

October 11, 2005

The Honorable Steven T. James
Clerk of the House of Representatives
State House, Room 145
Boston, Massachusetts 02133

Dear Mr. James:

Enclosed for filing please find the Division of Banks' (the "Division") proposed amendments to 209 CMR 46.00 *et seq.*, *Community Reinvestment*, pursuant to General Laws chapter 167, section 14. A copy of said section 14 of chapter 167 is attached to this letter. The proposed amendments, found at Appendix A, are required to be filed with your office pursuant to said section 14 of chapter 167. The Division's required statement that it has complied with the pertinent provisions of Massachusetts General Laws chapter 30A is found at Appendix B. A summary in laymen's terms, as required by said section 14 of chapter 167, is found at Appendix C.

There are both Federal and Massachusetts Community Reinvestment Acts ("CRA"). The state statute, as noted above, is Massachusetts General Laws chapter 167, section 14 and its implementing regulation at 209 CMR 46.00 *et seq.* Under the regulation, references to an institution also include a state-chartered credit union. As discussed herein, these amendments were filed as Emergency Regulations, which became effective September 1, 2005 in conjunction with federal changes.

A public hearing to make these amendments permanent was held pursuant to Massachusetts General Laws chapter 30A on Wednesday, September 21, 2005 and written comments were accepted through 5:00 p.m. on Wednesday, September 28, 2005. One entity provided oral and written comments at the public hearing, and another entity provided written comments within the comment period. Both entities supported the proposed amendments.

On July 19, 2005 the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation approved final CRA rules. The final rules implement a new designation for CRA purposes known as intermediate small banks. Intermediate small banks are defined as banks with assets between \$250 million and less than \$1 billion. In addition to the creation of an intermediate small bank designation other changes are as follows:

The Honorable Steven T. James

October 11, 2005

Page 2

- Intermediate small banks will no longer need to collect and report CRA loan data, however, examiners will continue to evaluate bank lending activity in the public CRA Performance Evaluations of these banks.
- Intermediate small banks will be evaluated under two separately rated tests: the small bank lending test; and a flexible new community development test that includes an evaluation of community development loans, investments, and services in light of community needs and the capacity of the bank. "Satisfactory" ratings are required on both tests to obtain an overall "Satisfactory" CRA rating.

In addition, for banks of any size:

- The new rules expand the definition of community development to include activities that revitalize or stabilize designated disaster areas and distressed or underserved rural areas. (Designated distressed or underserved rural areas are to be listed by the agencies on the Federal Financial Institutions Examination Council website.)
- The regulations also clarify when discrimination or other illegal credit practices by a bank or its affiliate will adversely affect an evaluation of the bank's CRA performance.

The new rules went into effect on September 1, 2005. The Division's existing CRA regulations mirror the federal regulations with two differences: (1) the Commonwealth's CRA requirements are applicable to state-chartered credit unions and (2) the Massachusetts law has five CRA ratings instead of four, with the difference being a rating of "High Satisfactory" between "Satisfactory" and "Outstanding." Because the Division does not want to subject state-chartered institutions to two different criteria regarding CRA compliance it is necessary to revise our CRA regulations, 209 CMR 46.00 *et seq.*, to remain consistent with our federal regulatory counterparts. Accordingly, the Division is following the process to make the amendments, filed on an emergency basis, permanent.

In addition, these regulations have also been amended to eliminate a technical transitional rule at 209 CMR 46.51 that became fully effective in January, 1998. Another technical definitional change is made as well.

If there are any questions regarding these proposed regulations, please contact me at (617) 956-1510 or the Division's Legal Unit at (617) 956-1520.

Very truly yours,

Steven L. Antonakes
Commissioner of Banks