

**From:** LSuzio@aol.com on 02/28/2004 06:50:17 PM  
**Subject:** Regulation BB - Community Reinvestment Act

Robert E. Feldman, Executive Secretary  
Attention: Comments, Federal Deposit Insurance Corporation  
Re: NPR regarding the Community Reinvestment Act Regulations  
February 28, 2004  
Dear Sirs,

GeoDataVision is a consulting firm, that among various services, provides consulting advice and analysis to community banks to help them analyze and meet their performance responsibilities under the CRA. We utilize advanced Geographic Information Systems technology to assist us in this task. We also have assisted community and consumer advocacy groups in the evaluation of market data reported under CRA and HMDA. Accordingly, we have a perspective from experience serving "both sides of the street" in the debate over CRA and its modification. We offer our comments on the proposed changes as follows:

Revisions to the definition of "small institution" within the Community Reinvestment Act

The proposed modification of asset size to increase to \$500 million is largely based on the intention to "reduce unwarranted burden". We believe that the only relief provided by the proposed change would be the alleviation of the investment and service test requirements as applied to institutions that would fall into the \$250 million to \$500 million range. There would be no benefit or relief with respect to the so-called "Lending Test" which is the primary test upon which all institutions' CRA performance is evaluated by regulators.

Even "small institutions" are expected to understand and provide for the need for credit services within their assessment areas and to prove they are meeting that need. This means that any institution is expected to maintain a database by which it can monitor its performance, regardless of whether the institution is required to report such data. The primary burden of reporting and non-reporting institutions is the creation and maintenance of such databases, without which it is impossible to assess performance. Small institutions are expected to meet the Lending Test standards, although they are not required to report their data to regulators. Ironically, the reporting of data is only the last and least costly step in the monitoring process. Moreover, relief from this annual responsibility may actually be more costly in the long run because it encourages the small institutions to defer the maintenance of the necessary databases until their next CRA exam. We believe no institution's best interests are served by relief from reporting information critical to its performance evaluation. The added step of reporting information is only a fraction of the cost of capturing and maintaining the information (most of this data is already collected by readily available software designed to comply with reporting requirements anyway).

We also point out that all states also have adopted their own versions of the Community Reinvestment Act. Often these state CRA's require the maintenance of information more expansive than the federal CRA. For example, Connecticut requires the maintenance of loan information pertaining to all loans made, not just mortgages reported under HMDA and small business loans reported under CRA. Connecticut's Department of Banking specifies a format in which that data must be maintained for banks of all sizes. Thus, even small institutions are required to maintain a database much larger in scope than required by the federal CRA. If small banks, under state CRA's are going to have to maintain even more data than that mandated by federal CRA regulations, what reduced burden is obtained by relaxing merely reported information under the federal CRA? We think the benefit is minimal at best. At worst, the omission of the reporting requirement may hurt small institutions who, due to lack of manpower, may be encouraged to postpone the implementation of their self-assessment process.

We also believe that many small banks (meaning under \$1 billion) frequently are confused by what is reported and what is not reported under federal CRA. Given that many of these banks are already required to maintain databases on consumer and other business loans under their state CRA, we advocate the reporting of all loans under federal CRA. Consumer loans are an important financial service rendered by most banks to their community. Why should these loans not be reported under federal CRA? Moreover, there is considerable confusion regarding small business loans as reported under the current CRA. In particular, many institutions do not report loans to small businesses that involve residential real estate as collateral. The present regulations appear to require the reporting of such loans when the collateral secures a guarantee or is taken as an "abundance of precaution", but not when it secures the loan itself. Since residential real estate may frequently be taken as collateral to secure a small business loan, many small business loans may never be reported. Nevertheless, the loan proceeds are to finance a small business. Why should billions of dollars of small business loans and consumer loans be omitted from consideration about an institution's meeting the credit needs of its community? Moreover, many institutions maintain information about non-reported loans, not only because of state requirements, but because federal regulations allow the bank the option to include such loans in a federal CRA exam. In other words, larger lenders who maintain the optional information have an advantage over smaller lenders who do not. This is a double-standard that favors larger and more sophisticated lenders. The playing field should be level. We suggest that requiring all loans to be reported prevents the under-reporting of significant credit services provided by banks to the community, equalizes the performance standards of all banks and will entail minimal extra burden on banks.

