NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

April 2, 2004

Docket No. 04-06
Communications Division
Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
250 E St. SW,
Washington 20219

Docket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St NW
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Regulation Comments, Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552

Dear Officials of Federal Bank and Thrift Agencies:

The National Community Reinvestment Coalition, the nation's CRA trade association of 600 community organizations, urges you to significantly amend or withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. CRA has been instrumental in increasing access to homeownership, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities. Your proposed changes are contrary to the CRA statute because they will slow down, if not halt, the progress made in community reinvestment.

The proposed CRA changes will thwart the Bush Administration's goals of improving the economic status of immigrants and creating 5.5 million new minority homeowners by the end of the decade. Instead, the proposed CRA changes would facilitate predatory lending and reduce the ability of the general public to hold financial institutions accountable for compliance with consumer protection laws.

The proposed changes include three major elements: 1) provide streamlined and cursory exams for banks with assets between $250 million and $500 million; 2) establish a weak anti-predatory lending compliance standard under CRA; and 3) expand data collection and reporting for small business and home lending. The beneficial impacts of the third proposal are overwhelmed by the damage imposed by the first two proposals. In addition, the federal banking agencies did not update procedures regarding affiliates and assessment areas in their proposal, and thus missed a vital opportunity to continue CRA's effectiveness.

Streamlined and Cursory Exams for Smaller Banks – Devastating and Completely Unjustified

Retain the Large Bank Exams for Institutions with Assets between $250 and $500 Million

Under the current CRA regulations, large banks with assets of at least $250 million are rated by performance evaluations that scrutinize their level of lending, investing, and services to low- and moderate-income communities. The proposed changes will eliminate the investment and service parts of the CRA exam for banks and thrifts with assets between $250 and $500 million.

The notice of proposed rulemaking (NPR) brushes aside the crippling impact that streamlined exams would have on the continued progress of community reinvestment. The NPR attempts to minimize the impact of the proposed change by stating that the portion of industry assets subject to the large bank exam would decline from slightly a little more than 90% to a little less than 90%.[1] This presentation obscures the fact that the proposed changes would reduce the rigor of CRA exams for 1,111 banks that account for more than $387 billion in assets. Wells Fargo and Company, the fifth largest holding company in the United States, has assets equal to $387 billion. While the federal banking agencies would be unlikely to propose eliminating the investment and service test for a lender the size of Wells Fargo, the effect of streamlining the exams for the so-called smaller banks has virtually the same impact.

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[1] Notice of proposed rulemaking, Federal Register, Vol. 69, No. 25, Friday, February 6, 2004, p. 5738.

The elimination of the investment and service tests for more than 1,100 banks translates into considerably less access to banking services and capital for underserved communities. For example, these banks would no longer be held accountable under CRA exams for investing in Low Income Housing Tax Credits, which have been a major source of affordable rental housing needed by large numbers of immigrants and lower income segments of the minority population. Likewise, the banks would no longer be held accountable for the provision of bank branches, checking accounts, Individual Development Accounts (IDAs), or debit card services. Thus, the effectiveness of the Bush Administration's housing and community development programs would be diminished. Moreover, the federal bank agencies will fail to enforce CRA's statutory requirement that banks have a continuing and affirmative obligation to serve credit and deposit needs if they eliminate the community development lending, investment, and service test for a large subset of depository institutions.

NCRC urges the federal agencies to abandon their proposal to eliminate the investment and service tests for banks and thrifts with assets between $250 and $500 million in order to avoid significant declines in investments and services for low- and moderate-income communities. At the very least, the federal agencies must retain the large bank lending test for institutions with assets between $250 and $500 million. The lending test of the large bank exam is more rigorous and also contains a community development lending test. The community development lending test assesses whether banks are making critically needed loans for affordable housing and economic development activities.

Data reporting requirements regarding small business and farm loans must also remain intact for banks and thrifts with assets between $250 and $500 million. It would be terribly ironic if the federal agencies remove the small business and farm data reporting and thus remove the ability of the general public to gauge if smaller banks with assets between $250 and $500 million are continuing to respond to credit needs by making critical small business and farm loans. Small businesses and farms, particularly those in non-metropolitan areas, rely on the smaller banks for access to loans. Public data disclosure is a vital means for holding the smaller banks accountable to serving the small businesses and farms that face a restricted choice of banks.

In addition to retaining the large bank lending test and small business loan reporting, the federal agencies must retain the investment and service tests for smaller banks that have a sizable presence in their communities in terms of assets, branches, and loans. NCRC recommends that the complete large bank test must be applied to banks with assets between $250 and $500 million if these banks control ten percent or more of the total assets and branches in their assessment areas or make more than 5 percent of the loans in their assessment areas. These institutions have a considerable presence in their communities, meaning that any diminution of their existing CRA obligations would have a devastating impact on the amount of credit, capital, and banking services available in their communities. While NCRC does not believe that the proposed streamlining is justified for any institution, the federal agencies must consider that their proposal will cause the most damage if they apply the streamlined exams to all banks with assets between $250 and $500 million, regardless of their presence and weight in the community.

The presence of a holding company must remain a factor in deciding which institutions receive the streamlined small bank exam or the comprehensive large bank exam. NCRC's analysis below reveals that a great majority of banks with assets between $250 and $500 million are part of holding companies with much larger asset sizes. The assets of the holding company and the option to include affiliates on CRA exams assists small banks in making investments and community development loans. Since smaller institutions currently utilize assets of their holding companies and activities of their affiliates, providing streamlined CRA exams to these banks deprives low- and moderate-income communities of valuable resources for community development investment and lending. The current procedure of applying the large bank exam to small banks that have holding companies of $1 billion or more in assets must remain.

National Analysis Obscures Local and Statewide Impacts

The federal agencies' cursory reference to the relatively small amount of industry assets eligible for the streamlined exam proposal suggests that the agencies have not scrutinized the profound impacts on a state and local level.[2] The national and aggregate perspective of the regulators is puzzling, considering that CRA ensures that local, not national, credit and deposit needs are addressed by banks and thrifts. The very essence of the streamlined exam proposal suggests that the agencies are violating their statutory responsibilities to require banks to meet local needs of all the communities in which they are chartered.

On a national level, the federal agencies can perhaps dismiss the impact of the streamlined exam proposal by asserting that only 4.3 percent of the industry's assets would be covered by the cursory exams. Using the FDIC database on depository institutions, NCRC has found that the impacts in terms of assets is much larger on a state, urban, and rural level.[3] In the state of Idaho,

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[2] During the FDIC Board meeting on January 20, 2004 considering the proposed changes, new Board member Thomas Curry asked FDIC staff if staff had conducted an analysis of the impacts of the changes. Staff replied that they had not.

[3] The FDIC database is the Statistics on Depository Institutions (SDI), which is updated on a monthly basis according to the FDIC web page (http://www.fdic.gov). NCRC downloaded the database in late February 2004. The database assigns all of the bank assets to the state in which a bank is located. The publicly available FDIC

for instance, smaller banks with assets between $250 and $500 million possess $4.6 billion in assets and control more than 55 percent of the total assets of depository institutions headquartered in the state. In Vermont, the smaller banks and thrifts likewise control 24 percent of the assets or $1.8 billion in assets. Twenty-seven smaller banks and thrifts in Maryland have a sizable $9.6 billion in assets or 21.4 percent of the assets of all the depository institutions located in Maryland (see Table 1 in the Appendix behind the comment letter).

So-called small banks and thrifts with assets between $250 and $500 million control more than 10 percent of total depository institution assets in 20 states. In other words, the so-called small bank and thrifts control more than twice their national share of 4 percent of assets in almost half of the states. Ten percent of total assets on a statewide level is quite significant. If these banks were to shut down, the financial resources of banks available to state residents for investment purposes would suddenly decline by 10 percent. That means much less investment available for commercial and residential development. Yet, the elimination of 10 percent of bank assets for investment and community development lending is precisely what the regulators propose for low- and moderate-income communities in about half of the states.

The proposed streamlined exam would have the most devastating impact for rural America since the so-called small banks have their largest presence in non-metropolitan areas. According to the FDIC database, small banks and thrifts with assets between $250 and $500 million hold $126 billion of total assets of banks located in rural areas. This amount is 18.8 percent of all bank assets in rural areas, or more than 4 times the portion of assets that the smaller banks control in the nation as a whole. In other words, the impact of streamlining CRA exams is about 4 times worse (in terms of assets available for bank investments and services) in rural areas than in the nation as a whole.

In eight states, institutions with $250 to $500 million in assets control more than one third of the bank assets in rural areas. In Vermont, just five smaller banks possess $1.7 billion in assets or more than 53 percent of the assets in rural counties in that state. Similarly, in Utah and Idaho banks and thrifts with assets between $250 and $500 million control more than 50 percent of all assets in rural areas. The "smaller" banks and thrifts in Massachusetts, Washington, Virginia, Alaska, Maryland, and Maine possess between 30 to 44 percent of the assets in non-metropolitan counties (see Table 2).

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databases do not provide sufficient detail to determine if banks distribute their assets among their interstate branches. For the purposes of this comment letter, NCRC assumes all of the bank assets are located in the states in which the banks are headquartered.

Banks and thrifts with assets between $250 and $500 million control more than 20 percent of the total assets held by depository institutions in rural areas in 18 states. These banks and thrifts control 10 percent or more of the assets in rural areas in 41 states. While the regulatory agencies may refer to these institutions as small banks, it is clear that they are a major source of investments and services to rural areas. Streamlining their CRA exams would result in disinvestment from rural parts of the country, which are least able to deal with the loss of bank investment and community development lending.

The impact of the proposed streamlining is greater for urban areas than would be expected. In fourteen states, banks and thrifts with assets between $250 and $500 million control 10 percent or more of all assets of depository institutions located in metropolitan areas. In Colorado, small banks possess a large $8.7 billion in assets or 22 percent of all the assets of lenders located in metropolitan areas. Similarly, in Maryland, small banks and thrifts control $7.5 billion in assets or 19.4 percent of all the bank assets in urban areas (see Table 3).

The impact when considering the number of lenders as opposed to assets is also dramatic in a number of states. Overall, the proposal would eliminate the large bank exam for 20 percent or more of the lenders located in 12 states. In other words, at least 20 percent of the lenders in these twelve states have assets between $250 and $500 million. Likewise, the proposal would eliminate the large bank exam for 10 percent or more of the lenders in 35 states. The proposal would wipe out the large bank exam for 20 percent or more of the rural-based banks in 15 states. In seven states, more than 30 percent of the lenders based in rural counties would be exempted from the large bank exam. For example, 33 percent, or 20 of the 60 banks and thrifts located in rural parts of Virginia, have assets between $250 and $500 million, and thus would no longer undergo the large bank exam. Finally, the impact is also significant in metropolitan areas as 20 percent or more of the lenders in urban areas in 16 states would be exempt from the large bank exam.

Reductions in Community Development Investments

NCRC analyzed the CRA exams of 40 banks and thrifts with assets between $250 and $500 million to assess the impacts on the level of investments and community development lending if the small bank exam applied to these institutions (see Table 4 for a list of lenders in the sample). The analysis scrutinized exams in four states (Vermont, Maryland, Colorado, and Arkansas) in which smaller banks controlled the largest percentage of assets.[4]

The analysis reinforces the devastating impact of the proposed streamlining. The 40 banks and thrifts in the sample made a total of $69,450,000 in qualified investments, according to their CRA exams. They also issued $92,642,000 in community development loans. The community development lending and investment combined equals more than $162 million. For the four states of Vermont, Maryland, Colorado and Arkansas, $162 million in community development lending and investment represents a substantial source of revitalization financing. The loss of this financing would be felt many times over since community development investing and lending of this magnitude creates hundreds, if not thousands of jobs, and increases the purchasing power of local workers and communities.

Assuming that these banks and thrifts are representative of all depository institutions with assets between $250 and $500 million, the total amount of community development lending and investing by the "smaller" lenders equals more than $4.5 billion. This is the amount of lending and investment that occurs roughly every two to three years or the approximate time period between CRA exams. Eliminating the large bank lending and investment test for these lenders translates into dramatically fewer dollars in community development loans and investments for low- and moderate-income communities. Even if NCRC's sample is not statistically representative, the order of magnitude in lost investments and loans is likely to be in the hundreds of millions, if not billions, of dollars. As detailed below, eliminating the investment and community development lending tests reduces the level of investment and community development loan dollars by at least half in the NCRC sample of CRA exams.

Scrutinizing the Investment Tests of the 40 banks and thrifts in the sample, NCRC found that the average investment amount of the 11 depository institutions receiving Outstanding ratings on the Investment Test was $3.7 million or 1.36 percent of their assets. The average investment of the 10 depository institutions with High Satisfactory ratings on the Investment Test was $1.6 million or .65 percent of their assets. In sharp contrast, investment dollars and percent of assets was less than half that level for banks with lower ratings. The 16 banks and thrifts with Low Satisfactory ratings made an average investment amount of just $734,000 or a mere .21 percent of their assets. The 3 banks and thrifts with Needs-to-Improve ratings made a measly $171,000 in qualified investments or .06 percent of their assets.

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[4] Idaho is that state in which smaller banks and thrifts control the largest percentage of assets. We were unable to find large bank CRA exams for these institutions; the institutions had assets under $250 million at the time of their most recent CRA evaluations and thus were examined under the small bank exam.

The upshot of this analysis is that it is very likely that eliminating the investment test for banks and thrifts with assets between $250 and $500 million would reduce their investments in low- and moderate-income communities by at least half. Banks with High Satisfactory ratings made twice as many qualified investments (measured in terms of dollars) than banks with Low Satisfactory ratings. The differences are even more extreme if comparisons are made among banks with Outstanding, High Satisfactory, Low Satisfactory, and Needs to Improve ratings. Therefore, a conservative estimate is using the difference between banks with High and Low Satisfactory ratings. In the absence of Investment Tests, it is reasonable to assume that banks with High Satisfactory ratings would invest at the level of banks with Low Satisfactory ratings. This suggests that the banks with High Satisfactory ratings would reduce their level of investments by half. Since the comparison between banks with High and Low Satisfactory ratings is a conservative estimate of impacts, it is likely that all banks (regardless of their ratings) would cut the dollar amount of their qualified investments by half in the absence of an investment test.

