



California Province

Society of Jesus
Jesuit Provincial Office

April 6, 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:

I am writing to you on behalf of the California province of the Society of Jesus (which is comprised of the states of California, Nevada, **Utah, Arizona** and Hawaii) and as a member of the Jesuit Conference Social and International Ministries **committee** to urge you to withdraw the proposed changes to the **Community Reinvestment Act (CRA)** regulations. The Jesuit Conference represents the Society of Jesus in the United **States**, where there are 3,894 U.S. Jesuit priests and brothers working in **28** Jesuit-affiliated universities and colleges, more than 60 high Schools and middle schools, nearly 100 parishes, and various other social programs throughout the country. Propelled by a mission of social justice and a commitment to **empower** individuals, families and communities most at-risk in our society, I write to urge 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 communities. **Your** proposed **changes** are contrary to the **CRA** statute because they will halt the progress made in community reinvestment. These changes would reduce the rigor of **CRA** exams for 68 of the 473 **banks** in the California region. These 68 **banks** have approximately \$ 88,047,549,000 in total **assets**,

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 exam 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.

300 College Avenue
P.O. Box 519
Los Gatos, CA 95031-0519
Provincial
FAX: 884.1601

Formation 408.884.1610
Treasurer 408.884.1620
FAX: 884.1621

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 forestall 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).

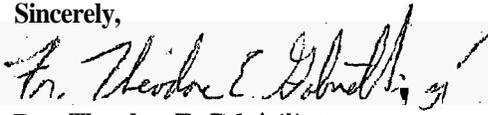
The positive aspects of the proposed data enhancements do not begin to make up for the significant harm caused by the first two proposals. Furthermore, the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. The agencies must not merely report the new data 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. Further, 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 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. It is vital that the federal banking agencies ensure that America's communities, particularly those most at-risk, have access to fair and reasonable credit. Thank you for your attention to this critical matter.

Sincerely,



Rev. Theodore E. Gabrielli, S.J.
Provincial Assistant
Social and International Ministries
California Province of the Society of Jesus
PO Box 519
Los Gatos, CA 95031-0519

CC: National Community Reinvestment Coalition
President George W. Bush
Treasury Secretary John W. Snow
Jesuit Conference, USA