We do believe that raising the asset size threshold by which an institution is subject to the "Investment" and "Service" test would have a salutary impact on small institutions' burden as intended by the proposed revisions. The limited resources of small institutions makes it very difficult to commit the investment in bricks and mortar implied by the Service test. Moreover, many small institutions cannot compete with mega-institutions with respect to qualified investments. We have observed time and

again, many situations in which banks under \$1 billion were outbid for qualified investments by big lenders who used their "muscle" to get first opportunity to qualified investments or simply outbid their smaller counterparts in an aggressive strategy to meet their CRA investment standards. Currently there is no reporting requirement under these tests, so it is impossible to refer to public information regarding this issue. However, it has been our experience serving many community banks that the Investment test is particularly burdensome. At the very least, we encourage relief from the Investment test. We suggest that the CRA be modified to impose the Investment and Service tests only on institutions whose asset size exceeds \$1 billion because the primary service provided by small institutions is credit, i.e., loan service.

### Proposed Change in Data Collection and Reporting

The proposed revisions indicate, "The agencies intend to revise the regulations, however, to enhance the data disclosed to the public. . . As we intend to revise the regulations, they will provide that the Disclosure Statement would contain the number and amount of the institutions's small business and small farm loans by census tract." We strongly support this change. First, the current lack of geography disclosure makes it very difficult, if not impossible, to judge an institution's performance under this crucial "performance context" parameter. Second, the disclosure by geography detail is available for mortgages under HMDA, but not for small business loans under CRA. Thus, there is an inconsistency in the regulations. Third, the purported reason for not disclosing CRA reported loans by geography, the "risk of unwarranted disclosure of otherwise private information" (i.e., the protection of the lenders themselves) is contrary to the best interest of the community (and small businesses) which is the promotion of competition among lenders. Fourth, many of our small bank clients have asked for this information to help them assess the market for this vital credit service. In other words, the "private" parties whose interest the current policy "protects" from disclosure, have themselves asked for the disclosure of this information.

We note however, that the proposed language to effect the disclosed information does not appear to disclose "the number and amount of the institution's small business and small farm loans by census tract" as explicitly explained in the "Proposed Rules" published in the Federal Register, Volume 69, No. 25. We note the language in section 25.42 of 12 CFR Chapter 1, Part 25 (Office of the Comptroller of the Currency, as well as the related Community Reinvestment Act regulations for the Federal Reserve, the FDIC and the Office of Thrift Supervision) "Data collection, reporting and disclosure," requires the OCC (and other agencies as per above) to prepare for each reporting bank annually, "(i) The number and amount of small business and small farm loans reported as originated or purchased by geography, grouped (emphasis added) according to whether the geography is low-, moderate-, middle- or upper- income" and (ii) a list showing each geography in which the bank reported a small business or small farm loan . . ." This language seems to repeat the current disclosure practice of grouping loans by tract income category for each lender. Provision (ii) seems to suggest a mere listing of "each geography in which the bank reported a small business or small farm loan" without disclosing the number and volume of the bank's loan activity by

geography. We suggest the language clarify the intention of disclosing information including the number and value of loans originated for each and every census tract by each reporting lender.

We also support the disclosure of the relative amount of lending inside and outside the reporting lender's assessment area, since this is a very important component of the Lending Test. However, we also encourage the requirement of including the description of the assessment area in the Annual CRA Disclosure Statement released by the FFIEC. This information is available by inspection of the public file of each reporting lender, but is not included with the release of the annual data making it impractical to analyze how many institutions have included a MCD or tract within their defined market. This would be an important piece of information in the determination of what communities are "underserved" by lenders who have omitted those communities as part of their market. If this information were available electronically as part of the overall CRA database, it would be possible to analyze the extent to which communities and neighborhoods are targeted by banks as part of their market.

We submit these thoughts with the hope they will contribute to an improvement in the regulations and the ability of banks to identify and serve the need for financial services in their communities.

Respectfully,

GeoDataVision  
Leonard Suzio, President