Reductions in Community Development Lending

The decrease in community development lending is even greater for NCRC's sample of 40 banks with assets between $250 and $500 million. The five depository institutions with Outstanding ratings on the lending test had an average community development lending level of $4.7 million. Their ratio of community development lending to assets was 1.46 percent. The sixteen banks with High Satisfactory ratings on their lending test had an average of $3.2 million in community development loans and a community development lending to asset ratio of 1.03 percent. In sharp contrast, the nineteen banks with Low Satisfactory ratings on the lending test made an average of only $950,000 in community development loans and had a dismal .3 percent ratio of community development loans to assets.

The banks and thrifts with Outstanding and High Satisfactory ratings on their lending tests made between 3 and 4 times the level of community development lending as institutions with Low Satisfactory ratings. Again, a conservative estimate of the impact of eliminating the community development lending test would be the difference between High and Low Satisfactory institutions. Assuming that this difference would apply to all institutions regardless of their ratings, the level of community development lending would be two thirds less if the federal agencies eliminate the community development lending test of the large bank exam for institutions with assets between $250 and $500 million.

Concrete Examples of Community Development Loans and Investments Likely to Disappear

Quantifying the proposal's likely decreases in reinvestment is compelling, but concrete examples clearly and powerfully illustrate the looming harm of the proposals. Simply put, the streamlining would result in much less affordable rental housing, fewer homeless shelters, less economic development projects, and fewer community health centers and other facilities. On most of these projects, banks realize a profit. Projects that do not generate economic returns, such as homeless shelters, still benefit banks and their local communities by reducing poverty and deprivation.[5] If the federal agencies believe that it is desirable to substantially decrease affordable housing and economic development activities, then they should proceed with their proposed streamlining. If, on the other hand, the regulators come to believe that the societal and human costs of streamlining are too high, they should immediately abandon their proposal.

In Maryland, banks with assets between $250 and $500 million have been motivated by CRA exams to undertake a variety of critical community development loans and investments. For instance, Arundel Federal Savings Bank invested $625,000 in Maryland Community Development Administration bonds and purchased $20,000 of tax credits from the Anne Arundel County Chapter of Habitat for Humanity. Bradford Bank originated a $2.5 million loan to refinance and renovate shopping centers in eastern Baltimore County. Carrollton Bank purchased two Fannie Mae Mortgage Back Securities totaling $3 million, which provided funds to finance mortgages for multi-family housing dedicated to those with limited incomes. Carrollton also made available two lines-of-credit totaling $800,000 to a nonprofit organization that operates a Baltimore County residential treatment center for low-income adolescent females.

In Colorado, Pueblo Bank & Trust Company's overall level of community development lending has been extraordinary, according to the most recent CRA exam. In 2001 and 2002, Pueblo B&T originated 57 community development loans totaling approximately $24,422,000. Many of these loans went to providing affordable housing to low- and moderate- income individuals. Community development loans equaled an incredible 7 percent of Pueblo's assets, about 5 times the portion of assets that banks with Outstanding ratings on the lending test in NCRC's sample devote to community development lending. As civic minded as Pueblo Bank & Trust may be, it is unlikely that they would continue their impressive performance should the community development lending and investment tests be abolished.

In January 1997, First Bank of South Jeffco, Colorado purchased $800,000 in a Sheridan School District, Arapahoe County, Refunding and Improvement Bond. Proceeds of the bonds paid the

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[5] In terms of economic theory, CRA has encouraged banks to "internalize" the positive externalities of some social projects that otherwise would not be undertaken since no party realizes private profit from them.

cost of capital improvements at elementary, middle, and high schools, and an early education center that houses a head start program. In 1999, First Bank purchased a portion of a 99 percent limited partnership interest in the Littleton Creative Housing Limited Partnership for $2,800,000. The partnership owns and operates the Libby Bortz Low-Income Housing Assisted Living Center.

Also, in Colorado, First Bank of Boulder purchased a total of $3,700,000 in Colorado Housing and Finance Authority (CHFA) Single-Family Revenue Bonds since its last evaluation. The bond programs are specifically targeted for low- and moderate-income individuals/families in Colorado.

In Arkansas, Citizens Bank originated $3,100,000 in loans for White River Medical Center, according to the most recent CRA exam. The two loans provided financing for working capital and construction of nursing home and retirement facilities, all of which primarily served low- and moderate-income individuals and Medicaid patients. Finally, First National Bank of Springdale originated 54 community development loans totaling $4.3 million. FNB Springdale's community development loan portfolio consists of short-term affordable housing construction loans.

As these examples illustrate, elimination of the community development lending and investment test entails the elimination of critical affordable housing, economic development, and community facility projects. In many small and medium-sized metropolitan areas and rural counties, it is unlikely that banks still subject to the large bank exam would step in and fill the gap in community development lending and investing. The banks with assets between $250 and $500 million are most likely to have assessment areas that are confined to the smaller metropolitan areas and rural communities. In contrast, the larger banks are likely to have assessment areas that include more geographical areas, meaning that they are less focused on the credit and development needs of the areas served by banks with assets of $250 to $500 million. The loss of community development lending and investing is likely to be permanent in parts of the country least able to withstand a withdrawal of capital and credit.

Elimination of Service Test Will Reduce Access to Branches

The FDIC database also reveals the dramatic impacts that eliminating the service test will have on access to branches. If the federal agencies eliminate the service test, it is quite likely that small banks will de-emphasize their branching network and/or reduce the number of services and products that the branches offer to low- and moderate-income communities.

In the United States, as a whole, small banks and thrifts with assets between $250 and $500 million own almost 10 percent of the branches. They own 7,985 of the 87,357 branches serving the general public.[6] As stated above, NCRC believes that any subset of institutions that control either 10 percent of the assets or 10 percent of the branches in a geographical area have a significant impact in terms of access to credit, investments and banking services. Therefore, when just confining the analysis to a national level, the large bank exam and the service test must not be eliminated for banks and thrifts with assets between $250 and $500 million since these institutions have a significant branching presence across the country.

When the analysis is conducted on a state level, the branch presence is even larger for the so-called smaller banks and thrifts. In 25 states, the smaller banks have more than 10 percent of the branches. In 10 states, they own 15 percent or more of the branches. The branch presence of the smaller banks is dominant in the more rural states. In Maine, the "smaller" banks own 29 percent or 146 of the 504 branches in the state. Likewise, they own 19.8 percent and 17.6 percent of the branches in South Dakota and Idaho, respectively (see Table 5).

The impact of the proposed abolition of the service test is the most severe in rural areas because of the large presence of branches owned by the smaller banks and thrifts. Banks and thrifts with assets between $250 and $500 million control more than 10 percent of the non-metropolitan branches in 32 states. They possess 20 percent or more of the rural branches in 7 states. In Virginia, for example, the "smaller" banks and thrifts own 169 of the 697 branches or 24.2 percent of the rural branches. Likewise, in New Hampshire, they control 51 of the 216 branches or 23.6 percent of the rural branches (see Table 6).

The effect of the streamlining on urban areas is also significant. In nineteen states, small banks and thrifts with assets between $250 and $500 million own 10 percent or more of the branches in metropolitan areas. Not surprisingly, the more rural states such as Wyoming and Montana have significant percentages of metropolitan area branches owned by the smaller banks. Even more urban states including Massachusetts and Missouri have a significant portion of metropolitan branches owned by the smaller banks (see Table 7).

The impact by deposits is also striking. Across the United States, the so-called smaller banks and thrifts with assets between $250 and $500 control more than $302 billion in deposits. In

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[6] NCRC used the FDIC's Summary of Deposits Database for the analysis. The most recent data available for downloading was June 30, 2003. NCRC eliminated branches from our sample that did not accept deposits and serve the public. These included administrative offices, trust offices, messenger offices, loan production offices, and consumer credit offices.

seventeen states, they control more than 10 percent of the deposits. Again, the impacts of the streamlining would be most crippling in rural areas. In 36 states (more than two thirds of all states), the "smaller" banks and thrifts have more than 10 percent of the deposits in rural areas. In 18 states, they control more than 15 percent of the deposits. For instance, in Maryland, they control more than $1.2 billion of the $5.6 billion or 21 percent of deposits collected by rural branches. The smaller banks and thrifts control more than 20 percent of the rural deposits in Maine, South Dakota, Virginia, Vermont, Maryland, Idaho, and New Mexico. These states can ill afford the smaller banks and thrifts neglecting the deposit and service needs of rural residents. The payday and subprime lenders will sense even more of a market opportunity and replace mainstream bank products with higher rate consumer and home loans. The resulting reductions of community and consumer wealth will further retard economic development efforts.

Bank Holding Company Must Remain a Consideration

As stated above, removing the bank holding company as a factor in differentiating between small and large banks will allow many institutions with sufficient resources to unfairly enjoy the streamlined test and abdicate their responsibilities for providing branches and community development investments and loans in low- and moderate-income communities. Using the FDIC database, NCRC calculates that 815 of the 1,111 small banks and thrifts with assets between $250 and $500 million are owned by holding companies. More than 73 percent of the so-called smaller banks and thrifts are owned by holding companies. This is a higher percentage than all banks and thrifts; about 70 percent of all banks and thrifts are owned by holding companies.

Not only are a greater percentage of smaller institutions owned by holding companies, NCRC's sample of 40 CRA exams reveals a substantial amount of holding company assets available to the smaller institutions. In the sample, 37 of 40 banks in the states of Arkansas, Colorado, Maryland, and Vermont had holding companies. This is the great majority or 92 percent of the banks in the sample. While about three quarters of the smaller banks and thrifts nationwide have holding companies, the portion is even greater in a number of states including those in the NCRC sample of CRA exams.

Some holding companies in NCRC's sample of CRA exams had considerable assets well above $1 billion. These holding companies include UMB Financial with $8 billion, Mercantile Bankshares with $9.9 billion, Fulton Financial with $6.9 billion, First Bank Holding Company of Colorado with $5.7 billion, First Tennessee National Corporation with $23 billion, and First Nations of Nebraska with $9.7 billion. In a couple of cases, one holding company owned a sizable number of banks in the NCRC sample. For example, in Colorado, First Bank Holding Company owned 11 of the 15 banks in that state. Similarly, in Maryland, Mercantile Bankshares owned 6 of 17 banks. Moreover, in the Colorado exams of banks owned by First Bank Holding Company, the banks often claimed credit for community development loans and investments undertaken by affiliates.

In other words, the holding company made its resources available to their banks for CRA exam purposes. Eliminating the holding company as a factor in differentiating between small and large banks therefore results in major financial institutions abdicating their community reinvestment obligations and greatly diminishes the amount of holding company assets available to businesses and consumers in low- and moderate-income communities.

Burden Argument

The benefits of large bank CRA exams are substantial and are likely still underestimated by the conservative approach of the NCRC analysis. The application of the large bank CRA exam to banks and thrifts with assets between $250 and $500 million has made thousands of branches and billions of dollars in community development loans and investments available to low- and moderate-income communities. Consequently, the proposed elimination of the large bank exam for the so-called smaller banks poses the threat of withdrawing access to a substantial number of branches and financial resources for reinvestment.

The burden of large bank exams for the so-called smaller banks appears to be minimal while the benefits of the exams are profound for low- and moderate-income communities. During a session held by the FDIC on regulatory streamlining, Charlotte Bahin, Senior Vice President of Regulatory Affairs of America's Community Bankers, stated publicly that most smaller institutions no longer complain about the burden of CRA exams.[7] According to Ms. Bahin, smaller banks worry that they are compared to larger banks on CRA exams, but they are not concerned about the CRA exam process, in and of itself. With almost a decade of experience with CRA exams, the smaller institutions are now accustomed to the exams.

The comments of Ms. Bahin regarding perceptions of unfair comparisons to larger banks on CRA exams can be readily put to ease by appropriate CRA examination procedures. The CRA exams scrutinized by NCRC compared small banks against other smaller banks. This is well-established CRA exam procedure. Moreover, the examiners also remark that they take into account, when appropriate, how the presence of large banks can impact smaller bank performance on any part of the exam. This procedure is referred to in CRA jargon as the CRA performance context.

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[7] FDIC Session on the Economic Growth and Regulatory Paperwork Reduction Act, February 20, 2004.

The time spent by CRA examiners suggests that the CRA examination process for banks with assets between $250 and $500 million is considerably less time consuming than for banks with a few billion dollars in assets. According to a CRA examiner NCRC interviewed, a CRA exam for a bank with half a billion dollars in assets consumes 10 to 15 days of examiner staff time. In contrast, a CRA exam of a bank with $5 to $10 billion in assets consumes about 20 to 50 days of staff time. Finally, a CRA exam of a bank with more than $40 billion in assets consumes about 100 days of staff time. It is reasonable to assume that CRA examiner time serves as a proxy for bank staff time in compiling data and preparing for a CRA exam. Therefore, a CRA exam for a bank with more than $5 billion in assets probably entails between 2.5 to 5 times the staff time as a CRA exam of a bank with half a billion in assets. CRA exams are already streamlined for institutions with assets between $250 and $500 million in assets.

Of course, regulations impose some costs on banks. NCRC believes, however, that an objective cost-benefit analysis would reveal that the benefits massively outweigh the costs of large bank CRA exams for both banks and the public at large. NCRC believes that the regulatory agencies, themselves, must conduct a comprehensive cost-benefit analysis in considering their streamlined proposal. NCRC contacted senior officials of the federal banking agencies, who told NCRC that the agencies have not conducted cost-benefit analyses.

Smaller banks themselves complain much less frequently about CRA exams than they did a number of years ago. Their lingering concern about unfair comparisons does not appear to be a reality in most CRA exams. In the final analysis, burdens associated with large bank CRA exams have more to do with perception than reality. In contrast, the benefits of large bank exams are real, easily documented, and profound. Low- and moderate-income communities have access to billions of dollars in capital and credit, which would likely disappear as the NCRC analysis above suggests. Banks themselves have realized substantial amounts of profits as CRA exams have motivated them to find safe and sound lending, investing, and branching opportunities in low- and moderate-income communities.

