



## Greater Rochester Housing Partnership

August 18, 2010

Office of the Comptroller of the Currency  
250 E Street, SW  
Mail Stop 2-3  
Washington, DC 20219  
Docket ID OCC-2010-0011  
Via email: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov)

Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve  
System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
FRB Docket No. R-1386  
Via email:  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Robert E. Feldman, Executive Secretary  
Attention: Comments, Federal Deposit  
Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
RIN 3064-AD60  
Via email: [comments@fdic.gov](mailto:comments@fdic.gov)

Regulation Comments  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, DC 20552  
OTS-2010-0019  
Via email: [regs.comments@ots.treas.gov](mailto:regs.comments@ots.treas.gov)

### **RE: Community Reinvestment Act (CRA) Regulation Hearings**

I am writing to comment on the regulations governing the Community Reinvestment Act (CRA). I appreciate the opportunity to provide suggestions on how to revise the regulations around CRA to better serve the goals of the Act. These comments include both regulatory improvements as well as legislative changes to CRA. While we understand that the agencies can only make changes to the regulations and not to the law, we urge the agencies to use their powers to strengthen the CRA regulations as much as possible and to educate Congress about needed legislative improvements.

The Greater Rochester Housing Partnership is a member of the Housing Partnership Network and the local Greater Rochester Community Reinvestment Coalition. Both of these fine umbrella organizations are participating in the hearings and providing comments to the regulators on behalf of all of their members. While we have signed on to those group letters, we believe the regulations surrounding CRA are so critical to the financial health of our community, we are submitting our concerns directly to each regulator as well.

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CRA is the single biggest driver of bank investment in community development activities in our region. It drives mortgage lending in the City of Rochester, mortgage lending in rural towns, technical assistance by banks, investments in low income tax credits, small business lending, mortgages on rental housing and construction financing for housing and commercial development. It is appropriate to carefully review the regulations to make certain CRA provides the most effective inducements to encourage bank investments.

Please consider the following recommendations in your review of CRA regulations.

### **1. Extend CRA to Cover Minorities and Communities of Color**

Given the large body of research showing lending disparities by race and by racial/ethnic composition of neighborhoods, we believe that CRA must be extended to cover lending and services to minority borrowers and communities. At a minimum, agencies must boost the rigor of fair lending reviews, and banks should not receive a satisfactory or better rating if there is evidence of discrimination. Banks are not serving communities equitably if they are engaged in discriminatory activity, and the CRA can act as a vital deterrent against discriminatory practices if there are specific adverse consequences for their CRA rating.

### **2. Require Bank Affiliates on CRA Exams**

Under current CRA regulations, banks can receive favorable CRA ratings based on the performance of their insured depository, even though their affiliates are directly engaged in and responsible for practices that harm communities and serve them inequitably – such as through discriminatory tax refund anticipation lending, and abusive credit card and debt collection practices. This is because banks currently have the option to not include affiliates in their CRA exams. We urge the agencies to exercise their authority to require that banks include all non-depository affiliate lending on CRA exams. This will ensure that all bank lending affirmatively responds to credit needs in a safe and sound manner.

### **3. Modernize Assessment Areas**

As currently defined by the CRA regulation, assessment areas, the geographical locations covered by CRA exams, generally consist of metropolitan areas or counties that contain bank branches. However, today's financial services environment make this "brick and mortar" definition much less applicable. While some banks still issue loans predominantly through branches, others make the majority of their loans through brokers and other non-branch means.

Moreover, research demonstrates that lending by institutions not covered by CRA or by banks outside of their assessment areas are more likely to be higher cost.<sup>1</sup>

Since Rochester is a mid-size city, there is often a lack of banks participating in quality investment opportunities in the Rochester area and its surrounding rural communities. In order to increase CRA-related lending, services and investments by banks that do not have a branch presence and to encourage more banks to make community development loans and investments in areas like Rochester, we urge the agencies to:

- Expand assessment areas to cover more than where banks have brick and mortar branches; assessment areas should also include those areas (i.e. metropolitan areas or non-MSA counties) where a covered institution has a marketshare (mortgage lending, consumer lending and/or small business lending).
- Allow CRA-covered institutions to get CRA credit for community development (CD) loans and investments in non-assessment areas, as long as the CD loans and investments address demonstrated needs in those areas.

#### **4. Create a Community Development Test**

Community development lending, investments and activities currently are not considered as a whole, but scattered among the Lending, Service and Investment Tests. This makes it more difficult to evaluate how a bank's CD-related activities work as a whole to serve communities. Therefore, we recommend changing the Investment Test to a Community Development Test and moving community development lending and services/activities from Lending and Services to Community Development.

#### **5. Improve CRA Exam Ratings and Weights**

The scale of four possible ratings (Outstanding, Satisfactory, Needs to Improve, Substantial Noncompliance) does not provide meaningful distinctions in performance and has resulted in 98 to 99 percent of banks receiving Outstanding or Satisfactory over the last several years. We urge the agencies to replace Satisfactory with Low and High Satisfactory in addition to the three other existing ratings. In addition, we urge the agencies to develop more refined weighting systems that take into account the level of innovation or work in an investment. Routine investments like purchasing loans on the secondary market should not receive as much weight as more difficult investments such as equity investments in small businesses.

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<sup>1</sup> See "Paying More for the American Dream III," March 2009 at: <http://www.empirejustice.org/publications/reports/paying-more-for-the-american.html> and Robert B. Avery, Kenneth P. Brevoort, and Glenn B. Canner, Higher-Priced Home Lending and the 2005 HMDA Data, Federal Reserve Bulletin, Fall 2006, see page A154.

We believe that the regulatory agencies can contribute significantly to ensuring sustainable economic recovery by updating the regulation governing CRA to fit the new financial services environment. In addition, we urge the regulators to work with Congress to improve the CRA to cover other financial services providers and specifically cover people and communities of color.

Sincerely,

A handwritten signature in blue ink that reads "Jean A. Lowe". The signature is written in a cursive style with a large, stylized initial "J".

Jean A. Lowe  
President