



April 1, 2004

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

RE: Comments Regarding Revisions to the Regulations Implementing the CRA

Dear Officials of Federal Bank and Thrift Agencies:

Los Angeles Neighborhood ~~Housing~~ Services urges you to withdraw ~~the~~ proposed changes ~~to the Community Reinvestment Act (CRA) regulations.~~ ~~CRA has been instrumental in increasing access to homeownership, developing multi-family housing, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities. Low income and people of color communities have utilized CRA to abolish redlining and discrimination in their communities. CRA obligates banks and thrifts to serve all communities in which they are chartered and from which they take deposits.~~

The proposed changes include three major elements: 1) increase ~~the~~ asset threshold ~~from \$250 million to \$500 million for banks~~ to be eligible for a small bank exam; 2) establish a weak predatory lending compliance standard under CRA; ~~and~~ 3) expand data collection and reporting for small business lending ~~and~~ home lending. The beneficial impacts of the third proposal are overwhelmed by the damage imposed by the first two proposals.

Additionally, Los Angeles Neighborhood Services does not agree with the federal banking agencies ~~rejection of a proposal which would have tied a bank's CRA obligations to its market share in a given area rather than just the location of its branches.~~ In California, Countrywide Home Loans and JP ~~Morgan~~ Chase are ~~two~~ such entities that despite the high number of loans made in the state have no ~~CRA~~ obligations. The agencies also failed communities by continuing to allow banks to elect to include affiliates on CRA exams at their option. ~~Financial institutions have the ability to manipulate their CRA exams by excluding affiliates not serving low- and moderate-income borrowers and excluding affiliates engaged in predatory lending. The game playing with affiliates will end only if the federal agencies require that all affiliates be included on exams.~~

Small Bank Exams

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 proposed changes will also no longer reference affiliations with **holding** companies. It is expected that these **proposed** changes would create streamlined and cursory exams for 1,111 **banks** that account for more than \$387 billion in assets.

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, New Market Tax Credits and equity investments in Community Development Financial Institutions (CDFIs). Such investments have promoted economic development **and** multi-family affordable housing development. **Banks** in this new category would no longer be held accountable for **the** provision of bank branches **and** checking/deposit accounts. Many **banks** with assets between **\$250 to \$500 million** are located in rural areas. **Many** rural **banks** as well as a large subset of depository institutions will no longer be required to have a continuing **and** affirmative **obligation** to serve the investment and deposit needs of all the communities in which they **are** chartered and from which they **take** deposits.

Predatory Lending

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 creates a de-facto definition of predatory lending without taking **into** account other predatory tactics. These tactics include: 1. Targeting of minorities, low-income, and the elderly for sub-prime **lending** 2. **Originating** sub-prime **loans** to **borrowers** that could **qualify** for prime loans; 3. Prepayment penalties; 4. Encouraging borrowers to refinance unsecured debt **as a means** of increasing the loan size **and** related point, fees, and commissions; 5. Selling of single credit insurance products **as** part of the home loan; 6. Mandatory arbitration provisions; 7. Excessive points and fees; 8. Yield spread premium payments or other compensations that rewards brokers for steering borrowers to higher cost products and larger loans; and 9. Purchasing **and** investing in predatory loans as part **of a** mortgage backed security.

Any standard that does not address the aforementioned nine tactics will allow CRA **exams** to be used to cover up predatory lending practices. Rigorous fair lending audits and severe penalties on CRA exams for abusive lending are necessary in order to ensure that low income and people of color borrowers are protected.

Enhanced Data Disclosure

The federal agencies **propose for** banks to publicly report **the** specific census tracts of small businesses and **small** farms 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 and communities. **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 are requiring that **the information** regarding **small** business and small farm lending be contained in the Disclosure Statement but would not necessarily **use the data** to lower **ratings** on CRA **wains**. Also **data** reporting on loan purchases, **originations and** high cost **loans** will not impact a CRA rating.

Conclusion

The proposed changes 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. Full compliance with CRA regulations needs **to occur** where **lending and profit making** activities **take** place in substantial proportion. 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 gives ordinary the citizens the opportunity to have a voice regarding a bank's lending, investment **and** service components. CRA is too vital to be **gutted by harmful** regulatory changes and neglect. Thank **you** for your attention to this critical matter.

Sincerely,



Lori R. Gay

President

Los Angeles Neighborhood Housing Services

Cc: Rhea L. Serna

California Reinvestment Committee



April 1, 2004

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

Dear Officials of Federal Bank and Thrift Agencies:

As a member of the National **Community** Reinvestment Coalition, Los Angeles Neighborhood Housing Services urges you to **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** halt the **progress made** in community reinvestment.

The proposed CRA changes will thwart the 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** 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. 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 proposed changes would reduce the rigor of CRA **exams** for 1,111 banks that account for more than \$387 billion in assets.

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 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 investment **and service** test for a large subset of depository institutions.

Predatory Lending Standard. 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.

CRA exams will allow abusive lending if they contain the proposed anti-predatory standard that does not address the problems **of** the packing of 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. 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.

Enhanced data disclosure. 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.

Missed Opportunity to Update Exam Procedures: The agencies also failed to close gaping loopholes in the CRA regulation. **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 game playing with affiliates will end only if the federal agencies require that all **affiliates** be included on exams. Lastly, 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 will not be scrutinized by **CRA exams**.

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. Thank you for **your attention** to this critical matter,

Sincerely,



Lori R. Gay
President

Los Angeles Neighborhood Housing Services

cc: President, George W. Bush
Department of Treasury - Secretary, John, Snow
National Community Reinvestment Coalition