Finally, it is strange that the federal agencies are proposing to considerably streamline CRA exams for a large segment of banks when the banks themselves do not place CRA at the top of their list of "burdens." According to the federal agency web site regarding the Economic Growth and Regulatory Paperwork Reduction Act, banks regard the Bank Secrecy Act (BSA) and Currency Transaction Reports as the "most burdensome regulations for the banking community." Banker "outreach" meetings suggest that the "cost of compliance is high…(the BSA regulations) are ineffective…and overly complex." Also, high on the list for burden was the "Know Your

Customer" requirements of the USA Patriot Act.[8] In contrast to the BSA regulations, the CRA regulations are quite effective and not overly complex. The CRA regulations are the wrong regulations to savage by a proposed streamlining.

Inadequate Predatory Lending Standard Must Be Replaced

The proposed CRA changes contain an anti-predatory screen that will actually perpetuate abusive lending. The proposed standard states that loans based on the foreclosure value of the collateral, instead of the ability of the borrower to repay, can result in downgrades in CRA ratings. The asset-based standard falls short because it will not cover many instances of predatory lending. For example, abusive lending would not result in lower CRA ratings when it strips equity without leading to delinquency or foreclosure. In other words, borrowers can have the necessary income to afford monthly payments, but they are still losing wealth as a result of a lender's excessive fees or unnecessary products. By shielding banks from the consequences of abusive lending, the proposed standard will frustrate CRA's statutory requirement that banks serve low- and moderate-income communities consistent with safety and soundness.

CRA exams will allow abusive lending if they contain the proposed anti-predatory standard that does not address the problems of packing fees into mortgage loans, high prepayment penalties, loan flipping, mandatory arbitration, and other numerous abuses. Rigorous fair lending audits and severe penalties on CRA exams for abusive lending are necessary in order to ensure that the new minority homeowners served by the Administration are protected, but the proposed predatory lending standard will not provide the necessary protections. In addition, an anti-predatory standard must apply to all loans made by the bank and all of its affiliates, not just real-estate secured loans issued by the bank in its "assessment area" as proposed by the agencies.

A comprehensive anti-predatory standard must also apply to payday loans and other non-secured consumer loans. In addition, the anti-predatory standard must apply to secondary market activity including purchasing loans or securitizing loans for others. Many large banks are no longer originating subprime loans, but they are purchasing large quantities of high cost loans. If the banks do not have sufficient due diligence procedures, they will facilitate abusive lending, and thus fail on their CRA obligation to respond to credit needs in a safe and sound manner.

Data analysis reinforces the need for a strong anti-predatory lending standard that applies to secondary market activity as well as primary market activity. Using CRA Wiz produced by PCI Services, NCRC calculates that depository institutions and their affiliates made 597,861

[8] See http://www.EGRPRA.Gov and go to Banker Outreach Meetings.

subprime and manufactured home loans during 2002, the latest year for which HMDA data is available. Depository institutions and their affiliates issued 38 percent of all the subprime and manufactured home loans in 2002. They purchased a much larger percentage of total subprime and manufactured home loans. They purchased 51.9 percent of all high cost loans or 143,288 high cost loans. In total, depository institutions and their affiliates originated and purchased more than 740,000 high cost loans during 2002. The federal banking agencies have a solemn responsibility to ensure that the massive amount of subprime and manufactured home loans made by the lenders they regulate are free of abuses.

Multiple Screens Need to Penalize Predatory Loans

NCRC recommends a series of anti-predatory screens that will capture a significantly greater amount of abusive loans than the standard imported from the OCC preemption ruling. The three screens recommended by NCRC are: 1) a revised OCC standard, 2) a HOEPA screen, and 3) a screen adapted from HUD's affordable housing rules for the Government Sponsored Enterprises (GSEs).

The OCC standard can be retained, but only as one of a number of screens. The OCC standard should also be clarified to indicate that default and delinquency are not the only circumstances indicating lending beyond repayment ability. As the standard is constructed currently, it could appear that only lending based "predominantly" on the foreclosure value of the collateral would be considered abusive since the reference to foreclosure is part of the same sentence as the term beyond repayment ability. The standard could be revised as follows: "Lending beyond repayment ability is abusive. The impacts of lending beyond repayment ability include, but are not limited to, borrower financial distress, delinquency, and foreclosure. Banks and thrifts engaging in this type of lending shall be penalized on their CRA exams."

Because the OCC standard does address the numerous abuses associated with predatory lending, NCRC recommends a second screen of applying the prohibitions and limitations contained in the Home Ownership and Equity Protection Act (HOEPA) to a wider subset of loans. The federal agencies should use the Federal Reserve Board's new price reporting trigger in the Home Mortgage Disclosure Act (HMDA) regulation. Under the HMDA regulation, lenders must report price information for first liens with Annual Percentage Rates (APRs) that are three percentage points above Treasury rates and for second liens with APRs that are five percentage points above Treasury rates. The Federal Reserve Board estimates that these triggers cover virtually all subprime loans.[9] If the regulators applied a screen to these loans, they would be scrutinizing the great majority of subprime loans. If loans captured by the HMDA price trigger violated HOEPA, the lender would be penalized on CRA exams.

HOEPA contains important, but not sufficient protections. Under HOEPA, lenders cannot make high cost loans that exceed repayment ability, have short term balloon payments under five years, contain negative amortization, or have prepayment penalties beyond five years. The HOEPA limits and prohibitions must be supplemented by another screen since HOEPA does not afford comprehensive protections.

A third screen to catch predatory loans is the prohibitions that the Department of Housing and Urban Development (HUD) imposed on the Government Sponsored Enterprises (GSEs) in the affordable housing goal rule. The GSEs cannot count loans towards their affordable housing goals if the loans have points and fees of more than 5 percent of the loan amount, if the loans contain single premium credit insurance, or if the loans are subprime and are made to borrowers creditworthy for prime loans.[10] Since HUD believed it had the authority to impose these prohibitions on the GSEs in the affordable housing goal ruling, then the federal banking agencies can surely penalize lenders for making loans with these features. NCRC believes that the federal agencies should apply HUD's prohibitions to all loans (prime or subprime). At the very least, the HMDA price trigger should be used to apply the HUD limits to the great majority of subprime loans.

Since HUD implemented the current affordable housing goals in 2000, the GSEs have made additional promises to prohibit abusive features in the loans they purchase. Recently, both GSEs have pledged not to purchase loans with mandatory arbitration clauses and loans that apply prepayment penalties for a period of three years after loan origination. In the 2000 affordable housing goal rule, HUD's list of prohibitions included those that the GSE's had been voluntarily adhering to previously. Likewise, the GSE subsequent voluntary pledges regarding mandatory arbitration and prepayment penalties should inspire the federal banking agencies to make their proposed anti-predatory standard more specific and comprehensive.

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[9] Memo from Division of Consumer and Community Affairs to Board of Governors of the Federal Reserve Board, January 16, 2002; see page 60 saying that a large sample of subprime loans indicates that a "cutoff of 3 percentage points or more above the comparable treasury security would cover about 98 percent of the subprime loans that are first liens." A cutoff of 5 percentage points would cover 95 percent of subprime second lien loans.

[10] Federal Register, Vol. 65, No. 211, October 31, 2000, pp.65070-65071.

Threshold Levels for Penalties on CRA Exams

The proposed anti-predatory standard conceivably allows a significant amount of predatory lending before the bank suffers a reduced CRA rating and other penalties. The standard requires that the lender must engage in a pattern and practice of abusive lending. Penalties are not automatic, but depend on the strength of the evidence and whether the bank promises to take any corrective action. The federal agencies also do not regularly conduct a fair lending review probing for discriminatory or abusive lending while they conduct a CRA exam. In sum, the anti-predatory standard makes it quite possible that a bank can engage in large scale abusive lending that is scrutinized on an infrequent basis. Furthermore, if the bank is caught making predatory loans, the bank can escape penalties if it suddenly commits to a plan for corrective action (future commitments to corrective plans can avoid penalties per the CRA regulation).

NCRC believes that penalties must be swift and certain when the evidence indicates that a bank has made a significant amount of predatory lending. A pattern and practice standard must not exclude circumstances in which the abusive lending was not due to the bank's policies but due to an operational issue that the bank did not address. For example, if a bank did not stop either a rogue broker or bank employee from engaging in abusive lending over a significant time period, the bank must be penalized on a CRA exam. In this case, the bank was negligent and did not halt predatory lending, even in cases in which it may have had a policy prohibiting abusive lending. While the predatory lending may not have been caused by an institutional practice or policy, it nevertheless was unresponsive to legitimate credit needs by stripping wealth instead of enabling borrowers to build wealth. The predatory lending, unresponsive to credit needs, must be therefore penalized on CRA exams through a lower rating.

If a significant amount of abusive loans occurs in one assessment area, it must cause the bank to receive a failing rating of at least needs-to-improve in that assessment area. A significant amount could be related to an institutional policy and/or to an operational issue such as a rogue broker or loan officer. Assuming a rogue broker or bank employee makes one abusive loan each day, the number of predatory loans can easily equal 30 or more per month. If a bank does not take action after two months (a time period in which between 50 to 60 abusive loans are made), the bank has enabled too much wealth stripping and abuses. The threshold for failing in one assessment area should certainly be triggered by 50 loans. The threshold could even be less if it can be demonstrated that the abuses were not only caused by an operational issue but also an institutional policy. For example, if a bank has a policy requiring loan officers to charge more than 5 percent of fees on every loan, then even a few loans with usurious fees should result in a failed CRA rating in the one assessment area.

The bank must fail its entire CRA exam if the bank exceeds the threshold for making abusive loans in two or more assessment areas. When predatory lending occurs in two or more assessment areas, it is most likely that the predatory lending is due to an institutional policy or practice. Failure of the CRA exam must therefore be swift and certain.

Banks and thrifts must understand that CRA exams and fair lending reviews probing for predatory lending will not be infrequent, but regular and stringent. The Office of the Comptroller of the Currency (OCC) has adopted a risk-based approach to examination; the OCC's counterparts are in the process of adopting this method as well. The difficulty with a risk-based approach is that it can lead to infrequent fair lending exams and apply arbitrary and inconsistent criteria for deciding which institutions are to receive rigorous fair lending reviews.

A more reliable approach is applying a rigorous anti-predatory standard for CRA exams in deciding the frequency of fair lending reviews. If a regulator believes (or has evidence via CRA comments from community groups or other parties) that an institution is making high cost loans that are close to the limits established by the anti-predatory standard, then the bank must be subject to regular fair lending reviews that occur no less frequently than the CRA exams. In addition, federal agencies should conduct fair lending reviews coinciding with CRA exams for those lenders with a majority of their loans exceeding the HMDA price trigger or appear on HUD's list of subprime or manufactured home lenders. HUD currently categorizes lenders as subprime or manufactured home loan specialists if more than half of their loans are subprime or manufactured home loans.[11] Under a risk-based approach to examination, it would seem prudent that lenders should qualify for regular fair lending reviews on the same cycle as CRA exams when the majority of their loans are high cost and non-prime.

Illegal Practices Standard Must be Inclusive

The proposed changes also stipulate that lenders can be penalized if they make loans violating a number of federal fair lending and consumer protection statutes. These include the Home Ownership and Equity Protection Act (HOEPA), the Equal Credit Opportunity Act (ECOA), and the Truth in Lending Act (TILA). The proposal states that specific violations of these laws, such as the right of rescission under TILA will result in penalties. NCRC believes that violations of all substantive protections, not just violations of a few provisions, in the fair lending and

[11] HUD updates its list of subprime and manufactured home lenders on an annual basis. It is available on HUD's web page (http://www.huduser.org/datasets/manu.html). If more than 50% of an institution's loans are subprime or manufactured home loans, the lender is classified as a subprime or manufactured home lender. The HUD list is widely used by researchers in government agencies and elsewhere.

consumer protection laws must result in penalties. For example, if the bank consistently understates the Annual Percentage Rate (APR), this violation of TILA must also be penalized. Understating price can end up costing consumers several thousands of dollars over the course of a loan. This type of deception fails to meet credit needs as mandated by CRA since equity stripping is occurring.

The federal agencies should clarify that all substantive protections under the fair lending laws and consumer protection laws can result in penalties. Moreover, the preamble to the proposed rule states that violations of state law, where applicable, entail penalties. This reference to state law must be included in the proposed regulation in order to elevate its importance. Finally, the same thresholds as discussed above for the anti-predatory standard would apply to the cases of violating federal and state laws.

"No Documentation" Loans Must Not be Tolerated

The proposal contains a glaring inconsistency between insisting that loans cannot be unaffordable but then allows institutions to make loans without documenting borrower income. How can a lender ensure that it is not making a loan that is unaffordable if it does not document borrower income? In December of 2001, the Federal Reserve Board amended Regulation Z (implementing HOEPA) to stipulate that lenders are presumed not to consider repayment ability if they do not verify and document borrowers' incomes.

This HOEPA standard must apply to all loans, not just high cost loans. It is quite conceivable that lenders making prime loans will issue unaffordable loans if they do not verify borrower incomes. If the federal agencies allow a double standard to apply to high cost loans covered by HOEPA and loans not covered by HOEPA (which includes many subprime loans as well as prime loans), the proposed CRA regulation can end up facilitating a significant amount of abusive lending.

Affiliate and Assessment Area Procedures Must be Changed to Protect Against Abusive Lending

The agencies' proposals fail to close gaping loopholes in the CRA regulation regarding affiliates and assessment areas. Banks can still elect to include affiliates on CRA exams at their option. They can thus manipulate their CRA exams by excluding affiliates not serving low- and moderate-income borrowers and excluding affiliates engaged in predatory lending. The current regulations allow banks to hide their true performance in serving community credit needs by shifting undesirable loans to their affiliates and subsidiaries. The game playing with affiliates and subsidiaries will end only if the federal agencies require that all affiliates and subsidiaries be included on exams.[12]

The proposed changes do not address the need to update assessment areas to include geographical areas beyond bank branches. Many banks make considerable portions of their loans beyond their branches; this non-branch lending activity is not scrutinized by CRA exams. NCRC has previously proposed that a metropolitan or rural area must be a distinct assessment area if a bank has a market share of loans in the area of more than one half of one percent. In any case, assessment areas must cover the great majority of a bank's loans. The Joint Housing Center at Harvard University estimates that depository institutions among the top 25 lenders originate only 25 percent and 33 percent of their home purchase and refinance loans, respectively, in their assessment areas.[13] With such low percentages of bank loans in assessment areas, the federal agencies are simply unable to assess if banks are meeting credit needs in the communities in which they are chartered to do business.

