Legal Aid Foundation of Los Angeles

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West Office
1102 Crenshaw Boulevard
Los Angeles, CA 90019
Phone: (323) 801-7989
Fax: (323) 801-7921
www.lafla.org

Other Office Locations:
Central Office, 1550 W. 8th Street, Los Angeles, CA 90017 T: (213) 640-3881
East Los Angeles Office, 5228 Whittier Boulevard, Los Angeles, CA 90022 T: (213) 640-3883
Long Beach Office, 601 Pacific Avenue, Long Beach, CA 90802 T: (562) 435-3501
Santa Monica Office, 1640 5th Street, Suite 124, Santa Monica, CA 90401 T: (310) 899-6200
South Los Angeles Office, 7000 S. Broadway, Los Angeles, CA 90003 T: (213) 640-3950

Writer's Direct Line: (323) 801-7992

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Ms. Jennifer J Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

RE: Docket ID OCC-2010-0011, R-1386, RIN 3064-AD60
Community Reinvestment Act Regulations

Dear Ms. Johnson:

Thank you for the opportunity to comment on the proposed modernization of Community Reinvestment Act (CRA) regulations. By encouraging depository institutions to meet the credit needs of communities in which they operate and meeting those needs in a manner consistent with safe and sound operations, the Community Reinvestment Act has played a vital role in supporting community development and access to financial services in the 33 years since its enactment.

Both objectives, meeting community credit and financial services needs and operating in a safe and sound manner, have presented striking challenges. In light of the mortgage and housing crisis and the distressing and destructive financial troubles of the past several years, restoring and sustaining the economic health of all communities requires the creativity and commitment of all stake holders. Modernization of CRA should be a key tool and guide for how we accomplish that restoration and re-building. If we are to succeed, however, we must focus on the economic health of low and moderate income neighborhoods. This re-focus will be to the benefit of all communities and serves as a true measure of economic justice and the financial well-being of the American public.

The Legal Aid Foundation of Los Angeles is a non profit law office that provides a range of legal services to individuals, families, and community based organizations located in low-income neighborhoods and communities of the Greater Los Angeles area. As one of the largest Legal Services Corporation funded programs in the nation, we assisted more than 12,000 clients in 2009, including: homeowners, consumers, tenants, low and moderate income workers, small business owners, families and non profit organizations involved in community development. These comments are directed at issues that are particularly important to our low income communities.

To truly accomplish the objectives of the CRA and their respective missions, the Board, OCC, FDIC and OTS (the regulatory agencies) must understand and keep in mind the environments in which low and moderate income persons live, work, attend school, play, shop and bank: the reality of Main Street America today. The drafters and decisions makers of the proposed regulations should invite themselves to visit LMI communities, rural, suburban and metropolitan. Take a drive, see the actual neighborhoods and commercial areas where LMI families reside and observe the differences between those communities and our more affluent communities.

In that context, the following comments are offered:

CRA Performance: Bank products should address in good faith the needs of low-income people and people of color. Bank activity should be proportional to the population in low-income neighborhoods and neighborhoods of color relative to other communities.

A recent Pew Health Group study pointed to the large number of "unbanked" Los Angeles residents and to the opportunity for depository institutions to offer affordable, useful services that would in turn benefit the banks. [1] Unfortunately, many banks frequently do not respond appropriately to the needs of low-income communities and communities of color. Our low income communities have long been inundated with payday lenders and check cashing services, etc. and in the prelude to the foreclosure crisis, predatory lending, discriminatory lending abounded. These practices have come about in part due to a vacuum left by depositary institutions.

The Center for Responsible Lending recently issued an analysis[2] advising that almost one half of California foreclosures in the past 3 year period were to Latino borrowers, though they comprised less than a third of the population of borrowers. African Americans were also disproportionately impacted. Certainly, banks have not been willing to address the need for a range of effective remedies to the foreclosure crisis in LMI communities. The loan modification process and outcomes have been grueling and painful for LMI homeowners. The result: too often abandoned or disrupted neighborhoods and the undermining of asset value for remaining homeowners.

Credit worthiness has been destroyed for many residents of LMI communities in the environment of reckless lending and a culture that invited reckless consumer spending of the past many years. Financial institutions can play a creative and constructive role in re-building access to credit and re-building responsible use of credit, in collaboration with LMI communities. Language diversity is a huge factor and challenge in Southern California communities and the import of measuring CRA performance by its effectiveness in dealing with communities of diverse language and cultural composition is basic to an honest assessment of outcomes.

