GREATER ROCHESTER
COMMUNITY REINVESTMENT COALITION
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ROCHESTER, NEW YORK 14604

April 20, 2004

Public Information Room
Office of the Comptroller of the Currency
250 E Street, S.W.
Mailstop 1-5
Washington, D.C. 20219
Docket Number 04-05
Via email: regs.comments@occ.treas.gov

Ms. Jennifer J. Johnson
Secretary, Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Docket No. R-1180
Via email: regs.comments@federalreserve.gov

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
Via email: comments@fdic.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Docket Number 2003-67
Via email: regs.comments@ots.treas.gov

RE: The Economic Growth and Regulatory Paperwork Reduction Act of 1996

Dear Regulator:

I am writing to you on behalf of the Greater Rochester Community Reinvestment Coalition (GRCRC) to comment in response to the Notice of Regulatory Review as required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) of 1996. In response to the second series, "Consumer Protection: Lending-Related Rules," we respectively request that the federal banking agencies retain their regulations concerning Fair Housing, Equal Credit Opportunity Act (ECOA), Home Mortgage Disclosure Act (HMDA), Truth in Lending Act (TILA) and Unfair or Deceptive Acts or Practices. These rules are critical to giving consumers

fair access to credit and to protecting consumers from predatory practices by unscrupulous lenders.

GRCRC was convened in 1993 to generate discussion about the lending patterns in Rochester. Since then, the Coalition has released six analyses of home mortgage, small business and subprime lending data. We have used the analyses to identify strengths and weaknesses in lending patterns and to generate ongoing discussion with the banks in question. The Coalition also submits comments, based on the data, to the appropriate Federal regulators who have oversight of the banks.

GRCRC has a membership of over 40 locally based not-for-profits and individuals. GRCRC monitors the lending and investment performance of Charter One Bank, M&T, Fleet, HSBC, Chase, Citigroup and Canandaigua National Bank.

GRCRC favors expanding data reporting requirements that will assist in achieving the goals of the above fair lending statutes and substantially benefit consumers with little regulatory burden. Under EGRPRA, the federal agencies must identify "outdated" regulations. The incomplete data collection under HMDA and ECOA is outdated and frustrates the purpose of the statutes to prevent discrimination. While increasing data reporting requirements, the federal agencies must not limit the consumer protections currently available under the regulations. Any streamlining of the protections would interfere with the agencies' ability to fulfill their statutory obligations.

A series of federal statutes including the Fair Housing Act, the Home Mortgage Disclosure Act, the Equal Credit Opportunity Act, and the Truth-in-Lending Act have established a solemn Congressional intent and purpose of eliminating abusive and discriminatory lending. In light of the recent decision by the Office of the Comptroller of the Currency to preempt all state anti-predatory lending legislation, federal protections against abuse and discrimination have become even more important to consumers. GRCRC does not believe these federal statutes provide enough protection now. Therefore, any regulatory streamlining would further put consumers at risk.

Home Mortgage Disclosure Act

Enacted by Congress in 1975, the Home Mortgage Disclosure Act (HMDA) requires banks, savings and loans associations, credit unions, and other financial institutions to publicly report detailed data on their home lending activity. In the HMDA statute (12 USC Section 2801), Congress found that financial institutions contributed to the decline of certain geographical areas by their failure to provide adequate home financing on reasonable terms and conditions. Accordingly, a major purpose of HMDA was to provide citizens and public officials with sufficient information to determine whether institutions are filling their obligations to serve the housing needs of communities and neighborhoods in which they are located. Banker suggestions to exempt more institutions will thwart HMDA's purpose of determining if institutions are serving credit needs.

In the HMDA statute, Congress expressed its will that institutions must provide loans on reasonable terms. As a step towards this Congressional objective, regulators need to update HMDA to include pricing information on all loans, critical loan terms (existence of prepayment penalties, for example), and key underwriting variables such as loan-to-value ratios and debt-to-income ratios. HMDA is becoming increasingly "outdated" as the industry adopts automated underwriting and risk-based pricing. At the same time, HMDA lacks key variables that enable the

general public to assess if lenders are applying their sophisticated technology to provide credit that is priced fairly and has reasonable terms.