At the very least, the federal agencies must update their procedures for considering lending beyond assessment areas. According to the current Interagency Question and Answer document on CRA, federal agencies will provide positive consideration for lending beyond assessment areas if a bank has satisfied credit needs in its assessment areas. It would be woefully inconsistent if the agencies do not penalize banks for abusive loans beyond assessment areas made by either the banks or affiliates. If a bank is to receive positive consideration for safe and sound lending beyond the assessment area, it must also receive negative consideration for abusive lending beyond the assessment area. Only such an evenhanded approach can guarantee that banks are meeting legitimate credit needs wherever they are doing business.

Existing Examinations of Subprime Lenders are Inadequate

The following case studies illustrate that the existing CRA exam scrutiny of subprime lenders is cursory and grossly inadequate most of the time. The current CRA exam practices illustrate the desperate need for a strong anti-predatory standard and rigorous fair lending reviews of depository institutions that are either subprime lenders or have affiliates that are subprime lenders. In only one instance reviewed by NCRC, does the fair lending review explicitly test for abusive lending. In only a few cases, does the CRA exam document the extent of subprime

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[12] The CRA regulations define a subsidiary as an affiliate. Hence, banks can also include subsidiaries at their option on CRA exams. NCRC comments regarding affiliates apply to subsidiaries. CRA exams must require the inclusion of all affiliates and subsidiaries.

[13] The Joint Center for Housing Studies at Harvard University, *The 25th Anniversary of the Community Reinvestment Act: Access to Capitol in an Evolving Financial Services System*, March 2002, p.29.

lending by the bank or its affiliate. The CRA examiner should always carefully document the nature and extent of subprime lending in providing a rationale of why or why not a fair lending review was conducted.

As stated above, NCRC believes that the federal agencies must conduct fair lending reviews at the same frequency of CRA exams for lenders on HUD's list of subprime or manufactured home lenders and/or lenders with a majority of their loans exceeding the HMDA price trigger. Finally, the exams of major subprime lenders often include unjustified assessment areas covering only a tiny fraction of the institutions' loans. The current application of the CRA regulations is failing to ensure that credit needs are met in a safe and sound manner.

Immediately below are reviews of exams of major depository institutions that are subprime. After their CRA exams, Superior Bank, FSB and Conseco Bank failed. These are two clear cases of regulatory failure, caused in part by inadequate scrutiny on CRA exams.

<u>CRA Exams of Subprime Depository Institutions</u>

<u>Superior Bank, FSB</u>

Before the spectacular failure of Superior Bank due to unsafe lending, the Office of Thrift Supervision (OTS) conducted a CRA exam of Superior that clearly illustrates regulatory failure to catch problems before they explode.

Based in Oakbrook Terrace, Illinois, Superior Bank, FSB was a major thrift and subprime lending institution. The OTS CRA exam of September 1999 reports that this institution of $1.8 billion in assets made or purchased more than 39,000 home loans from January of 1997 through July of 1999. The exam states that Superior has "flexible underwriting guidelines, which benefit low- and moderate-income persons and families." It adds that "Superior's lending business focuses on lending to "A-," "B", or "C" borrowers, who are borrowers that have varying degrees of credit history problems."

It describes a "Universal Mortgage Product" in the following paragraph:

> The Universal Mortgage Product is designed specifically to improve a borrower's day to day cash flow by consolidating their various debts and lowering their combined payment and overall cost of credit…The borrower is provided 26 payment reduction vouchers at closing to use at any time during the term of the loan (when used, deferred payments are not required to be paid at maturity). No private mortgage insurance is required and all

closing costs may be included in loan amount rather than paid at closing. If the borrower needs additional funds after consummation, any principal amount previously paid down on the current mortgage can be borrowed without any additional closing fees. Also, as long as the borrower meets certain criteria, he (or she) may change the payment amount (to as low as interest only payments) at anytime throughout the loan term. This product does not require tax or insurance escrow payments.

The examiner accepts at face value that these terms are flexible and beneficial for low- and moderate-income borrowers. However, since all closing costs can be financed, what percentage of the loan amount are fees that are financed? In addition, the borrower could borrow against principal already paid. But did Superior provide borrowers with advice about possible negative amortization and prolonged indebtedness? Also, the Universal Mortgage Product did not require tax or escrow payments. But did Superior explain to the borrower that tax payments are still required to be made outside of the loan payments? Based on the eventual fate of Superior, it is reasonable to assume that neither the OTS CRA or safety and soundness examiners answered these basic questions about Superior's lending.

Superior's Universal Mortgage product appears to be appropriately named. In 1998, Superior made 16 percent of its 15,338 refinance and home purchase loans to Blacks while OTS-regulated subprime lenders made nearly10 percent of their loans to Blacks and OTS-regulated prime lenders made about 2.5 percent of their loans to Blacks. Likewise, Superior made 37 percent of its single-family loans to low- and moderate-income borrowers while OTS-regulated subprime lenders made 22 percent and OTS-regulated prime lenders made 23 percent according to the HMDAWare™ software produced by Compliance Technologies. The CRA exam likewise states that Superior had an "excellent penetration among the various types of borrowers in the assessment area, particularly low- and moderate-income borrowers." While Superior's mortgages may have been universally available (or at least more so than other OTS-regulated institutions), the OTS did not probe in its CRA exam if Superior was targeting minorities and low- and moderate-income borrowers with unsafe and abusive loans in violation of the Equal Credit Opportunity Act and the Fair Housing Act.

The shortcomings of Superior's CRA exam extend to an unjustified restriction of considering only one assessment area, parts of the Chicago metropolitan area, that accounts for only 1.3 percent of the thrift's loans. The explanation for not examining other areas was that Superior is a "large, wholesale, nationwide lender." Examining a geographical area with such a small percentage of the thrift's loans leaves open the possibility that questionable practices elsewhere are not being examined. In addition, even the OTS examiner implicitly admitted the inadequacy of examining the thrift in only one assessment area. The examiner gave Superior "low satisfactory" ratings on its lending, investment, and service tests, in part because of the "marginal" level of activity in the thrift's assessment area.

Provident Bank – Federal Reserve Board

In its July 12, 1999 Community Reinvestment Act (CRA) performance evaluation, Provident Bank received a satisfactory rating from the Federal Reserve Bank of Cleveland. At the time, the CRA examiners indicated that, among other things, Provident had "an adequate level of lending within the bank's assessment area" and used "innovative and flexible lending products" to meet the needs of its borrowers. Curiously enough, in reaching these conclusions Board examiners failed to scrutinize or even note the fact that Provident Bank is primarily engaged in subprime mortgage lending, having been clearly identified as a subprime lending institution by the U.S. Department of Housing and Urban Development.[14]

Federal Reserve examiners made no mention of the interest rates or terms and conditions associated with Provident's mortgage loans. In addition, Board examiners brushed aside the fact that Provident made only 41% of its loans within its assessment area, considering Provident's loan volume within its assessment area adequate because the bank simply made a "strategic decision to generate loans nationally through its broker network and other forms of delivery systems." Interestingly, the CRA examiners did not consider the fact that unscrupulous mortgage brokers have increasingly been cited as key culprits in perpetrating predatory mortgage lending practices on unsuspecting and unsophisticated low- and moderate-income, minority, and elderly borrowers.

While examiners noted "inconsistencies in the bank's credit policies, procedures, and application of the policies and procedures" during the Board's fair lending review, there is little discussion of what these inconsistencies were or how they were applied. Examiners did note "no apparent disparate or discriminatory effect based on any prohibited bases," but also commented that Provident "was required to adopt new policies and procedures, implement an enhanced fair lending training program, and establish fair lending review procedures." Clearly the examiners raise more questions than they answer about the nature of the bank's treatment of protected classes.

Given the many questions raised by Provident's inadequate CRA exam, NCRC pulled Provident's March 30, 1999 and March 29, 2000 10-K statements on file with the Securities and

[14] See Randall M. Scheessele, *1998 HMDA Highlights*, Housing Finance Working Paper No. 9, Office of Policy Development and Research, HUD, October 1999.

Exchange Commission to learn a little more about the bank's so-called "innovative and flexible lending" and its efforts to truly meet the credit needs of low- and moderate-income communities. We found that Provident had significantly increased its origination, securitization, and sale of nonconforming residential loans, from a total of $264 million in 1996 to $2.3 billion by 1999. From 1998 to 1999 alone, Provident increased its pool of nonconforming loan originations over 100 percent, from $1.1 billion to $2.3 billion. As Provident itself declared, its national nonconforming mortgage operations "continue to represent a major business opportunity." But the CRA exam and fair lending review did not scrutinize Provident's rapidly increasing subprime lending operations.

As far as a reader of the Provident CRA exam can determine, Federal Reserve examiners failed to take readily accessible information from 10-K statements into account during Provident's CRA exam and, as a result, Provident's subprime and potentially abusive and discriminatory lending activity continues to grow without real regulatory scrutiny. In fact, Provident's March 29, 2000 10-K statement, issued after the Board's July 1999 CRA performance evaluation, reveals that the bank has increased its origination and sale of subprime loans.

Conseco Bank, Inc. – Federal Deposit Insurance Corporation

In its December 8, 1999 Community Reinvestment Act (CRA) performance evaluation, Conseco Bank, Inc. received a satisfactory rating. At that time, FDIC examiners indicated that, among other things, Conseco had "…an excellent distribution to individuals of different income levels, including low- and moderate-income borrowers" and that bank management had "…identified several meaningful ways to address the bank's CRA obligations." Curiously enough, in reaching these conclusions, examiners failed to scrutinize or even note the fact that Conseco Bank is significantly engaged in subprime manufactured home lending, having been clearly identified as such an institution by the U.S. Department of Housing and Urban Development.[15]

FDIC examiners made no mention of interest rates or terms and conditions associated with Conseco's mortgage loans. In addition, examiners seemed to brush aside the fact that Conseco made just two percent of its residential mortgage loans in 1998 and the first three-quarters of 1999 to borrowers within its assessment area.

The examiner used the streamlined small bank exam procedures for Conseco's exam although Conseco had assets above the $250 million threshold for small bank exams for about half of the

[15] See HUD's 1999 list of subprime and manufactured home lenders.

exam period. Inadequate examination procedures most likely contributed to Conseco's failure since its regulator, the FDIC, was not ensuring that credit needs were met in a safe and sound manner.

OCC Exam of Chase Manhattan Bank USA: Completely Inadequate

More recent large bank exams also reveal inadequate regulatory scrutiny. The Office of the Comptroller of the Currency's most current exam of Chase Manhattan Bank USA was in March of 2003. Chase Manhattan Bank USA is a non-traditional lender that closed its only branch in New Castle County, Delaware. It appears not to make loans directly, but "books" loans made by an affiliate, Chase Manhattan Mortgage Corporation.

The OCC applied an unjustifiably narrow assessment area to Chase Manhattan Bank USA. The only assessment area is New Castle County, Delaware although the bank closed its one branch in New Castle County.

The bank made less than one percent of its home and small business loans in the New Castle County assessment area. In other words, the exam only considered 1 percent of the bank's loans. The examiner believes that the bank did well in New Castle County in reaching low- and moderate-income borrowers and communities. The bank received an Outstanding on its lending test. Is this really that hard to do, considering that the bank can concentrate its efforts in New Castle County, and not worry too much about meeting the needs of low- and moderate-income borrowers in the geographical areas that receive 99 percent of the bank's loans!

Despite the fact that HUD has classified Chase USA as a subprime lender, the OCC declined to conduct a fair lending review to coincide with the CRA exam. The CRA exam states that based on "an analysis of (public comments and consumer complaint information), the OCC decided that a comprehensive fair lending examination would not need to be conducted in connection (with the CRA exam)."

Additional evidence suggesting the need for a fair lending review is a recent prospectus statement regarding loans sold by Chase Manhattan Bank USA and Chase Manhattan Mortgage.[16] In this prospectus, Chase was selling more than 2,000 high-interest loans to investors. Thirty percent of the loans were "stated" income loans, meaning that Chase did not

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[16] See July 11, 2003 Mortgage Loan Assets-Backed Certificates, Series 2003-6 on the SEC web page, http://www.sec.gov.

verify income levels. As stated above, the Federal Reserve Board has disallowed "no income" verification loans for high cost loans covered by HOEPA. While most of the loans in Chase's prospectus were not HOEPA loans, the great majority of these loans were subprime. NCRC believes that the agencies should not allow "no income" verification loans. Certainly, subprime lenders making a significant number of these loans ought to be subjected to rigorous fair lending reviews that assess whether borrowers can afford the loans.

Cursory CRA Exams of Additional Subprime Depository Institutions

Additional CRA exams of subprime depository institutions expose more shortcomings. For a number of years, the Department of Housing and Urban Development has classified Key Bank, USA, NA; Bank One, Michigan; and Travelers Bank and Trust as either subprime or manufactured home lenders. Despite HUD's classification of these lenders as high cost lenders, their CRA exams were completely lacking except for Travelers.

In an OCC exam of Key Bank, USA during 2000, the OCC does not even discuss the subprime nature of Key Bank, USA's lending activities. Under the product innovation and flexibility section, the exam mentions flexible underwriting including "higher debt ratios" and the "use of alternative credit histories to enable more low- and moderate-income applicants to qualify." The fair lending review does not scrutinize if these "flexible" underwriting criteria are abusive. Instead the fair lending review focuses on a traditional exam for a prime lender assessing if minority applicants are denied more frequently than whites. Likewise, a Federal Reserve exam conducted in 2001 of Bank One Michigan does not mention that HUD classified Bank One as a manufactured home lender. The exam cites "innovative" products for borrowers without established credit histories, but does not mention the interest rates and fees associated with those products. The exam also lauds Bank One for excellent penetration of loans to low- and moderate-income borrowers and census tracts. The fair lending review, however, does not assess the loan terms and conditions available to low- and moderate-income borrowers and census tracts.

Travelers Bank and Trust, Office of Thrift Supervision, 2001

The OTS' CRA exam of Traveler's is the only CRA exam reviewed by NCRC that approaches a suitable review of a subprime lender. While shortcomings in the evaluation occurred, this CRA exam included a fair lending review testing for abusive lending and attempted to compensate for an inadequate assessment area.