From another perspective, in the course of the past two years, a not infrequent complaint from consumers, and one anecdotally supported by industry employees, was that major banks were aggressively promoting services that were neither needed nor affordable to low income persons. This was often in the form of a "package" of products, suitable perhaps to middle or higher income consumers, but not to the lower wage worker or social security recipient or even to many

[1] "Unbanked by Choice: A look at how low income Los Angeles households manage the money they earn"; The Pew Health Group, July 2010, www.pewtrusts.org/safebanking

[2] "Foreclosures by Race and Ethnicity: The Demographics of a Crisis"; Center for Responsibly Lending, June 18, 2010, www.responsiblelending.org

lower middle class consumers. The point is not to deny equal access to a range of products, but rather the appropriateness of costly, unneeded services being heavily marketed, in the face of a large number of "unbanked" persons within these same communities and in the wake of the financial crisis.

Affiliate Activities: All components of the financial corporation should be examined by the regulatory agencies for their CRA and banking activity. In the past, predatory practices have taken place within the operations of affiliates not examined by federal regulators. For example, the option arm loan was touted as particularly useful loan product for the self-employed but was marketed without limitation to salaried workers, elderly, non English speaking, etc. with the ultimate outcome of causing the loss of many homes of Californians and jeopardizing the interests of many additional homeowners.

Further to the extent that affiliates are involved in payday lending or check cashing businesses where high interest rates abound, regulatory agencies should factor in the negative impact of more suspect financial products, when issuing performance assessments.

Small Business Data: Small business owners are an important engine for job creation and for community development. Data should also be collected separately on smaller businesses earning less than $500,000 in annual revenue. Data should also be collected separately on lending to minority-owned and women-owned businesses including to the business districts where such businesses predominate. In the provision of legal assistance to homeowners during the continuing housing crisis, the importance of investing in small but viable and potentially viable businesses has become even more apparent. Services and products that support the development and maintenance of small businesses should be encouraged and credited.

Community Development: For the past two and one half years, LAFLA has directed significant resources to addressing and stemming the tide of damage experienced by our client communities in the wake of the continuing foreclosure crisis. As the regulating agencies are no doubt aware, California and the greater Los Angeles area have been particularly hard hit by high foreclosure rates, unemployment rates that exceed national rates, and with the accompanying fallout on families and neighborhoods, including significant distress and displacement of tenants. The lack of adequate affordable housing, both rental and homeowner, was a substantial concern prior to the foreclosure crisis and has not abated.

Many of the financial institutions regulated by the Board, FDIC, OCC and OTS can and do contribute in important ways to community development in the communities where they lend and do business. Unfortunately, countervailing activities have contributed to damaging many of these same neighborhoods. Therefore, it is essential that both the qualitative and the quantitative aspects of community reinvestment be evaluated. For example, the CRA could give more weight or credit to banks for loans for development of multifamily housing where the housing is deed restricted to low and very low income tenants. Giving loans to persons or other entities that purchase properties subject to rent control and then evict LMI tenants and/or long term tenants are practices that should be discouraged rather than rewarded with CRA credit.

As other commenters have stated, rental housing is not valued or is undervalued, at a time where the economic environment calls for more not less, safe, decent, affordable housing. Setting standards for investment in LMI communities and for means of accountability and giving more weight to LMI affordable housing development is a real means of enhancing our communities.

Geographic Coverage: CRA activity should include geographies where a bank, particularly a bank with one or few branches, does significant lending, investment and deposits outside the area of branch locations. Banks should be held responsible for CRA activity in non-metropolitan and rural areas not just major metropolitan areas.

The changed realities of the financial crisis and the national and global recession leave us with the challenges of learning from the mistakes of the past several years, avoiding the cycle of repetition of bad acts of the past (e.g., redlining, predatory lending), and of repairing the damage done in a manner that will truly benefit our families, our children and our future.

The Legal Aid Foundation of Los Angeles looks forward to the implementation of the revisions to the regulations at the earliest possible date. Again, thank you for permitting us to comment.

Yours truly,

Dorothy Herrera Settlage
Senior Attorney
Consumer Unit
Legal Aid Foundation of Los Angeles.