February 25, 2002

Christine A. Hartman
Assistant Deputy Comptroller
4900 South Minnesota Avenue
Suite 300
Sioux Falls, SD 57108-2865

Dear Ms. Hartman:

We are writing to comment on the CRA examination of First National Bank of Brookings, South Dakota. It is our contention that Brookings should receive a lending test rating of no higher than 'Needs to Improve' due to its partnership with Cash America to offer payday loans in Illinois and other states.

Since its inception in 1973, the Woodstock Institute has been a lead researcher, educator, public policy analyst and advocate of community reinvestment and economic development issues for low-income and minority people and neighborhoods. The Chicago CRA Coalition, which is convened by the Woodstock Institute, is comprised of dozens of community organizations in the Chicago area. The Coalition is dedicated to improving community reinvestment and economic development in lower-income and minority neighborhoods.

Predatory payday lending is a major focus of the Coalition. Recently, we have become increasingly alarmed by partnerships between banks and payday lenders. These partnerships enable payday lenders to avoid the application of state and local laws. Payday lending by banks, either directly or indirectly, also poses safety and soundness risks because the loans are made to consumers regardless of ability to pay, credit ratings or debt to income ratios. Further, making loans without regard to the borrower's ability to pay is a major indicator of predatory lending practices. Last, we believe that payday lending has serious community reinvestment implications due to its negative impacts on consumers. The consumer of a payday loan is often in a desperate financial situation with few other options. Lenders exploit vulnerable borrowers by grossly overpricing the loans. What may seem like an easy solution to a cash shortfall begins a cycle of accumulating an insurmountable debt for many borrowers.

First National Bank of Brookings has developed a relationship with Cash America to offer payday loans in its stores. Cash America is the largest pawnshop operation in the US, with over 470 locations in 18 states. In Illinois, the cost of a payday loan is typically 20 percent of the amount borrowed. For instance, a two-week, $200 loan would carry a fee of $40. The annual percentage rate (APR) of this loan is over 521%. As the number of transactions (loans or rollovers) grows, the cost of the loan increases.

There is some evidence that this partnership targets lower-income and minority communities and consumers. Six of the 7 Cash America stores where Brookings offers payday loans are located in lower-income neighborhoods and/or communities with high concentrations of minorities.

We encourage the OCC to assess the safety and soundness and reputational risks of Brookings' partnership with Cash America. Further, we contend that under no circumstances should predatory payday lending be considered a positive component of the CRA. In fact, the Chicago CRA Coalition argues that the lending test rating of Brookings, and other banks involved in payday lending, should be downgraded to a 'Needs to Improve' or 'Substantial Noncompliance' because of the detrimental impacts of payday lending on consumers.

There is precedent for downgrading the CRA rating of banks that engage in payday lending. In September 2000, the Office of Thrift Supervision downgraded Crusader Savings Bank's lending test rating due to the adverse impacts its payday lending:

The volume of payday lending activity was not considered in evaluating the types of credit offered by the institution under the Lending Test. However, the effect of the institution's participation in this abusive credit practice was considered an adverse factor in the Lending Test rating and the overall CRA rating. Consumer abuses in the payday lending business include failure to reasonably assess a customer's ability to pay, charging unconscionable fees without regard to proportional processing costs, excessive rollover usage patterns, and saddling customers with excessive debt by encouraging multiple loan relationships, were evidence of abusive credit practices.

We applaud the OCC for its Consent Order against Eagle National Bank and advisories that warn banks of the numerous challenges and risks of payday lending partnerships. We urge you to consider those risks during the examination of Brookings. We were also encouraged by John Hawke's comments to Women in Finance and Housing regarding the ability of national banks to preempt state law. He stated that “the benefit that national banks enjoy by reason of this important constitutional doctrine cannot be treated as a piece of disposable property that a bank may rent out to a third party that is not a national bank”.

Thank you for the opportunity to provide these comments. Please call Marva E. Williams if you have any questions or require further input.

Sincerely,

Marva E. Williams, Woodstock Institute (Convenor, Chicago CRA Coalition)

David Marzahl, Center for Law and Human Services

Yevette Newton, Community and Economic Development Association of Cook County (CEDA)

Dory Rand, National Center on Poverty Law

Cordell McGary, Chicago Association of Neighborhood Development Organizations (CANDO)

Calvin Holmes, Chicago Community Loan Fund

Delena Wilkerson, Non-Profit Financial Center

cc: Jerilyn Gilland, Midwestern District Deputy Comptroller