Owned by Citigroup, Travelers Bank and Trust is a non-traditional lending institution headquarted in New Castle County, Delaware. Travelers does not have a traditional branch network. Instead more than 100,000 agents of Primerica Financial Services make loans as well as selling insurance policies.

In order to ensure that Travelers subprime loans were not abusive, the CRA exam included a rigorous fair lending review. The fair lending review consisted of statistical sampling and qualitative reviews of loan files to detect if the lender was fee packing (loading up the loan with high fees without the informed consent of the borrower). The review also probed for evidence of equity stripping, flipping, abusive foreclosure procedures, or targeting minorities and other protected classes with loans containing "less favorable terms than those which the borrower qualifies." The fair lending review also consisted of interviews with community groups.

Based on the fair lending review, the examiner concluded that Travelers subprime loans had lower settlement fees than those associated with conventional loans and lower rates than those assessed by other national subprime lenders. In addition, the examiner documented that Travelers "Tangible Net Benefit Initiative" featured refinance loans that offered customers lower rates than their previous loans, or provided customers with loans that did not include abusive features such as large balloon payments. Without judging the validity of these conclusions, it is clear that this CRA exam reviewed critical issues associated with subprime lending and thus provides the general public with more assurances than the other CRA exams reviewed.

Because Travelers is a non-traditional lender, its assessment area is artificially restricted to its two offices in the Wilmington, Delaware metropolitan area. Travelers made only 1 percent of its loans in Wilmington. Per the Interagency Question and Answer guidance on CRA, the OTS declared that this tiny portion of lending in Wilmington would not be sufficient for an institution the size of Travelers. Since Travelers met credit needs in Wilmington, the OTS examined Travelers performance in nine other major metropolitan areas in "reaching an overall evaluation" of Travelers performance under the lending test. The lending levels in the nine other areas still added up to a minority of Travelers' overall lending levels; each metropolitan area contained about 3 percent of the thrift's loans. NCRC would have preferred the OTS to select areas constituting the majority of the thrifts' loans. At least, the OTS examined a considerably greater portion of loans than other CRA exams of non-traditional lenders, including the OCC's inadequate exam of Chase Bank, USA.

The combination of a comprehensive fair lending review and expanded assessment area procedures in the Travelers' CRA exam gives the public some confidence that the regulator is assessing whether the thrift is meeting community credit needs in a safe and sound manner. Moreover, the fair lending review, which looked for equity stripping, flipping, and other abuses, suggests that the federal agencies can surely construct a comprehensive anti-predatory standard for all of their CRA exams.

CRA Exams Including Subprime Affiliates

As well as scrutinizing CRA exams of subprime depository institutions, NCRC looked at several exams of prime lenders that had subprime affiliates. NCRC found that none of these exams contained an adequate fair lending review. If a lender elects to include a subprime affiliate, the regulator must conduct a fair lending review probing for abusive lending. Otherwise abusive lending can easily count on the CRA exam. If the regulators followed NCRC's recommendations, the affiliates would automatically be included on the exams, triggering automatic rigorous fair lending reviews. At the very least, optional inclusion of a subprime affiliate must trigger a comprehensive fair lending review of the lender and its affiliate.

NCRC's review identified the following CRA exams including subprime affiliates:

First Union, NA, OCC, September 2000 - subprime affiliate Money Store
National City affiliates, several OCC exams in 2000 – subprime lender Altegra Credit Company
Citibank, NA (OCC, 2000) and Citibank FSB (2001) – subprime Citifinancial
Chase Manhattan Bank, Federal Reserve, 2001& 2003 – subprime Chase Manhattan Bank USA
Bank One, NA, OH, OCC, March 2000 – subprime Banc One Financial Services

In the First Union exam, the examiner states that "neither the end of the Money Store's operations nor its activities during its tenure as the bank's subsidiary" had an "adverse" impact on First Union's CRA performance. Given the reputation of the Money Store and its closure, it would be reasonable to expect a more thorough investigation. However, the seven-sentence summary of the fair lending review does not indicate if the review included any anti-predatory lending scrutiny.

In the case of the Citibank exams, the fair lending reviews did not probe into predatory lending issues. The examiners reviewed comment letters and concerns expressed by community groups during Citigroup's acquisition of the Associates. The examiners then listed a series of reforms promised by Citibank. The examiners appeared to rely on Citibank's responses to the community group concerns without independently confirming via fair lending exams.

The Citibank FSB exam states that affiliate subprime lending accounts for about 7 percent of the total lending and the Citibank NA exam suggests that subprime affiliate lending accounts for a much smaller percent of total bank lending. Although the subprime lending accounted for a small percentage of the total, these exams followed the heels of the controversial acquisition of Associates. The exams provided an important and missed opportunity to determine if Citigroup was implementing its newly announced reforms. Moreover, the OTS and OCC combined resources on the fair lending review of Citigroup's thrift and bank. With augmented resources, the regulators still failed to conduct a strong far lending review.

The only positive element of these exams is that they attempted to document the quantity of subprime lending in an effort to assess how they would treat the subprime lending. In addition, the Citibank FSB exam states that the affiliate lending did not increase the percentage of loans to low- and moderate-income borrowers and census tracts. This is at least an honest discussion of the impacts of affiliates on the thrift's overall CRA and lending test rating. At the same time, however, the examiner states that more than 18,000 Citibank FSB loans were "no income" documentation loans lacking information about borrower incomes. This magnifies the inadequacy of the fair lending review.

CRA Exams Excluding Subprime Affiliates

NCRC has also identified a number of depository institutions excluding their subprime affiliates from their CRA exams. Per the current CRA regulation, the regulators will not conduct a fair lending review of the excluded affiliates. The nature of these affiliates' subprime lending remains hidden from scrutiny.

NCRC identified a number of CRA exams of large lenders that excluded subprime affiliates. These include:

Bank of America – OCC, 2001 – excludes Nationscredit Financial Services
Charter One Bank, FSB – OTS, 2001 – excludes Charter One Credit Corporation
KeyBank, USA, NA – OCC, 2000 – excludes Champion Mortgage Company
National City – OCC exams of prime affiliates in 2000 – excludes First Franklin Financial
Washington Mutual – OTS exams of 2000 – excludes Long Beach Mortgage Company

Since these exams occurred between 2000 and 2001, NCRC conducted data analysis with the year 2000 and found that the excluded affiliates made a significant amount of loans. In KeyBank's case, Champion made 14,296 single-family loans in 2000 and 4,475 loans to low- and moderate-income (LMI) borrowers. National City's First Franklin Financial Corp. made 35,915 single family loans overall and 9,741 to LMI borrowers. While National City excluded First Franklin from its CRA exams, it included the subprime affiliate, Altegra Credit Corporation that made a much smaller 1,163 loans during 2000.

Bank of America's and Washington Mutual's excluded subprime affiliates also made high volumes of loans. Washington Mutual's subprime affiliate, Long Beach Mortgage Company, made 30,629 loans overall and 11,249 to LMI borrowers in 2000. Bank of America's Nationscredit Financial Services made almost 18,000 single-family loans to LMI borrowers and 39,197 loans overall during 2000.

The current regulatory procedure of optional treatment of affiliates results in the exclusion of thousands of subprime loans from regulatory scrutiny. An anti-predatory standard is not meaningful in this regime since it will not be applied to large-scale subprime lending operations.

Enhanced Data Disclosure: Good Proposal but Data Must be Utilized, Not Simply Reported

The federal agencies propose that they will publicly report the specific census tract location of small businesses receiving loans in addition to the current items in the CRA small business data for each depository institution. This will improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. Also the regulators propose separately reporting purchases from loan originations on CRA exams and separately reporting high cost lending (per the new HMDA data requirement starting with the 2004 data).

The positive aspects of the proposed data enhancements do not begin to make up for the significant harm caused by the first two proposals. Furthermore, the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. The agencies must not merely report the new data on CRA exams, but must use the new data to provide less weight on CRA exams to high cost loans than prime loans and assign less weight for purchases than loan originations.

Use New Data to Weigh Prime Lending More Heavily on CRA Exams

Lending institutions must be encouraged to make as many prime loans as possible to LMI and minority communities. NCRC believes that the prime lending market is not saturated; that is, there are many more opportunities to lend to LMI and minority borrowers creditworthy for prime loans. The subprime market suffers from widespread price discrimination and a segment of the market is predatory. Evidence of price discrimination indicates that thousands of borrowers stuck with subprime loans are creditworthy for prime loans. Analyzing ten large metropolitan areas, NCRC's recent *Broken Credit System* report reveals that the portion of subprime loans in neighborhoods increases as the number of minority and elderly residents increases, after controlling for creditworthiness and housing stock characteristics. Another study conducted by a Federal Reserve economist came to similar conclusions, looking at subprime lending in the Philadelphia and Chicago metropolitan areas.[17] The CRA regulations have an important role to play in increasing prime lending for underserved customers and in cleaning up the subprime industry.

The lending test's qualitative factors relating to innovative and flexible loan practices must be further developed in the cases of subprime lenders. For example, consider the case of two lenders of similar asset size and range of loan products operating in the same metropolitan area. If one lender is making most of its loans with relatively high interest rates and fees to low- and moderate-income communities and borrowers, it should not receive as high a CRA rating as the other lender that is making mostly prime rate loans to these same communities. Clearly, the lender that is making prime rate loans has been more effective in figuring out how to apply flexible underwriting techniques to traditionally underserved borrowers.

NCRC recommends that any bank or thrift whose subprime lending exceeds a nominal amount such as 5 percent of its total loan amount must have a separate prime and subprime lending test. In particular if more than 5 percent of the bank's loans have APR's above the new HMDA trigger, the bank must have separate lending tests. The subprime test would analyze loans with APRs above the HMDA price trigger and the prime test would analyze loans below the price trigger.

In other words, prime and subprime loans must be evaluated separately on CRA exams just like home mortgage, refinance, and home improvement lending are currently. In order for a bank that offers both prime and subprime lending to pass its lending test, it must receive at least a satisfactory rating on the prime portion of its test. This proposal is similar to the requirement that a bank must receive at least a low satisfactory on the lending test to pass its CRA exam. But it would put more weight on the prime portion of the lending test since the lender would have to perform in a satisfactory manner on that part of the test, not merely in a low satisfactory manner.

The prime and subprime lending test proposal is applicable even in situations when the great majority of the lender's portfolio is subprime. Even if prime lending is just 25 percent of the loan portfolio, the lender has to make efforts to ensure that a reasonable number of LMI

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[17] NCRC's *Broken Credit System* report is available via http://www.ncrc.org. Paul S. Calem, Kevin Gillen, and Susan Wachter, *The Neighborhood Distribution of Subprime Mortgage Lending*, October 30, 2002. Available via pcalem@frb.gov.

borrowers and residents of LMI neighborhoods receive the lender's prime loans. If the distribution of prime loans to LMI borrowers and residents is poor, then the lender fails its CRA exam, regardless of its performance on the subprime test. In the case of a lender with nearly 100 percent subprime lending (such as Travelers discussed above), the prime and subprime test proposal cannot be readily implemented. Nevertheless, the regulatory agency in these cases must subject a lender to a rigorous fair lending review that applies a stringent anti-predatory standard. The Travelers CRA exam and fair lending review discussed above is a step in that direction.

If federal agencies do not carefully consider how to evaluate prime and subprime lending, they may unwittingly exacerbate the relative scarcity of prime loans and the saturation of subprime loans in LMI and minority neighborhoods. A large body of research shows subprime lenders tend to make a greater portion of their loans to LMI and minority borrowers and neighborhoods than prime lenders. If the regulators continue to make no distinction between prime and subprime loans on CRA exams, they will encourage banks to increase their subprime lending in order to boost their percentage of loans to LMI borrowers and neighborhoods.

The lending patterns of Citigroup illustrate a likely trend if the federal agencies do not change how they evaluate prime and subprime lending. In the year 2000 (which was just on the heels of the Associates acquisition and also was a year covered by a number of exams of Citigroup affiliates), Citigroup's prime affiliates made more than 77,000 single-family home loans to borrowers in all income groups. Citigroup's subprime depository affiliate (Travelers) made more than 20,000 loans. The non-depository subprime affiliates (various Citifinancial HMDA reporters) issued 21,700 loans. Together, the subprime affiliates on CRA exams issued about 30,000 less loans than the prime affiliates. However, the recently acquired Associates affiliates made more than 144,000 subprime loans during 2000.[18]

Citigroup included Citifinancial affiliates on its exams conducted on or near the year 2000. The lender is likely to include the former Associates units in future exams. The total amount subprime lending is likely to be much higher than the prime lending on future exams.

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[18] NCRC used CRA Wiz to analyze 2000 HMDA data. Citigroup prime affiliates that year included Citibank, NA; Citibank, Nevada, NA; Citibank, FSB; and Citibank (New York State); and Citimortgage, Inc. Citigroup subprime affiliates included Travelers Bank and Trust, FSB; various Citifinancial HMDA reporters; Associates Financial Services; Associates Home Equity; and Associates Housing Finance. Many CRA exams occurred around 2000 – Citibank (Nevada) NA in 1999; Citibank, FSB in 1999 & 2001; Citibank, NA in 2000; Citibank (NY state) in 2000; Travelers in 2001.

While Citigroup is just one lender, it is the largest bank holding company in the United States in terms of assets. It would be unfortunate indeed if the structure of CRA exams encouraged other major lenders to emphasize subprime lending and thus narrow product choice further in LMI and minority communities. It would be sadly ironic that a law passed to combat redlining ended up intensifying reverse redlining and the dual lending market of predominantly high cost lending in LMI and minority communities and prime lending in affluent neighborhoods. The federal agencies have a critical opportunity that must not be missed to change the lending test so that CRA remains an effective weapon against all forms of discrimination.

CRA Exam Consideration of Loan Purchases is Sloppy and Encourages Manipulation

NCRC recommends that CRA exams treat purchases in a manner similar to its recommendation for treating subprime lending. More CRA points would be awarded to loan originations. For example, a system could be established similar to HUD’s affordable housing goals, in which some activities are weighted more heavily. In the case of CRA exams, a point system could be established in which loan originations count twice as much as purchases.

