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

Ref: Request for Public Comments, Bank Community Reinvestment Act Regulations

Dear Ms. Johnson:

SunTrust Bank ("SunTrust") submits this letter in response to the Board's request for comment on proposed changes to the rules implementing the Community Reinvestment Act (CRA). The proposal, published in the Federal Register on June 30, 2009, implements provisions of the recently enacted Higher Education Opportunity Act (HEOA), which revised the CRA. The proposed revisions include consideration of low-cost education loans provided to low-income borrowers when assessing a financial institution's record of meeting community credit needs.

SunTrust is a \$177 billion financial institution with almost 1,700 branches located in the Southeast and Mid-Atlantic states. Through its banking subsidiaries, the company provides deposit, credit, trust, and investment services to a broad range of retail, business, and institutional clients. Other subsidiaries provide mortgage banking, brokerage, investment management, equipment leasing, and capital market services. SunTrust Bank has an Outstanding CRA performance rating, and we appreciate the opportunity to comment on the issues addressed in the proposed changes.

Our first and most important comment is not related to the Agencies' specific requests for comment. Rather, it is focused on the apparent presumption that financial institutions know the incomes of their student loan borrowers. While this is generally the case for other consumer loans, this does not hold true for loans made under U.S. Department of Education (DOE) programs. Eligibility for federal loans is driven entirely by the DOE. The electronic files provided to the financial institutions do not provide income, and include no placeholder for that information. Therefore, under current processes banks do not have any access to the incomes of borrowers for Stafford and PLUS loan programs. The DOE would need to require that income be included with the data fields currently exchanged between schools and financial institutions in order for its program loans to low-income students to be given appropriate consideration under the CRA.

Further, in February, 2009, the Administration's DOE budget proposed ending entitlement subsidies to student loan lenders on all new federal student loans starting July 1, 2010. If the proposal is adopted, all Federal Family Education Loan Programs (FFELP) will be direct lending programs of the DOE and beginning July 1, 2010, financial institutions will no longer originate any FFELP loans. This may have an impact on how the Agencies define low-cost education loans. It will certainly have an impact on the number of student loans originated by financial institutions. FFELP loans are generally much more advantageous for the borrowers, and are the product of choice for qualifying students. The HEOA legislation revising the CRA may have been an effort to incent financial institutions to participate in FFELP. However, if banks are out of the business because the DOE is making direct loans, the landscape is completely changed.

Having discussed larger issues that have a fundamental impact on the proposal, we suggest that the Agencies' should consider "low-cost education loans to low-income borrowers" in a manner similar to that accorded by the agencies to community development loans. Because this lending is so specialized, and many banks do not participate in federal, state or local education loan programs, we believe mandatory reporting of student loans is neither useful nor efficient. We recommend that the agencies allow financial institutions who participate in such programs to request that this lending be considered as part of their CRA performance evaluations, and that such participation would have either a neutral or positive impact to the overall CRA performance. The absence of such lending would have no impact on an institution's CRA performance.

Request for Comments on "Education Loans"

The new statutory provision specifies that the Agencies must consider low-cost "education loans" to low-income borrowers. The Agencies specifically request comment on how to define "education loans."

- *Should the definition include loans made for education expenses at an "institution of higher education" as that term is generally defined in sections 101 and 102 of the Higher Education Act of 1965 ("HEA"), 20 U.S.C. 1001 and 1002, which would include accredited public and private colleges and universities, whether for-profit or nonprofit, as well as accredited vocational institutions that prepare students for gainful employment in a recognized occupation and certain institutions outside the United States? Should the scope be expanded or narrowed?*

SunTrust recommends that the definition denoted in Sections 101 and 102 of the Higher Education Act of 1965 be adopted for these purposes. This definition is appropriate and should neither be expanded nor narrowed.

- *"Private education loans," as defined in section 140(a)(7) of the Truth in Lending Act, would include education loans made by financial institutions under local and State education loan programs. Should all education loans offered to low-income borrowers under State or local education programs, regardless of whether the fees and costs are comparable to those under Department of Education programs, be eligible for CRA consideration?*
- *Should private loans not made, insured, or guaranteed under a Federal, State, or local education program be considered for CRA purposes?*

Yes. All private education loans, whether or not they are made, insured or guaranteed under State or local government, should be eligible for CRA consideration. If an institution makes such loans that meet the definition of low-cost loans to low-income students and requests that they be considered as part of its CRA Performance Evaluation, the agencies should provide positive qualitative consideration for those loans because they fulfill the same need as FFELP loans.

- *"Private education loans," as defined in section 140(a)(7) of the Truth in Lending Act, include only closed-end, unsecured loans. That means, for example, that if a borrower obtained a home equity loan for a student's education, it would not be considered a private education loan. Is it appropriate to limit CRA consideration to only closed-end, unsecured private education loans? Why or why not?*

We do not believe it would be appropriate to limit CRA consideration to only closed-end, unsecured private education loans. At its option, a financial institution should be able to submit for consideration any loan transaction for which the purpose is identified as post secondary education when the loan meets the definition of "low-cost" and the borrower meets the definition of "low-income." We do not support mandatory reporting of education loans and do not support a

requirement that banks record the purpose for open-end credit transactions, such as home equity lines of credit. However, this would be consistent with the treatment allowed for home equity lines when some of the proceeds will be used for home improvement purposes. Further, the collateral securing a closed-end loan which is made solely for post-secondary education purposes should not have a bearing on the agencies' ability to give it positive consideration as a private student loan.

