



Community Housing Opportunities Corporation

February 23, 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 L. 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

RE: Comments Regarding Revisions to the Regulations Implementing the CRA

Dear Officials of Federal Bank and Thrift Agencies:

Community Housing Opportunities Corporation (**CHOC**) urges you to Withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. **CHOC** is a nonprofit affordable housing development agency that has developed over 1,200 units of housing for low, very-low and extremely-low income families in Yolo, Sacramento and Solano Counties in northern California.

Through our affordable housing development work, **CHOC** has found that **CRA** has been instrumental in increasing access to homeownership and in developing multi-family

housing in the nation's minority, **immigrant**, and low- **and** moderate-income communities. Low income and people of color communities have used **CRA** to reduce redlining and discrimination in their communities. **CRA** obligates banks **and** thrifts to serve all communities in which they are chartered and **from** which they take deposits.

The proposed changes include three major elements: 1) increase the asset threshold **from** \$250 million to \$500 million for banks to be eligible for a small bank exam; **2)** establish a weak predatory lending compliance standard under **CRA**; and **3)** expand data collection and reporting for small business lending **and** home lending. The beneficial impacts of the third proposal are overwhelmed by the damage imposed by the first two proposals.

Additionally, **CHOC** strongly encourages the federal banking agencies to adopt a proposal which ties a bank's **CRA** obligations to its market share in a given area rather **than** just the location of its branches. **In** California, Countrywide Home **Loans** and **JP** Morgan Chase are **two** such entities that have no **CRA** obligations in northern California despite the high number of loans made in the state.

The agencies also continue to fail, communities by allowing banks to elect to include affiliates on **CRA** exams at their option. Financial institutions have **the** ability to manipulate their **CRA** exams by excluding affiliates not serving **low-** and moderate-income borrowers and excluding affiliates engaged in predatory lending. **This** game playing with affiliates will continue until such time **as** the federal regulators require **that** all affiliates be included on **exams**.

Small Bank 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 will also no longer reference affiliations with holding companies. **It is** expected that these proposed changes would create streamlined and cursory exams for 1,121 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. **Such** investments have promoted multi-family affordable housing development to such **an** extent that tax credits are **now** the number one **source** of rental **housing** financing in the United States. **Banks** in this new category would no longer be held accountable for the provision of bank branches **and** checking/deposit accounts. **Many** banks with assets between **\$250** to \$500 million are located in rural areas that **CHOC** serves. Many rural banks **as** well as a large subset of depository institutions will no longer be required to have a continuing and affirmative obligation to serve the investment and deposit needs of all the communities in which **they**

are chartered and from which they take deposits.

Predatory Lending

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 creates a de-facto definition of predatory lending without taking into account other predatory tactics. These tactics include: 1. Targeting of minorities, limited-English speakers, low-income, and the elderly for sub-prime lending; 2. Originating sub-prime loans to borrowers that could **qualify** for prime loans; 3. Prepayment penalties; 4. Encouraging borrowers to refinance unsecured debt **as a means of increasing the loan size and related point, fees, and commissions**; 5. Selling of single credit insurance products **as part of the home loan**; 6. Mandatory arbitration provisions; 7. Excessive points and fees; **8. Yield spread premium payments or other compensations that rewards brokers for steering borrowers to higher cost products and larger loans**; and 9. Purchasing **and** investing in predatory loans as **part** of a mortgage backed security. **CHOC** is acutely aware of these tactics because a number of the limited-English speaking families who participated in our earlier self-help housing **programs** have been specifically sought out by Ameriquest and others for predatory lending.

Any standard that fails to examine the aforementioned nine tactics will allow CRA exams to be used to cover **up** predatory lending practices. **Rigorous fair** lending audits and severe penalties on CRA exams for abusive lending **are** necessary in order to ensure that low income **and** people of color borrowers are protected.

Enhanced Data Disclosure

The federal agencies propose for **banks** to publicly report the specific census tracts of small businesses and small farms 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 and communities. 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 using the data enhancements in order to make CRA exams more rigorous. The agencies are requiring that the information regarding small business and **small farm** lending **be** contained in the Disclosure Statement but would not necessarily **use** the data to lower ratings on CRA exams. Also data reporting **on** loan purchases, originations and high cost loans will not impact a CRA rating.

Conclusion

The proposed changes 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**. Full compliance **with** CRA regulations needs to occur **where** lending and profit making activities take place in substantial **proportion**. 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** gives ordinary citizens the opportunity to have **a** voice **regarding** a **bank's** lending, investment **and** service components. **CRA** is too **vital** to be gutted by harmful regulatory changes **and** neglect. **CRA** also serves **an** important economic function **by** providing information from **which** consumers **and others can** use to fairly evaluate the community reinvestment performance of lenders. *Thank you* for your attention to **this** critical matter.

Sincerely,

COMMUNITY HOUSING OPPORTUNITIES CORPORATION



Paul Ainger

Director of Development