Alternatively, the lending test would consist of a series of tests. In the case of lenders making both prime and subprime loans, the lending test would consist of separate prime and subprime tests. Within these two separate tests, there would be a loan origination test and a loan purchase test. A bank could not pass either its prime or subprime test if it did not pass its loan origination test. Then, it could not pass its overall CRA exam if it did not score at least satisfactory on the prime part of its test. In the case of banks making only prime or subprime loans, the lending test would consist of two subparts – a loan origination and a loan purchase test.

When banks purchase many more loans to LMI census tracts and borrowers than they originate, the fault lies less with the banks and more with the CRA regulatory regime. Purchasing loans is useful but originating loans is the more difficult task, and should be counted more heavily on exams. Moreover, the current regulatory treatment of purchased loans tempts banks to purchase loans to LMI borrowers just before their CRA exams. In contrast, it is considerably more difficult for banks to make a large amount of loans to LMI borrowers right before their CRA exams. Lending, therefore, represents a more sustained commitment to serving credit needs than purchasing. Finally, when banks skew their activities toward purchasing, the CRA regulations have caused an unhealthy distortion of their CRA activities. The CRA regulations should encourage a balanced mix of responding to credit needs, including residential and small business lending, community development lending, and investing. When purchases count as much as loan originations, CRA exams have and can continue to distort activity towards purchasing other banks’ loans.

An example of unbalanced activity is Bank of New York's 2000 home loan data and 2001 CRA exam. During 2000, Bank of New York made just 13 loans to LMI census tracts but purchased 1,307 loans made in LMI census tracts. If the bank had not purchased these loans, it may have failed its CRA exam. The Federal Reserve's CRA exam of 2001 gave the bank a Low Satisfactory grade on the lending test, and stated that the home and small business lending showed "poor responsiveness to the credit needs of the bank's assessment areas." At the time of the CRA exam, Bank of New York had $74 billion in assets. Certainly, a bank of that size could have put more effort in loan originations and in making loans to LMI borrowers and geographies. Had purchases been weighted less than loan originations on the CRA exam, the bank most likely would have put more effort into loan originations or else would have faced the likely possibility of failing its exam. The examiner notes that the bank made efforts to improve its lending activities, but the effort came "later in the examination period." The bank would have made an effort to improve its performance earlier if CRA exams placed more emphasis on loan originations than purchases.

While NCRC cited the Travelers OTS CRA exam for a thoughtful fair lending review, the same CRA exam encourages the thrift to manipulate its purchasing activity. The CRA exam states that Travelers purchased "300 loans from a Wilmington-based commercial bank during the CRA evaluation period, totaling $25.1 million. Travelers paid a premium for these loans and requested that they all be to low- and moderate-income borrowers." In the very next paragraph, the exam reiterates that 100 percent of these 300 purchased loans were to LMI borrowers. Instead of paying a premium for purchased loans, perhaps Travelers should have made more of an effort to make loans to LMI borrowers in its assessment area of Wilmington.

Purchased loans are becoming like affiliates in that banks are starting to use them in an optional manner on CRA exams. Banks are asking their examiners to discount purchases when purchases hurt their performance on the lending test, but asking their examiners to include purchases when it helps their lending test. For example, National City asked its CRA examiner to exclude purchases from its CRA exam. The CRA examiner agreed, noting that including purchases lowers the percent of National City's loans made to LMI borrowers and census tracts.[19] In an even more bizarre example, the CRA examiner of Fifth Third bank included purchases in the category of lending to LMI census tracts but excluded it in the category of LMI borrowers.[20] Purchases presumably increased the percentage of loans to LMI tracts, but lowered the percentage of loans to LMI borrowers due to the considerable number of purchases without

[19] OCC CRA Exam of National City Bank of Ohio, Charter #786, February 2000.

[20] Federal Reserve Bank of Cleveland, CRA exam of Fifth Third Bank, Charter #723112, March 2001.

borrower income recorded.

The optional use of purchases increases possibilities of banks manipulating their CRA exams and reporting poor HMDA data. One reason banks opt to exclude purchases made to LMI borrowers is that banks are not required to report the income level of borrowers on loans they purchase. Instead of requiring or encouraging institutions to include data on income level of borrowers in their purchased loans, examiners have allowed banks to selectively include or exclude this data on their exams.

The current regulation and procedures involving purchases only invites more manipulation and poor HMDA data reporting. The end result is that ability of CRA exams to accurately measure whether banks are meeting credit needs will diminish over time.

Conclusion

We are aware that some parties will be urging you to provide the streamlined test for banks with up to $1 billion assets. NCRC reiterates that our comprehensive analysis reveals starkly the devastating impacts of providing the streamlined test for any additional institutions. Furthermore, some parties will be urging you to further dilute the CRA investment and community development lending tests. The existing regulations, if anything, do not focus enough on activities that substantially benefit low- and moderate-income communities. Any dilution will reduce the number of critically needed and safe and sound community development loans and investments for low- and moderate-income communities.

The proposed changes to CRA will directly undercut the Administration's emphasis on minority homeownership and immigrant access to jobs and banking services. The proposals regarding streamlined exams and the anti-predatory lending standard threaten CRA's statutory purpose of the safe and sound provision of credit and deposit services. The proposed data enhancements would become much more meaningful if the agencies update procedures regarding assessment areas, affiliates, and the treatment of high cost loans and purchases on CRA exams. CRA is simply a law that makes capitalism work for all Americans. CRA is too vital to be gutted by harmful regulatory changes and neglect.

Please feel free to contact myself or Josh Silver, Vice President of Research and Policy, on 202-628-8866 if you have any questions. Thank you for your attention to this critical matter.

Sincerely,

John Taylor
President and CEO

Cc:

Governor Edward M. Gramlich, Federal Reserve Board
President George W. Bush
Treasury Secretary John W. Snow

NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

Appendix: Tables Showing Impacts of Streamlining Proposal

NCRC Analysis
Table 1: Number and Assets of "Small" Lenders by State

	Number of Lenders ($250m-$500m)	Total Number of Lenders	Percent of Lenders	Assets ($000's) ($250m-$500m)	Total Assets ($000's)	Percent of Assets
United States	1,111	9,251	12.01%	$ 387,196,665	$ 8,955,659,215	4.32%
Idaho	7	18	38.89%	$ 2,533,662	$ 4,568,540	55.46%
Vermont	5	19	26.32%	$ 1,761,412	$ 7,338,177	24.00%
Maryland	27	124	21.77%	$ 9,647,197	$ 45,015,479	21.43%
Colorado	31	180	17.22%	$ 10,172,236	$ 48,947,200	20.78%
Arkansas	22	171	12.87%	$ 7,704,654	$ 37,380,102	20.61%
Montana	8	82	9.76%	$ 2,750,362	$ 14,900,690	18.46%
West Virginia	9	74	12.16%	$ 3,117,444	$ 18,518,759	16.83%
Missouri	39	376	10.37%	$ 12,919,400	$ 84,561,399	15.28%
New Mexico	8	60	13.33%	$ 2,910,631	$ 19,550,975	14.89%
Louisiana	22	171	12.87%	$ 7,618,347	$ 51,580,423	14.77%
Iowa	22	426	5.16%	$ 7,820,798	$ 55,727,527	14.03%
Kentucky	19	247	7.69%	$ 6,504,737	$ 50,018,071	13.00%
Maine	13	40	32.50%	$ 4,868,058	$ 39,235,614	12.41%
Wyoming	3	47	6.38%	$ 941,746	$ 7,590,646	12.41%
Kansas	18	379	4.75%	$ 6,209,123	$ 52,172,324	11.90%
Wisconsin	36	311	11.58%	$ 12,552,084	$ 106,776,671	11.76%
Florida	35	303	11.55%	$ 12,040,462	$ 108,052,343	11.14%
Mississippi	13	104	12.50%	$ 4,415,925	$ 39,675,187	11.13%
Massachusetts	60	211	28.44%	$ 21,480,603	$ 204,812,470	10.49%
Oregon	7	39	17.95%	$ 2,278,601	$ 22,393,760	10.18%
New Hampshire	9	32	28.13%	$ 2,912,926	$ 29,179,696	9.98%
South Carolina	12	98	12.24%	$ 3,841,860	$ 38,487,432	9.98%
Tennessee	34	208	16.35%	$ 11,833,085	$ 118,649,563	9.97%
Nebraska	11	273	4.03%	$ 4,266,126	$ 49,143,332	8.68%
Minnesota	27	487	5.54%	$ 9,235,985	$ 111,105,470	8.31%
Georgia	49	342	14.33%	$ 16,984,641	$ 212,823,548	7.98%
Virginia	42	146	28.77%	$ 13,737,936	$ 173,011,884	7.94%
Oklahoma	14	278	5.04%	$ 4,380,050	$ 55,786,758	7.85%
New Jersey	30	146	20.55%	$ 11,149,951	$ 149,078,857	7.48%
Texas	48	706	6.80%	$ 16,422,690	$ 221,065,554	7.43%
Pennsylvania	62	277	22.38%	$ 21,782,712	$ 295,517,727	7.37%
Connecticutt	10	66	15.15%	$ 3,649,241	$ 55,023,646	6.63%
Indiana	25	207	12.08%	$ 8,746,936	$ 132,321,470	6.61%
Illinois	91	779	11.68%	$ 32,196,613	$ 533,356,954	6.04%
Washington	13	100	13.00%	$ 4,600,632	$ 80,377,066	5.72%
North Dakota	3	105	2.86%	$ 1,090,982	$ 20,144,999	5.42%
Michigan	28	179	15.64%	$ 9,966,374	$ 191,797,205	5.20%
						National Average
Alaska	1	8	12.50%	$ 314,150	$ 7,544,834	4.16%
South Dakota	7	95	7.37%	$ 2,591,060	$ 72,459,650	3.58%
Arizona	4	50	8.00%	$ 1,646,104	$ 55,880,766	2.95%
Hawaii	2	9	22.22%	$ 871,600	$ 31,412,219	2.77%
Utah	9	62	14.52%	$ 3,498,980	$ 136,825,736	2.56%
Alabama	14	162	8.64%	$ 4,675,323	$ 211,837,870	2.21%
Nevada	3	37	8.11%	$ 1,076,117	$ 51,574,457	2.09%
Ohio	39	307	12.70%	$ 13,314,704	$ 639,632,014	2.08%
California	51	315	16.19%	$ 18,208,173	$ 939,874,533	1.94%
Delaware	7	34	20.59%	$ 2,398,384	$ 213,034,239	1.13%
New York	46	217	21.20%	$ 15,907,570	$ 1,724,848,047	0.92%
North Carolina	15	106	14.15%	$ 5,359,251	$ 1,095,901,497	0.49%
Rhode Island	1	15	6.67%	$ 289,027	$ 210,916,071	0.14%
American Samoa	0	1	0.00%	$ -	$ 83,268	0.00%
District of Columbia	0	5	0.00%	$ -	$ 805,296	0.00%
Federated States of Micronesia	0	1	0.00%	$ -	$ 86,117	0.00%
Guam	0	3	0.00%	$ -	$ 953,777	0.00%
Puerto Rico	0	11	0.00%	$ -	$ 76,174,617	0.00%
Virgin Islands	0	2	0.00%	$ -	$ 126,689	0.00%

Source: FDIC Statistics on Depository Institutions database

NCRC Analysis

Table 2: Number and Assets of "Small" Lenders in Rural Areas

	Number of Lenders ($250m-$500m)	Total Number of Lenders	Percent of Lenders	Assets ($000's) ($250m-$500m)	Total Assets ($000's)	Percent of Assets
United States	371	4,654	7.97%	$ 126,459,782	$ 672,611,716	18.80%
Vermont	5	16	31.25%	$ 1,761,412	$ 3,262,306	53.99%
Utah	2	12	16.67%	$ 821,962	$ 1,609,092	51.08%
Idaho	5	13	38.46%	$ 1,727,137	$ 3,450,581	50.05%
Massachusetts	7	17	41.18%	$ 2,422,129	$ 5,572,200	43.47%
Washington	9	29	31.03%	$ 3,183,814	$ 7,961,931	39.99%
Virginia	20	60	33.33%	$ 6,137,611	$ 15,789,878	38.87%
Alaska	1	4	25.00%	$ 314,150	$ 864,838	36.32%
Maryland	6	21	28.57%	$ 2,105,129	$ 6,138,358	34.29%
Maine	8	29	27.59%	$ 2,922,196	$ 9,165,670	31.88%
Louisiana	8	90	8.89%	$ 2,990,771	$ 10,376,033	28.82%
South Dakota	7	78	8.97%	$ 2,591,060	$ 9,006,364	28.77%
Ohio	20	131	15.27%	$ 6,953,693	$ 24,514,491	28.37%
South Carolina	7	50	14.00%	$ 2,225,969	$ 8,533,706	26.08%
Arkansas	12	124	9.68%	$ 4,319,163	$ 17,260,988	25.02%
Georgia	21	199	10.55%	$ 7,340,597	$ 29,941,508	24.52%
Florida	5	42	11.90%	$ 1,764,698	$ 7,345,595	24.02%
Tennessee	13	129	10.08%	$ 4,476,720	$ 19,642,975	22.79%
Nebraska	9	226	3.98%	$ 3,504,064	$ 16,003,739	21.90%
Montana	4	67	5.97%	$ 1,358,536	$ 6,989,091	19.44%
Michigan	8	78	10.26%	$ 2,501,011	$ 13,220,856	18.92%
						National Average
Pennsylvania	17	65	26.15%	$ 5,515,857	$ 30,059,343	18.35%
Kentucky	13	175	7.43%	$ 4,239,471	$ 23,244,284	18.24%
New Mexico	5	42	11.90%	$ 1,745,331	$ 9,700,592	17.99%
Illinois	16	350	4.57%	$ 5,740,872	$ 31,930,641	17.98%
California	3	13	23.08%	$ 1,006,290	$ 5,701,016	17.65%
Wisconsin	10	171	5.85%	$ 3,486,091	$ 19,802,105	17.60%
Oregon	4	15	26.67%	$ 1,273,619	$ 7,448,168	17.10%
West Virginia	3	53	5.66%	$ 1,053,245	$ 6,171,777	17.07%
New York	9	44	20.45%	$ 3,165,689	$ 19,159,089	16.52%
Indiana	10	99	10.10%	$ 3,347,527	$ 21,293,756	15.72%
Colorado	5	87	5.75%	$ 1,471,981	$ 9,513,453	15.47%
Alabama	6	102	5.88%	$ 2,033,922	$ 13,388,996	15.19%
Missouri	12	229	5.24%	$ 3,882,853	$ 25,627,925	15.15%
Mississippi	12	90	13.33%	$ 4,112,492	$ 27,793,513	14.80%
Kansas	9	290	3.10%	$ 3,058,222	$ 20,716,151	14.76%
Oklahoma	8	182	4.40%	$ 2,465,909	$ 17,322,782	14.24%
Minnesota	9	309	2.91%	$ 3,138,180	$ 22,690,785	13.83%
Texas	14	372	3.76%	$ 4,645,704	$ 35,130,212	13.22%
Iowa	11	334	3.29%	$ 3,648,792	$ 29,739,819	12.27%
North Dakota	2	84	2.38%	$ 714,623	$ 6,045,527	11.82%
New Hampshire	7	22	31.82%	$ 2,323,908	$ 20,251,295	11.48%
Wyoming	1	39	2.56%	$ 329,810	$ 4,598,976	7.17%
North Carolina	2	37	5.41%	$ 721,981	$ 10,904,282	6.62%
Connecticut	3	14	21.43%	$ 952,307	$ 15,335,427	6.21%
Delaware	3	5	60.00%	$ 963,284	$ 19,702,914	4.89%
Virgin Islands	0	2	0.00%	$ -	$ 126,689	0.00%
Rhode Island	0	3	0.00%	$ -	$ 1,102,713	0.00%
Puerto Rico	0	0	0.00%	$ -	$ -	0.00%
New Jersey	0	0	0.00%	$ -	$ -	0.00%
Nevada	0	4	0.00%	$ -	$ 267,501	0.00%
Hawaii	0	0	0.00%	$ -	$ -	0.00%
Guam	0	3	0.00%	$ -	$ 953,777	0.00%
Federated States of Micronesia	0	1	0.00%	$ -	$ 86,117	0.00%
Arizona	0	2	0.00%	$ -	$ 68,623	0.00%
American Samoa	0	1	0.00%	$ -	$ 83,268	0.00%
District of Columbia	0	0		$ -	$ -	

