



PPEP MICROBUSINESS & HOUSING DEVELOPMENT CORPORATION
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April 6 2004

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

Fax: 202.45 2.3819

Dear Ms. Johnson:

As a member of the **National Community Reinvestment Coalition**, PPEP **Microbusiness** and Housing Development Corporation, a US **Treasury** certified community development **financial** institution operating in rural **Arizona** 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 HHDA **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,



CC:

National Community Reinvestment Coalition
President George W. Bush
Treasury Secretary John W. Snow

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