

March 2, 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  
 20<sup>th</sup> Street and Constitution Avenue, NW  
 Washington, DC 20551

Robert E. Feldman  
 Executive Secretary  
 Attention: Comments Federal Deposit Insurance Corporation  
 550 17<sup>th</sup> 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:

As a member of the National Community Reinvestment Coalition, the Business and Employment Community Center (CCEE, for its acronym in Spanish) 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 business in the nation's minority, immigrant, and low-and moderate-income communities.

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Your **proposed changes** are contrary to the CRA statute because they will **halt** 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 to **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 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 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 necessary income to **afford** monthly payments,

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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 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 MMDA 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.

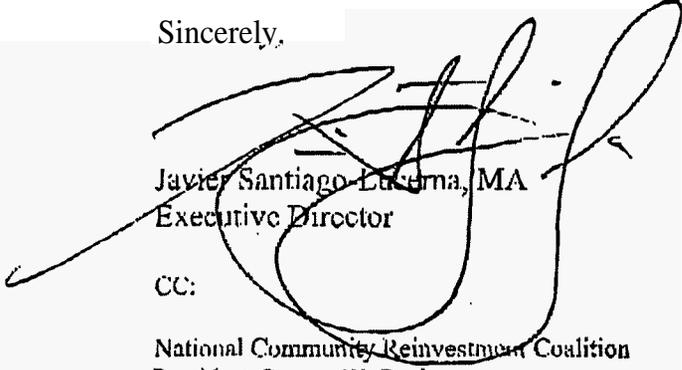
Missed Opportunity to Update Exam Procedures. The agencies also failed to close gaping loopholes in the **CRA** regulations. Banks can still elect to include affiliates in **CRA** exams at their option. They can thus manipulate their **CRA** exams by excluding affiliates not serving low- and moderate-income 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

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services. The proposal 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 the 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,



Javier Santiago-Lacena, MA  
Executive Director

CC:

National Community Reinvestment Coalition  
President George W. Bush  
Treasury Secretary John W. Snow