Services and banking hours are periodically reviewed to assure accommodation of all segments of the delineated community.

Rating Level 3 — The geographic distribution of the institution's credit extensions, applications and denials may suggest unreasonable lending patterns. Management has not attempted to review its lending policies and procedures or to analyze the institution's lending patterns within its community. The institution's record of opening and closing offices and its provision for services at its offices may indicate a disparity of treatment between certain areas within its community. Such a disparity is isolated and not an overall intentional pattern or practice. Management has plans to undertake immediate steps to restore reasonably equal service to any affected areas.

Rating Level 4 — The geographic distribution of credit extensions, applications and denials reveal unreasonable lending patterns, particularly in low- and moderate-income neighborhoods or areas of racial/ethnic concentration. The geographic distribution of applications may indicate a possible pattern or practice of discouraging or illegally prescreening applications. The institution's record of opening and closing offices and the provisions of services at its offices may suggest a pattern of disparate treatment of minority or low- and moderate-income neighborhoods. The record might portray an institution that has systematically sought to close or curtail services at offices serving minority or less affluent neighborhoods while opening new offices in developing, majority or upper-income areas.

Rating Level 5 — The geographic distribution of credit extensions, applications and denials reveals extensive, systematic, and unreasonable lending patterns. The institution has adopted loan policies and procedures, such as unjustifiably high minimum mortgage amounts or down payments or restrictions based on the age of property, which have or can reasonably be expected to have a significantly adverse impact on loan availability in low- and moderate-income or minority neighborhoods. The institution's record of opening and closing offices and the provision of services at its offices suggest a continuing pattern of disparate treatment of minority or low- and moderate-income neighborhoods. Where this was previously cited, management has not taken any corrective action.

IV. Discrimination or Other Illegal Credit Practices (Assessment Factor (f))

The rating to be assigned here corresponds to the institution's composite compliance rating.

Rating Level 1 — The institution is in substantial compliance with antidiscrimination and other credit laws.

Rating Level 2 — The institution is in satisfactory compliance with antidiscrimination and other credit laws.

Rating Level 3 — The institution is in less than satisfactory compliance with antidiscrimination and other credit laws.

Rating Level 4 — The institution has an unsatisfactory record of compliance with antidiscrimination and other credit laws.

Rating Level 5 — The institution is in substantial noncompliance with antidiscrimination and other credit laws.

V. Community Development and Other Factors (Assessment Factors (h), (k) and (l))

Rating Level 1 — The institution has taken affirmative steps to become aware of the full range of community development and redevelopment programs within its community. It is actively participating in the development or implementation of such programs to an extent consistent with its size and capacity and the nature and location of the community. In non-MSAs, the institution has contacted appropriate government and non-government representatives to determine the level of community development needs in its area. It has then determined what areas are appropriate for its involvement and has initiated such involvement or has undertaken other types of activities not previously covered, which in the examiner's judgment reasonably bear upon the extent to which the institution is meeting the community credit needs.

Rating Level 2 — The institution is aware of community development/redevelopment programs within its community. It has advised appropriate community officials of its interest in participating in such programs and is already involved in some aspects of program planning or implementation. Or, the institution is planning to undertake a specific activity designed to help meet community credit needs, which has not been covered in other categories, within six months.

Rating Level 3 — The institution is only vaguely aware of the community development/redevelopment activities in its community. The institution has taken little affirmative action to become involved in community development or to learn the specific features of different programs. Management appears receptive to becoming involved or investing in one or more programs but prefers to wait for a request to be initiated by community officials. At such time, the institution will consider possible participation. Management has periodically discussed various efforts to respond to community credit needs but a specific plan has not been developed.

Rating Level 4 — Management is unaware of the existence or nature of community development programs within its community and has expressed no interest in pursuing this area. Management has not developed any other programs, which were not covered previously, to help meet community credit needs. Management may be unaware of the CRA regulations' encouragement of institution involvement in community development/redevelopment programs.

Rating Level 5 — Management has repeatedly demonstrated its lack of interest in determining if community developments projects exist in its community. It has not expressed an interest in developing its own response to community credit needs.

Federal Financial Institutions Examination Council

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Joint Policy Statement on Basic Financial Services

The Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Home Loan Bank Board, National Credit Union Administration, Office of the Comptroller of the Currency, Conference of State Bank Supervisors, National Association of State Credit Union Supervisors, and National Association of State Savings and Loan Supervisors are issuing this joint policy statement to encourage the efforts of trade associations and individual depository institutions regarding the offering of "basic financial services." 1/

The economic environment in which financial institutions operate has changed over the past few years, due in part to increased competition from outside the traditional depository institution structure, increased cost of funds following deregulation of interest rates, and interest rate volatility. As a consequence, many institutions have had to adopt new strategies to market their services, generate income, manage risk, and reduce costs. Some institutions have begun to explicitly price their products, consolidate or eliminate services they believe to be unprofitable, and close branch offices. In many instances, institutions have increased service charges, imposed new fees, and raised minimum balance requirements.

1/ The Comptroller of the Currency previously issued a banking circular on this subject to all national banks in August 1985.

While such adaptation may be a necessary response to competitive markets, considerable concern has developed about the potential impact of these changes in effectively denying or reducing convenient access of many individuals to the payments system and to safe depositories for small savings. Because credit availability is often dependent on an account relationship with a financial institution, access to credit for low-income or young consumers may also be adversely affected.

While a significant number of consumers have never had a deposit account, some research studies reflect declines in account ownership that may be cause for concern. For example, between 1977 and 1983 the proportion of families headed by a younger person having checking accounts decreased, as did the number of families from the lowest income group, regardless of age. The proportion of young families having either a savings or a checking account also declined. While the cause of these declines is not always clear, the surveys do suggest that a significant number of individuals or families do not have a deposit relationship of any kind.

Legislation dealing with basic financial services has been introduced at both the federal and state level as a result of these concerns. The industry has also responded. Many financial institutions have independently undertaken to develop and implement new measures to meet minimum consumer needs. They are offering basic services, such as low-cost transaction and savings accounts with low or no minimum balances, accounts for consumers who use a limited number of checks or drafts, and other accounts on which minimal charges are made for account maintenance. Institutions that have for years offered such services to particular groups of customers are now advertising their availability more widely. Other institutions are exploring and finding ways to maintain a physical presence in low- and moderate-income neighborhoods even while reducing the expense normally associated with full branch facilities. Trade groups too have joined in these efforts to encourage the offering of such services at affordable prices. The American Bankers Association and Consumer Bankers Association, for example, have called upon their members to address the continuing interest in basic banking services.

The member agencies of the Federal Financial Institutions Examination Council and the associations of state supervisors wish to encourage such efforts by trade associations and individual depository institutions that promote the offering of basic financial services, consistent with safe and sound business practices. While the specific type of services will, of course, vary because of differences in local needs and in the characteristics of individual institutions, we encourage efforts to meet certain minimum needs of all consumers, in particular:

- the need for a safe and accessible place to keep money;
- the need for a way to obtain cash (including, for example, the cashing of government checks);
- the need for a way to make third party payments.

We believe that industry trade associations have a key role to play in this effort, and are in a position to encourage a constructive response without the rigidities of legislation or regulation. We realize that some associations have such programs already underway.

These programs could usefully:

1. Encourage members to offer and appropriately publicize low-cost basic financial services such as those listed above.
2. Survey the current availability of such services among member institutions.
3. Make available to members not providing such services material reflecting the successful experiences of other organizations.