



COALITION ^o NEIGHBORHOODS

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April 1, 2004

Docket No. 04-06
 Communications Division
 Public Information Room, **Mailstop 1-5**
 Office of the Comptroller of the Currency
 250 E St. SW,
 Washington 20219

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**

Robert E. Feldman
 Executive Secretary
 Attention: Comments
 Federal Deposit Insurance Corporation
 550 17th St NW
 Washington DC 20429

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

Dear Officials of Federal **Bank and Thrift Agencies:**

As a member of the National Community Reinvestment Coalition, **The Coalition of Neighborhoods** (CN or Coalition) **urges 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 white communities**. **Your** proposed changes are contrary to the CRA statute because they will **halt** the **progress made in community reinvestment**.

The proposed **CRA** changes **will** thwart 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.

The proposed changes include three major elements: 1) provide streamlined and cursory exams for banks with assets between \$250 million and \$500 million; 2) establish a weak predatory lending compliance standard under **CRA**; and 3) expand data collection and reporting for small business and home lending. The beneficial impacts of the third proposal are overwhelmed by the damage imposed by the first two proposals. 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.

Streamlined and Cursory 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 Standard. 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 frustrate CRA's statutory requirement that banks serve low- and moderate-income communities consistent with safety and soundness.

Enhanced data disclosure. The federal agencies propose that they will publicly report the specific census tract location of *small* businesses receiving loans in addition to the current items in the CRA **small** business data for each depository institution. This **will** improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. *Also* the regulators propose separately reporting purchases from loan originations on CRA exams and separately reporting high cost lending (per the new HMDA data requirement starting with the 2004 data).

The positive aspects of the proposed data enhancements do not begin to make up for the significant harm caused by the first two proposals. Furthermore, the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. The agencies must not **merely** report the new data **on** CRA exams, but must use the new data to provide less weight on CRA exams to high cost loans than prime loans and assign less weight for purchases than loan originations.

Missed Opportunity to Update 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. The game playing with **affiliates will** end only if the federal agencies require that all **affiliates** be included on exams. Lastly, 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.

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. The proposed **data** enhancements would become much more **meaningful** if the agencies update procedures regarding assessment areas, affiliates, and the treatment of high cost loans **and** purchases on **CRA** exams. CRA is simply **a** law that makes **capitalism** work for all Americans. CRA is too vital to be gutted **by harmful** regulatory changes and neglect.

In conclusion, it would be ironic that the very law (**CRA**) that **has** stimulated more home ownership, **jobs**, and investment securities than any other **law** at **any** other time in history, is under threat of being weakened to the point of irrelevancy. President Bush **has** stated **his** intent to increase home ownership. It would seem that the regulatory **community** would work with the National Community Reinvestment Coalition to strengthen rather than weaken the community Reinvestment Act, **so** that the President's statements **of** intent **can** become real for **millions of** Americans..

Thank you for your consideration.

Sincerely,



Morris Williams
President/CEO

Cc: Coalition **Board** of Directors
Coalition Member Community Councils
National Community Reinvestment Coalition
President George **W. Bush**
Treasury Secretary John W. **Snow**
Affiliated Organizations
State and Federal Legislators
Local Media