



United Neighborhood Housing Corporation

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April 5, 2004

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

Dear Officials of Federal **Bank and Thrift** Agencies:

As a member of the National Community Reinvestment Coalition, United Neighborhood **Housing Corporation** **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 exam 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 **servicing** 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,



Bernard McGurl

Board President

United Neighborhood Housing Corporation

Scranton, Pennsylvania

Cc: **National Community**, Reinvestment Coalition

President **George W.** Bush

Treasury Secretary John **W.** Snow