- *The Agencies request comment on whether our proposal to limit education loans to those originated by the institution, rather than purchased by the lender, is appropriate. Why or why not?*

We believe that limiting consideration for education loans to those originated by the institution is unnecessarily restrictive, and is inconsistent with the treatment for other loan types which receive consideration during CRA Performance Evaluations. In order to create liquidity in the market for student loans and to expand lending capacity, the agencies should give positive consideration for both originations and purchases of low-cost education loans to low-income borrowers.

Request for Comments on "Low-Cost" Loans

The Agencies are proposing to define "low-cost education loans" as education loans that are originated by financial institutions through a program of the U.S. Department of Education or any private education loans, including loans under State or local education loan programs, originated by financial institutions with interest rates and fees no greater than those of comparable education loan programs offered by the U.S. Department of Education. The Agencies note that currently the rates and fees allowed under the FFEL Stafford loan program and the FFEL Plus loan program would typically be used to evaluate whether an institution's education loan is low cost.

- *Is the Agencies' definition of the term "low-cost education loans" appropriate? If not, how should the Agencies define low-cost education loans?*
- *How should the Agencies determine whether a private education loan (including a loan made by an institution under a State or local education loan program) is "comparable" to a Department of Education loan?*
- *Should the Agencies use the lowest or highest rate and fees available under the comparable Department of Education program?*

We are uncomfortable with the proposed definition of the term "low-cost education loans". While FFELP loans are fixed rate transactions, private loans are generally variable rate. We propose that the Agencies develop separate low-cost loan definitions for fixed-rate and variable-rate transactions. We propose that the calculation for variable-rate "low-cost education loans" utilize a publicly available, comparable financial market index such as Prime or LIBOR. We recommend that a variable rate low-cost private education loan be defined as having a rate that, on the date of the first disbursement, is equal to or less than the current three-Month LIBOR index plus a margin that will provide an acceptable rate of return given the 100% risk assumed by the institution in the absence of a federal guarantee. We recommend that a low-cost private education fixed rate loan be defined as having a rate that is equal to or less than the current FFEL PLUS loan program on the date of the first disbursement.

Request for Comments on "Low-Income Borrower"

The CRA regulations currently define "low-income" to mean an individual income that is less than 50 percent of the area median income. The Agencies propose to use that definition to define "low-income borrower." Also, consistent with current guidance, if an institution considers the income of more than one person in connection with an education loan, the gross annual incomes of all primary obligors on

the loan, including co-borrowers and co-signers, would be combined to determine whether the borrowers are “low-income.”

- *Should the Agencies consider defining “low-income” for purposes of this proposed provision differently than the term is already defined in the CRA regulation? If so, why and how? Specifically, how should the Agencies treat the income of a student's family or other expected family contributions to ensure that the CRA consideration provided is consistent with HEOA's focus on low-income borrowers?*

As previously noted, there currently exists a significant hurdle to obtaining the income that is collected on the FAFSA application for loans under the Stafford and PLUS programs. Therefore, neither the financial institution nor the agency examiners could readily determine the borrower's income. However, if we can overcome this particular issue, we believe that the intent of the legislation was to give banks positive reinforcement for participating in government guaranteed student loan programs. Since the CRA and its enabling legislation focus on low and moderate-income borrowers and communities, we suggest that the Agencies modify the definition so that “low-income”, as it relates to this proposal, includes low- and moderate-income borrowers as defined by the CRA. If income is obtained during the application process and used in the credit decision, it should be the gross annual income of the borrower and all co-borrowers and/or co-signers.

Request for Comments Regarding Other Education Loan Issues

As proposed, institutions would receive favorable qualitative consideration for originating “low-cost education loans to low-income borrowers” as a factor in the institutions' overall CRA rating. Such loans would be considered responsive to the credit needs of the institutions' communities.

- *Under the current CRA regulations, institutions may choose to have education loans evaluated as consumer loans under the lending test applicable to the institution. If an institution opts to have education loans evaluated, the loans would be evaluated quantitatively, based on the data the institution provides. Should the agencies also allow an institution to receive separate quantitative consideration for the number and amount of low-cost education loans to low-income borrowers as part of its CRA evaluation under the performance test applicable to that institution, without regard to other consumer loans?*

Yes. The legislation clearly anticipates that the Agencies would consider student lending on its own merits, apart from other consumer loan categories. We believe this could be accomplished by revising the consumer loan reporting categories to include a separate category for student loans and recommend that the Agencies implement this change.

Thank you for the opportunity to comment on the proposed changes to the CRA. We support the proposal to give positive qualitative CRA consideration to education loans at the option of the institution.

Sincerely,

Lalla A. McGee