Source: FDIC Statistics on Depository Institutions database

NCRC Analysis
Table 3: Number and Assets of "Small" Lenders in Urban Areas

	Number of Lenders ($250m-$500m)	Total Number of Lenders	Percent of Lenders	Assets ($000's) ($250m-$500m)	Total Assets ($000's)	Percent of Assets
United States	740	4,597	16.10%	$ 260,736,883	$ 8,283,047,499	3.15%
Idaho	2	5	40.00%	$ 806,525	$ 1,117,959	72.14%
Colorado	26	93	27.96%	$ 8,700,255	$ 39,433,747	22.06%
Wyoming	2	8	25.00%	$ 611,936	$ 2,991,670	20.45%
Maryland	21	103	20.39%	$ 7,542,068	$ 38,877,121	19.40%
Montana	4	15	26.67%	$ 1,391,826	$ 7,911,599	17.59%
Arkansas	10	47	21.28%	$ 3,385,491	$ 20,119,114	16.83%
West Virginia	6	21	28.57%	$ 2,064,199	$ 12,346,982	16.72%
Iowa	11	92	11.96%	$ 4,172,006	$ 25,987,708	16.05%
Missouri	27	147	18.37%	$ 9,036,547	$ 58,933,474	15.33%
New Mexico	3	18	16.67%	$ 1,165,300	$ 9,850,383	11.83%
Louisiana	14	81	17.28%	$ 4,627,576	$ 41,204,390	11.23%
Wisconsin	26	140	18.57%	$ 9,065,993	$ 86,974,566	10.42%
Florida	30	261	11.49%	$ 10,275,764	$ 100,706,748	10.20%
Kansas	9	89	10.11%	$ 3,150,901	$ 31,456,173	10.02%
Massachusetts	53	194	27.32%	$ 19,058,474	$ 199,240,270	9.57%
Kentucky	6	72	8.33%	$ 2,265,266	$ 26,773,787	8.46%
New Jersey	30	146	20.55%	$ 11,149,951	$ 149,078,857	7.48%
Tennessee	21	79	26.58%	$ 7,356,365	$ 99,006,588	7.43%
Minnesota	18	178	10.11%	$ 6,097,805	$ 88,414,685	6.90%
Connecticut	7	52	13.46%	$ 2,696,934	$ 39,688,219	6.80%
Oregon	3	24	12.50%	$ 1,004,982	$ 14,945,592	6.72%
New Hampshire	2	10	20.00%	$ 589,018	$ 8,928,401	6.60%
Maine	5	11	45.45%	$ 1,945,862	$ 30,069,944	6.47%
Texas	34	334	10.18%	$ 11,776,986	$ 185,935,342	6.33%
Pennsylvania	45	212	21.23%	$ 16,266,855	$ 265,458,384	6.13%
South Carolina	5	48	10.42%	$ 1,615,891	$ 29,953,726	5.39%
Illinois	75	429	17.48%	$ 26,455,741	$ 501,426,313	5.28%
Georgia	28	143	19.58%	$ 9,644,044	$ 182,882,040	5.27%
Oklahoma	6	96	6.25%	$ 1,914,141	$ 38,463,976	4.98%
Indiana	15	108	13.89%	$ 5,399,409	$ 111,027,714	4.86%
Virginia	22	86	25.58%	$ 7,600,325	$ 157,222,006	4.83%
Michigan	20	101	19.80%	$ 7,465,363	$ 178,576,349	4.18%
						National Average
Arizona	4	48	8.33%	$ 1,646,104	$ 55,812,143	2.95%
Hawaii	2	9	22.22%	$ 871,600	$ 31,412,219	2.77%
North Dakota	1	21	4.76%	$ 376,359	$ 14,099,472	2.67%
Mississippi	1	14	7.14%	$ 303,433	$ 11,881,674	2.55%
Nebraska	2	47	4.26%	$ 762,062	$ 33,139,593	2.30%
Nevada	3	33	9.09%	$ 1,076,117	$ 51,306,956	2.10%
Utah	7	50	14.00%	$ 2,677,018	$ 135,216,644	1.98%
Washington	4	71	5.63%	$ 1,416,818	$ 72,415,135	1.96%
California	48	302	15.89%	$ 17,201,883	$ 934,173,517	1.84%
Alabama	8	60	13.33%	$ 2,641,401	$ 198,448,874	1.33%
Ohio	19	176	10.80%	$ 6,361,011	$ 615,117,523	1.03%
New York	37	173	21.39%	$ 12,741,881	$ 1,705,688,958	0.75%
Delaware	4	29	13.79%	$ 1,435,100	$ 193,331,325	0.74%
North Carolina	13	69	18.84%	$ 4,637,270	$ 1,084,997,215	0.43%
Rhode Island	1	12	8.33%	$ 289,027	$ 209,813,358	0.14%
Alaska	0	4	0.00%	$ -	$ 6,679,996	0.00%
American Samoa	0	0	0.00%	$ -	$ -	0.00%
District of Columbia	0	5	0.00%	$ -	$ 805,296	0.00%
Federated States of Micronesia	0	0	0.00%	$ -	$ -	0.00%
Guam	0	0	0.00%	$ -	$ -	0.00%
Puerto Rico	0	11	0.00%	$ -	$ 76,174,617	0.00%
South Dakota	0	17	0.00%	$ -	$ 63,453,286	0.00%
Vermont	0	3	0.00%	$ -	$ 4,075,871	0.00%
Virgin Islands	0	0	0.00%	$ -	$ -	0.00%

Source: FDIC Statistics on Depository Institutions database

Table 4: NCRC Sample of CRA Exams

Lender	City	State	Agency	CRA Exam Date
Farmers Bank & Trust Company	Magnolia	AR	FDIC	26-Nov-01
First Financial Bank	El Dorado	AR	FED	29-Oct-01
Pulaski Bank and Trust Company	Little Rock	AR	FED	11-Jun-01
The Citizens Bank	Batesville	AR	FED	26-Nov-01
The First National Bank of Springdale	Springdale	AR	OCC	07-Apr-03
The Malvern National Bank	Malvern	AR	OCC	16-May-02
FirstBank North	Westminster	CO	FDIC	18-Dec-01
FirstBank of Arapahoe County	Littleton	CO	FDIC	12-Apr-99
FirstBank of Aurora	Aurora	CO	FDIC	29-Mar-99
FirstBank of Avon	Avon	CO	FDIC	01-Jan-04
FirstBank of Boulder	Boulder	CO	FDIC	07-Nov-02
FirstBank of Cherry Creek	Denver	CO	FDIC	18-Dec-01
FirstBank of Douglas County	Castle Rock	CO	FDIC	05-Apr-99
FirstBank of Lakewood	Lakewood	CO	FDIC	24-Oct-01
FirstBank of Littleton	Littleton	CO	FDIC	19-Apr-99
FirstBank of Longmont	Longmont	CO	FDIC	02-Dec-02
FirstBank of South Jeffco	Littleton	CO	FDIC	06-Nov-02
FirstBank of Tech Center	Greenwood Villag	CO	FDIC	14-Nov-01
The Pueblo Bank and Trust Company	Pueblo	CO	FDIC	10-Feb-03
UMB Bank Colorado, National Association	Denver	CO	OCC	13-Nov-00
Union Colony Bank	Greeley	CO	FED	22-Apr-02
Arundel Federal Savings Bank	Baltimore	MD	OTS	01-Aug-02
Atlantic Bank	Ocean City	MD	FED	21-Jun-99
Bradford Bank	Baltimore	MD	OTS	01-Aug-03
Calvert Bank and Trust Company	Prince Frederick	MD	FDIC	01-Nov-99
Calvin B. Taylor Banking Company	Berlin	MD	FDIC	11-Jun-01
Carrollton Bank	Baltimore	MD	FDIC	01-Nov-03
County Banking and Trust Company	Elkton	MD	FDIC	25-Feb-02
Fredericktown Bank & Trust Company	Frederick	MD	FDIC	01-Jan-03
Hagerstown Trust Company	Hagerstown	MD	FDIC	28-Sep-01
Industrial Bank, National Association	Oxon Hill	MD	OCC	07-Oct-02
Key Bank and Trust	Randallstown	MD	FDIC	30-Nov-01
Leeds Federal Savings Bank	Baltimore	MD	OTS	16-Jun-03
The Annapolis Banking and Trust Company	Annapolis	MD	FED	03-Mar-03
The First National Bank of St. Mary's at Leonardtown	Leonardtown	MD	OCC	08-Apr-02
The Forest Hill State Bank	Bel Air	MD	FED	07-Apr-03
The Talbot Bank of Easton, Maryland	Easton	MD	FDIC	20-Feb-02
The Washington Savings Bank, FSB	Bowie	MD	OTS	08-Sep-03
Northfield Savings Bank	Northfield	VT	FDIC	25-Feb-03
Passumpsic Savings Bank	St. Johnsbury	VT	FDIC	27-Aug-01

Note: These are the banks and thrifts in the NCRC sample of CRA exams
More information on lending and investment levels of these banks
is available from NCRC at 202-628-8866.

