



April 5, 2004

Rocket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

VIA FAX: (202) 452-3819

Dear Officials of Federal Bank and Thrift Agencies:

As a colleague agency of the National **Community** Reinvestment Coalition, the Ms. Foundation for Women 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 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.

120 Wall Street, 33rd Floor
New York, NY 10005
Phone (212) 742-2300
Fax (212) 742-1653
www.ms.foundation.org

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).

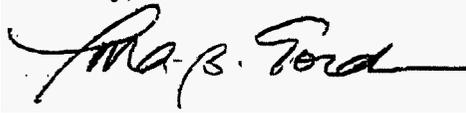
The positive aspects of the proposed data enhancements do not begin to make **up** for the significant harm caused by the first two proposals. Furthermore, the federal agencies are not utilizing the data enhancements in order to **make CRA** exams **more:** rigorous. The agencies must not merely report 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.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Yma Gordon", is written over a light gray rectangular background.

Yma Gordon
Program Officer

CC:

National Community Reinvestment Coalition
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Office of Thrift Supervision

