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Docket No. 04-06
Communications Division
Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
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Washington, DC 20219
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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
FAX 202-452-3819

Robert E. Feldman
Executive Secretary
Attention: **Comments**
Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429
FAX 202-898-3838

Regulation Comments, Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street: NW
Washington, DC 20552
FAX 202-906-6518

Dear Officials of Federal Bank and Thrift Agencies;

I am writing as a concerned citizen to urge 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.

As the financial markets undergo dramatic changes **driven in part** by consolidation and the development and delivery of new **products**, I realize that regulators also must make adjustments. I am **also** cognizant of the **difficulties** regulators face in **trying** to balance attempts **to** improve their

effectiveness and to reduce unwarranted burdens on themselves. However, the proposed **rule** changes to CRA must **be** assessed by the impact they are likely to have on the people the CRA was intended to protect; namely communities comprised of low- and moderate-income households and other disadvantaged groups.

The proposed CRA changes will ~~that~~ 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.

I am deeply concerned ~~wirh the~~ proposed changes that would provide streamlined and *cursory* exams for banks **with** assets between \$250 million **and** \$500 million and that would establish a weak predatory lending compliance standard under CRA. 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.

CRA 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 Screen

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 forestall CRA's statutory requirement **that banks** serve low- **and** moderate-income communities consistent **with safety** and soundness.

Updating 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. Further, 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.

CRA examiners should consider the widest possible geographical **area** and most inclusive coverage possible. Technological changes **and** consolidation **within** the financial industry have allowed financial institutions to compete effectively in new markets **across** the entire country, and since **many** predatory loans **are** made by some non-depository affiliates of large financial institutions, it **is** reasonable **to** expect CRA examiners to consider the lending activities of **all** of an institution's affiliates in **all** of the geographical **areas** in **which** these affiliates operate.

As the agencies Write: "...predatory and abusive lending practices **are** ... inconsistent **with** the purposes of the **CRA**. "We agree wholeheartedly **with** this perspective. To eliminate predatory lending practices from American credit markets, greater transparency of all participants in all credit markets needs **is** required. **This goal** can be achieved **by** requiring all the lenders (**the** principle institution **as** well as all of its affiliates), **who fall under** the CRA regulations, to be included in the CRA exam. To **allow** the institution **being** examined to specify **their** assessment **area** **and** to identify the affiliates they want to include in the examination seems to **us** to create **an** opportunity **for** the institution to bias the results. **This should** not be permitted.

Summary

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. It is vital that that the federal banking agencies ensure that America's communities, particularly those most at-risk, **have** access to fair and reasonable credit. **I strongly urge you to withdraw the proposed changes to the CRA regulations.** Thank you for your attention to this critical matter.

Sincerely,



John Kleiderer

cc:

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