NCRC Analysis
Table 5: Branches and Deposits of "Small" Lenders by State

	Number of Branches ($250m-$500m)	Total Number of Branches	Percent of Branches	Deposits ($000's) ($250m-$500m)	Total Deposits ($000's)	Percent of Deposits
United States	7,985	87,357	9.14%	$ 302,317,254	$ 5,142,262,916	5.88%
Maine	146	504	28.97%	$ 3,494,555	$ 16,078,660	21.73%
South Dakota	88	444	19.82%	$ 2,306,156	$ 15,715,744	14.67%
Idaho	82	465	17.63%	$ 2,429,654	$ 12,570,977	19.33%
Vermont	46	263	17.49%	$ 1,370,488	$ 8,796,514	15.58%
New Hampshire	67	415	16.14%	$ 2,399,499	$ 29,649,882	8.09%
New Mexico	78	485	16.08%	$ 2,347,055	$ 16,743,685	14.02%
Louisiana	238	1,507	15.79%	$ 6,075,487	$ 52,625,735	11.54%
Montana	56	360	15.56%	$ 1,872,393	$ 11,293,009	16.58%
Massachusetts	315	2,073	15.20%	$ 16,038,575	$ 172,377,658	9.30%
Delaware	37	246	15.04%	$ 1,635,803	$ 96,807,745	1.69%
Missouri	297	2,146	13.84%	$ 11,137,381	$ 91,545,619	12.17%
Arkansas	178	1,297	13.72%	$ 6,401,656	$ 37,699,983	16.98%
Virginia	332	2,420	13.72%	$ 10,666,029	$ 129,718,555	8.22%
Colorado	179	1,315	13.61%	$ 7,904,402	$ 61,138,571	12.93%
Tennessee	272	2,024	13.44%	$ 9,800,455	$ 86,691,236	11.31%
Georgia	283	2,458	11.51%	$ 12,999,928	$ 124,878,271	10.41%
Iowa	174	1,516	11.48%	$ 5,829,036	$ 52,086,782	11.19%
Wisconsin	248	2,201	11.27%	$ 9,503,813	$ 95,909,221	9.91%
Kansas	158	1,459	10.83%	$ 4,711,683	$ 44,900,528	10.49%
Pennsylvania	495	4,580	10.81%	$ 16,970,299	$ 208,036,010	8.16%
Nebraska	103	970	10.62%	$ 3,053,728	$ 31,547,948	9.68%
Illinois	438	4,152	10.55%	$ 25,584,328	$ 281,031,114	9.10%
Kentucky	179	1,702	10.52%	$ 5,065,979	$ 56,075,725	9.03%
Maryland	177	1,684	10.51%	$ 7,033,251	$ 77,851,107	9.03%
Wyoming	21	204	10.29%	$ 809,458	$ 7,793,056	10.39%
Mississippi	110	1,108	9.93%	$ 3,487,058	$ 32,898,642	10.60%
Indiana	219	2,209	9.91%	$ 7,571,849	$ 80,341,611	9.42%
Alabama	140	1,430	9.79%	$ 4,076,635	$ 60,278,951	6.76%
Hawaii	29	297	9.76%	$ 808,982	$ 21,200,353	3.82%
Minnesota	158	1,676	9.43%	$ 6,995,572	$ 97,383,123	7.18%
Washington	165	1,776	9.29%	$ 4,572,152	$ 81,431,295	5.61%
			National Average			
Oklahoma	105	1,220	8.61%	$ 3,598,940	$ 44,323,803	8.12%
Michigan	233	2,961	7.87%	$ 7,623,333	$ 137,103,811	5.56%
Utah	45	573	7.85%	$ 1,918,517	$ 84,962,630	2.26%
Oregon	78	995	7.84%	$ 2,402,585	$ 35,845,728	6.70%
North Dakota	31	411	7.54%	$ 1,076,816	$ 10,986,297	9.80%
Ohio	290	3,890	7.46%	$ 9,845,362	$ 210,982,111	4.67%
Texas	371	5,130	7.23%	$ 13,571,953	$ 297,299,553	4.57%
West Virginia	46	641	7.18%	$ 2,223,868	$ 22,344,937	9.95%
South Carolina	83	1,252	6.63%	$ 2,820,881	$ 44,879,999	6.29%
Alaska	8	129	6.20%	$ 268,417	$ 5,710,390	4.70%
New Jersey	185	3,087	5.99%	$ 8,487,948	$ 196,287,253	4.32%
Connecticut	63	1,170	5.38%	$ 2,803,104	$ 69,611,515	4.03%
Florida	252	4,717	5.34%	$ 9,528,403	$ 268,162,940	3.55%
New York	244	4,609	5.29%	$ 11,398,817	$ 580,737,668	1.96%
North Carolina	116	2,450	4.73%	$ 2,920,792	$ 146,964,140	1.99%
District of Columbia	9	191	4.71%	$ 283,309	$ 31,168,970	0.91%
California	271	6,246	4.34%	$ 14,105,492	$ 612,037,647	2.30%
Nevada	17	444	3.83%	$ 1,186,245	$ 31,752,283	3.74%
Arizona	25	988	2.53%	$ 1,043,808	$ 55,965,630	1.87%
Rhode Island	5	228	2.19%	$ 255,325	$ 17,812,856	1.43%
American Samoa	0	5	0.00%	$ -	$ 134,826	0.00%
Guam	0	35	0.00%	$ -	$ 1,748,455	0.00%
Marshall Islands	0	3	0.00%	$ -	$ 30,150	0.00%
Micronesia	0	6	0.00%	$ -	$ 119,213	0.00%
N.Mariana	0	12	0.00%	$ -	$ 504,226	0.00%
Palau	0	3	0.00%	$ -	$ 82,672	0.00%
Puerto Rico	0	552	0.00%	$ -	$ 40,263,215	0.00%
Virgin Islands	0	23	0.00%	$ -	$ 1,342,688	0.00%

Source: FDIC Summary of Deposit database

NCRC Analysis
Table 6: Branches and Deposits of "Small" Lenders in Rural Areas

	Number of Branches ($250m-$500m)	Total Number of Branches	Percent of Branches	Deposits ($000's) ($250m-$500m)	Total Deposits ($000's)	Percent of Deposits
United States	3,047	24,135	12.62%	$ 97,150,679	$ 756,464,322	12.84%
Maine	107	323	33.13%	$ 2,568,808	$ 8,795,658	29.21%
Delaware	14	54	25.93%	$ 499,575	$ 15,550,206	3.21%
South Dakota	77	314	24.52%	$ 2,092,043	$ 8,248,415	25.36%
Virginia	169	697	24.25%	$ 4,965,768	$ 20,243,650	24.53%
New Hampshire	51	216	23.61%	$ 1,900,378	$ 18,565,762	10.24%
Vermont	45	204	22.06%	$ 1,368,219	$ 6,036,132	22.67%
New Mexico	48	237	20.25%	$ 1,331,137	$ 6,452,063	20.63%
Louisiana	88	442	19.91%	$ 1,812,926	$ 10,555,336	17.18%
Pennsylvania	147	790	18.61%	$ 4,433,371	$ 25,041,185	17.70%
Washington	69	383	18.02%	$ 1,886,546	$ 11,188,919	16.86%
Ohio	145	867	16.72%	$ 4,417,365	$ 26,588,342	16.61%
Idaho	48	291	16.49%	$ 1,576,218	$ 7,361,852	21.41%
Maryland	30	196	15.31%	$ 1,205,234	$ 5,617,122	21.46%
Georgia	129	860	15.00%	$ 5,668,759	$ 31,862,267	17.79%
Kentucky	131	899	14.57%	$ 3,833,592	$ 25,439,730	15.07%
Montana	36	261	13.79%	$ 1,165,882	$ 7,531,591	15.48%
Tennessee	104	759	13.70%	$ 3,832,278	$ 22,222,472	17.25%
Oregon	43	330	13.03%	$ 1,286,446	$ 9,505,143	13.53%
Alabama	62	482	12.86%	$ 1,691,475	$ 15,394,838	10.99%
Michigan	96	759	12.65%	$ 2,035,623	$ 17,764,968	11.46%
			National Average			
Utah	20	161	12.42%	$ 434,237	$ 4,450,920	9.76%
Indiana	92	742	12.40%	$ 2,673,621	$ 22,484,011	11.89%
Missouri	117	955	12.25%	$ 3,992,588	$ 25,458,537	15.68%
Nebraska	77	630	12.22%	$ 2,449,610	$ 16,114,198	15.20%
Arkansas	84	697	12.05%	$ 3,377,640	$ 18,638,806	18.12%
Mississippi	86	733	11.73%	$ 2,804,237	$ 20,298,140	13.82%
Oklahoma	67	577	11.61%	$ 2,006,298	$ 16,712,680	12.00%
Florida	45	392	11.48%	$ 1,384,844	$ 13,250,555	10.45%
New York	60	523	11.47%	$ 2,001,015	$ 16,768,982	11.93%
Iowa	113	1044	10.82%	$ 3,717,418	$ 27,964,491	13.29%
Connecticut	14	131	10.69%	$ 643,672	$ 6,251,445	10.30%
Massachusetts	23	220	10.45%	$ 1,297,507	$ 9,473,636	13.70%
Kansas	81	820	9.88%	$ 2,471,142	$ 19,315,723	12.79%
South Carolina	36	370	9.73%	$ 1,294,554	$ 11,302,041	11.45%
Colorado	38	405	9.38%	$ 1,164,237	$ 12,181,843	9.56%
Illinois	96	1061	9.05%	$ 3,728,986	$ 31,138,138	11.98%
Texas	102	1144	8.92%	$ 3,858,333	$ 36,225,677	10.65%
Alaska	8	91	8.79%	$ 268,417	$ 3,002,123	8.94%
North Dakota	24	286	8.39%	$ 795,825	$ 6,466,932	12.31%
Hawaii	8	99	8.08%	$ 121,767	$ 4,121,442	2.95%
California	22	274	8.03%	$ 569,607	$ 11,649,279	4.89%
Wisconsin	71	887	8.00%	$ 2,641,084	$ 24,489,860	10.78%
Minnesota	52	780	6.67%	$ 1,994,424	$ 38,893,141	5.13%
Wyoming	10	162	6.17%	$ 357,423	$ 5,662,902	6.31%
North Carolina	43	841	5.11%	$ 777,713	$ 27,465,038	2.83%
West Virginia	19	381	4.99%	$ 752,837	$ 12,225,816	6.16%
American Samoa	0	5	0.00%	$ -	$ 134,826	0.00%
Arizona	0	127	0.00%	$ -	$ 4,957,093	0.00%
District of Columbia	0	0	0.00%	$ -	$ -	0.00%
Guam	0	35	0.00%	$ -	$ 1,748,455	0.00%
Marshall Islands	0	0	0.00%	$ -	$ -	0.00%
Micronesia	0	6	0.00%	$ -	$ 119,213	0.00%
N.Mariana	0	12	0.00%	$ -	$ 504,226	0.00%
Nevada	0	74	0.00%	$ -	$ 2,563,529	0.00%
New Jersey	0	0	0.00%	$ -	$ -	0.00%
Palau	0	3	0.00%	$ -	$ 82,672	0.00%
Puerto Rico	0	55	0.00%	$ -	$ 1,458,517	0.00%
Rhode Island	0	25	0.00%	$ -	$ 1,581,096	0.00%
Virgin Islands	0	23	0.00%	$ -	$ 1,342,688	0.00%

Source: FDIC Summary of Deposit database

NCRC Analysis
Table 7: Branches and Deposits of "Small" Lenders in Urban Areas

	Number of Branches ($250m-$500m)	Total Number of Branches	Percent of Branches	Deposits ($000's) ($250m-$500m)	Total Deposits ($000's)	Percent of Deposits
United States	4,938	63,222	7.81%	$ 205,166,575	$ 4,385,798,594	4.68%
Wyoming	11	42	26.19%	$ 452,035	$ 2,130,154	21.22%
Maine	39	181	21.55%	$ 925,747	$ 7,283,002	12.71%
Montana	20	99	20.20%	$ 706,511	$ 3,761,418	18.78%
Idaho	34	174	19.54%	$ 853,436	$ 5,209,125	16.38%
Massachusetts	292	1853	15.76%	$ 14,741,068	$ 162,904,022	9.05%
Arkansas	94	600	15.67%	$ 3,024,016	$ 19,061,177	15.86%
Colorado	141	910	15.49%	$ 6,740,165	$ 48,956,728	13.77%
Missouri	180	1191	15.11%	$ 7,144,793	$ 66,087,082	10.81%
Louisiana	150	1065	14.08%	$ 4,262,561	$ 42,070,399	10.13%
Wisconsin	177	1314	13.47%	$ 6,862,729	$ 71,419,361	9.61%
Tennessee	168	1265	13.28%	$ 5,968,177	$ 64,468,764	9.26%
Iowa	61	472	12.92%	$ 2,111,618	$ 24,122,291	8.75%
New Mexico	30	248	12.10%	$ 1,015,918	$ 10,291,622	9.87%
Kansas	77	639	12.05%	$ 2,240,541	$ 25,584,805	8.76%
Delaware	23	192	11.98%	$ 1,136,228	$ 81,257,539	1.40%
Minnesota	106	896	11.83%	$ 5,001,148	$ 58,489,982	8.55%
Illinois	342	3091	11.06%	$ 21,855,342	$ 249,892,976	8.75%
Hawaii	21	198	10.61%	$ 687,215	$ 17,078,911	4.02%
West Virginia	27	260	10.38%	$ 1,471,031	$ 10,119,121	14.54%
Maryland	147	1488	9.88%	$ 5,828,017	$ 72,233,985	8.07%
Georgia	154	1598	9.64%	$ 7,331,169	$ 93,016,004	7.88%
Virginia	163	1723	9.46%	$ 5,700,261	$ 109,474,905	5.21%
Pennsylvania	348	3790	9.18%	$ 12,536,928	$ 182,994,825	6.85%
Indiana	127	1467	8.66%	$ 4,898,228	$ 57,857,600	8.47%
South Dakota	11	130	8.46%	$ 214,113	$ 7,467,329	2.87%
Alabama	78	948	8.23%	$ 2,385,160	$ 44,884,113	5.31%
New Hampshire	16	199	8.04%	$ 499,121	$ 11,084,120	4.50%
			National Average			
Nebraska	26	340	7.65%	$ 604,118	$ 15,433,750	3.91%
Washington	96	1393	6.89%	$ 2,685,606	$ 70,242,376	3.82%
Texas	269	3986	6.75%	$ 9,713,620	$ 261,073,876	3.72%
Mississippi	24	375	6.40%	$ 682,821	$ 12,600,502	5.42%
Michigan	137	2202	6.22%	$ 5,587,710	$ 119,338,843	4.68%
Utah	25	412	6.07%	$ 1,484,280	$ 80,511,710	1.84%
New Jersey	185	3087	5.99%	$ 8,487,948	$ 196,287,253	4.32%
Kentucky	48	803	5.98%	$ 1,232,387	$ 30,635,995	4.02%
Oklahoma	38	643	5.91%	$ 1,592,642	$ 27,611,123	5.77%
North Dakota	7	125	5.60%	$ 280,991	$ 4,519,365	6.22%
South Carolina	47	882	5.33%	$ 1,526,327	$ 33,577,958	4.55%
Oregon	35	665	5.26%	$ 1,116,139	$ 26,340,585	4.24%
Ohio	145	3023	4.80%	$ 5,427,997	$ 184,393,769	2.94%
Florida	207	4325	4.79%	$ 8,143,559	$ 254,912,385	3.19%
Connecticut	49	1039	4.72%	$ 2,159,432	$ 63,360,070	3.41%
District of Columbia	9	191	4.71%	$ 283,309	$ 31,168,970	0.91%
Nevada	17	370	4.59%	$ 1,186,245	$ 29,188,754	4.06%
North Carolina	73	1609	4.54%	$ 2,143,079	$ 119,499,102	1.79%
New York	184	4086	4.50%	$ 9,397,802	$ 563,968,686	1.67%
California	249	5972	4.17%	$ 13,535,885	$ 600,388,368	2.25%
Arizona	25	861	2.90%	$ 1,043,808	$ 51,008,537	2.05%
Rhode Island	5	203	2.46%	$ 255,325	$ 16,231,760	1.57%
Vermont	1	59	1.69%	$ 2,269	$ 2,760,382	0.08%
Alaska	0	38	0.00%	$ -	$ 2,708,267	0.00%
American Samoa	0	0	0.00%	$ -	$ -	0.00%
Guam	0	0	0.00%	$ -	$ -	0.00%
Marshall Islands	0	3	0.00%	$ -	$ 30,150	0.00%
Micronesia	0	0	0.00%	$ -	$ -	0.00%
N.Mariana	0	0	0.00%	$ -	$ -	0.00%
Palau	0	0	0.00%	$ -	$ -	0.00%
Puerto Rico	0	497	0.00%	$ -	$ 38,804,698	0.00%
Virgin Islands	0	0	0.00%	$ -	$ -	0.00%

Source: FDIC Summary of Deposit database