The regulators should also end the exemptions of certain lenders from HMDA and improve the existing data. Currently, small lenders (with assets under $33 million) and lenders with offices in non-metropolitan areas are exempt from HMDA data reporting requirements. Data for rural areas is also incomplete, particularly information on the census tract location of loans. If banks and thrifts have assets under $250 million dollars (or are part of holding companies under $1 billion dollars), they do not have to report the census tract location for loans in metropolitan areas in which they do not have any branch offices nor do they have to report the census tract location for loans rural, non-metropolitan areas. In addition, demographic information on the race, income level, and gender of borrowers is missing from loans that lenders purchase. If lenders receive credit on their CRA and fair lending exams for purchasing loans made to low-moderate income and/or minority borrowers, then this information should be made available to the public via HMDA data.

Technology has improved to such an extent that even small lenders would be confronted with minimal burden in collecting HMDA data. Also, all lenders would be able to readily collect additional data items. Overall, the benefits of expanded HMDA data requirements would greatly outweigh the burdens and would be true to HMDA's statutory purpose of assessing the extent to which credit needs are met.

Equal Credit Opportunity Act

The Equal Credit Opportunity Act and Regulation B prohibits discrimination against an applicant because of the applicant's race, color, sex, religion, national origin, marital status, age or receipt of public assistance. Currently, the Federal Reserve's Regulation B prohibits lenders from collecting demographic data including race and gender of business owners seeking small business loans, expect for limited self-assessment purposes. The Federal Reserve has asserted that their regulation guarantees that the loan process remains colorblind for all applicants. In reality, however, this regulation has become a shield behind which some banks hide their lack of serving women and minority-owned businesses. The publicly available data provided by HMDA has been instrumental in increasing access to home loans for formerly neglected borrowers. Likewise, the federal agencies would achieve ECOA's statutory purpose of combating discrimination if they require banks to collect (voluntarily from the borrower) and report information on the demographics of their small business borrowers.

The total number of small business loans increased 24 percent from 2001 to 2002. However, despite the overall increase, the number of small business loans made to businesses with revenue under $1 million continues to plummet. Lenders issued about 31 percent of their loans to businesses with revenues under $1 million in 2002. This is a substantial decrease from 40 percent in 2001 and 60 percent in 1999. Similarly, lending to businesses in low- and moderate- income census tracts remains stagnant as the percent of loans made to businesses in these communities either decreased or remained the same over each of the last few years.

The situation is similar in Rochester, NY. From 2001 to 2002 the number of small business loans increased by 11 percent overall but only by 2 percent in low-moderate income census tracts. For business with gross revenue under $1 million the number of loans decreased by 21 percent and for businesses with gross revenue under $1 million in low-moderate income census tracts the number of loans decreased by 27 percent. As a percentage of all loans, the number of loans to business in low-moderate income census tracts increased slightly from 16 percent to 17 percent.

However, the share of loans for business with gross revenue of under $1 million decreased form 45 percent to 32 percent, while the share for businesses with gross revenue under $1 million located in low-moderate census tracts remained the same at 5 percent. GRCRC believes that just like improvements to HMDA, enhancements to ECOA that allows lenders to collect demographic data will expand lending to traditionally underserved communities and borrowers.

In Conclusion

Finally, in 2001, the Federal Reserve Board made valuable improvements to their regulation implementing the Home Ownership and Equity Protection Act (HOEPA), which amended TILA. Among other benefits, the changes applied HOEPA's protections to more subprime loans, including most loans with single premium credit insurance.

The Public Interest Law Office of Rochester, a member of the GRCRC, has represented many clients whose predatory loans were restructured thanks to the new HOEPA protections. One such case was of a Vietnamese couple with three young children who had a good mortgage on their home and a small amount of credit card debt. A high-cost lender persuaded them to refinance their prime mortgage and their credit card debt into two separate secured loans that raised their monthly payments by over $100 and the total cost of their debt by $111,000.

Before 2001, the two loans would not come under HOEPA regulations because separately they did not exceed the required points and fees. However, with the new HOEPA regulations the lenders cannot originate two loans on the same day in the same transaction to avoid HOEPA, which we believe was the lenders intent in this particular case. The advantage under the new HOEPA regulations allowed PILOR to restructure the loan on terms that are more advantageous for the client because the lender did not provide proper HOEPA disclosure. Since abusive lending continues to increase, the federal agencies must preserve the changes to HOEPA.

Likewise, the agencies must not weaken HMDA, ECOA, TILA, or protections in regulations implementing laws against unfair and deceptive practices and acts. Data disclosure under these laws must become more comprehensive in order to identify and uproot discrimination.

Sincerely,

Ruhi Maker, Esq.

Cc: Senator Charles Schumer
Senator Hilary Rodham Clinton
Rep. Louise Slaughter
Rep. Amo Houghton
Rep. Tom Reynolds
Rep. Jim Walsh