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February 23, 2004

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Allen Temple Baptist Church  
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California Hispanic Chambers of Commerce  
California Journal  
California Rural Legal Assistance  
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Chicano Federation, San Diego  
Council of Asian American Business Associations  
Filipino-American Chamber, L.A.  
Filipino-American Political Association  
First AME Church, Los Angeles  
Greater Phoenix Urban League  
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Hispanic Chamber, Orange County  
Hmong-American Political Association  
Japan Pacific Resources Network  
La Maestra Family Clinic  
Latin Business Association  
Latino Issues Forum  
Mexican American Grocers Association  
Mexican American Political Association  
Minority Business Council  
Mission Language & Vocational School  
Mothers of East Los Angeles  
National Asian Pacific Publishers  
National Black Business Council, Inc.  
National Council of Asian American Business Associations  
National Federation of Filipino-American Associations  
OCCUR  
San Francisco Black Chamber  
Search to Involve Pilipino-Americans  
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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:

**Greenlining Institute's Position on CRA Reforms and Revisions**

Over the last twenty-five years, Greenlining Institute and its members have been involved in more than fifty cases involving bank CRA performance and/or bank mergers relating to performance. Greenlining's members constitute a broad range of minority business, church, consumer, immigrant service and civil rights groups. Its members include most of the major minority business associations in California, many of the largest immigrant service groups and a wide range of members who are concerned about the 56 million unbanked in America. In summary, the Community Reinvestment Act and its enforcement is in dire straits. Its value to banks is declining, it is of modest benefit to federal bank regulators and does not significantly benefit the underserved communities it was intended to benefit. The reasons are as follows:

## **1. CRA Ratings Are Inflated and Useless**

The four-pronged CRA rating system from “substantial non-compliance” to “outstanding” is broken. Since no very large banks (\$5 billion or more in assets) and only 1% of banks receive a “needs to improve” and none receive substantial non-compliance, the regulators are left with just two ratings. Furthermore, since far too many mediocre institutions receive “outstanding” ratings, truly outstanding banks have little, if any incentive, to secure an “outstanding.” And since a “satisfactory” rating ensures full compliance and a virtual guarantee that a merger will be approved as is, virtually no very large banks have any incentives to truly be outstanding. This should be fixed by the regulators agreeing that at least 10% of all large institutions will receive either a “needs-to-improve” or “substantial non-compliance” and no more than 10% will receive “outstanding” ratings. This requires no change in the law.

Further, without any change in the law, the regulators can create a fifth category, merely by emphasizing a bank that receives “high satisfactory” rating as opposed to a bank that receives “satisfactory” for the banking, investment and service tests.

Greenlining would also like to suggest that a sixth category could be created without a change in legislation: regulators could provide an “outstanding plus” rating to institutions and ensure that no more than 2% of institutions rated in any particular year receive such a rating. This will encourage CRA competition among the best institutions.

## **2. A Colorblind System Does Not Work in a Race-Conscious Nation**

Substantial data exists demonstrating that African American and Latino potential homebuyers are underserved by the market and there is substantial discussion in the market place that a similar result exists for minority-owned businesses. CRA exams, however, over the years have moved away from any reference to race or ethnicity. This creates a disincentive to close the minority homeownership gap strongly supported by President Bush and Federal Reserve Chairman Alan Greenspan. This colorblind attitude has made it possible for financial institutions to essentially serve only moderate-income whites and still receive “outstanding” CRA ratings.

Greenlining Institute believes this could easily be fixed. All CRA exams of large institutions should examine and comment upon home lending patterns to African Americans and Latinos and where appropriate, Asian Americans when they are underserved. Reference should also be made to comparisons with other competing institutions on the basis of race and ethnicity.

Besides the failure of the CRA exams to refer to race for home lending (despite the ample existence of such data) is the disquieting know-nothing attitude of federal regulators regarding small business lending to minorities. None of the regulators support and the Federal Reserve is opposed to sunshine for small business lending by race and ethnicity. Thus all CRA exams are virtually meaningless in determining whether a bank truly serves the community.

Today, a small business loan to a white-owned liquor store in a ghetto that already has one liquor store per hundred families, or one check-cashing payday loan facility per five hundred families, is rewarded by the CRA colorblind analysis. Greenlining is prepared to prove that less than 1% of the dollar amount of all small business loans made by large banks goes to African American-owned business, and substantially less to 2% to Latino or Asian American-owned businesses.

Greenlining recommends that Regulation B be revised either via regulation or by legislation to allow data to be kept and published by race and ethnicity for small business lending in order to promote competition and ensure transparency.

### **3. CRA Ratings Ignore Philanthropy, Supplier Diversity, and CRA Officer Diversity.**

With the rarest of exceptions, CRA exams neither gather nor comment on a financial institution's diversity of its Board of Directors, its senior management, its CRA policy makers or its lending officers. Yet, as two 1992 Federal Reserve Bank studies demonstrated, there is a connection between diversity and safety and soundness.

Similarly, with the rarest of exceptions, CRA exams make little or no comment on a financial institution's philanthropy, and when comment is made, it generally ignores whether or not such philanthropy was directed at underserved markets.

Lastly, banks that provide large supplier diversity contracts to inner city minority businesses that help their communities prosper receive no acknowledgement for doing so. CRA exams are silent on supplier diversity, despite many banks having comprehensive supplier diversity programs to promote inner city investments..

It is recommended that:

- all CRA exams comment extensively on philanthropy, particularly as it helps the unbanked, underserved communities and minorities in the inner city;
- the CRA exams comprehensively discuss supplier diversity programs that strengthen minority-owned businesses and are a complement to the banks small business CRA lending; and
- CRA exams discuss the safety and soundness of financial institutions by reporting diversity by race and ethnicity of their Board of Directors, senior management, CRA policymakers and lending officers.

### **4. Definition of Large Banks Should Remain at \$250 Million**

Greenlining disagrees with the decision to eliminate effective and/or comprehensive CRA exams for financial institutions between \$250 and \$500 million in assets. These institutions should continue to be defined for CRA purposes as "large institutions."

## 5. CRA Exams Ignore Merger Concerns

The present CRA exam system is rarely coordinated with merger policies. Specifically, a merger will be approved even while there is a pending CRA exam. Greenlining recommends that no merger be approved until ninety days after a pending CRA exam is completed and that where possible, a CRA exam be undertaken whenever there is a merger between financial institutions with combined assets of \$5 billion or more and a CRA exam has not been completed within the prior twelve months.

## 6. Predatory Lending Upgrades are Insufficient

The regulators are to be commended for their willingness to examine predatory lending practices in the context of CRA exams. However, this would be enhanced if the regulators first developed a standard for defining predatory lending that met the higher standards in many states, such as North Carolina and California. Anti-predatory lending efforts would also be enhanced if the regulators required an independent certified audit to ensure that the subprime and predatory lending policies of examined institutions are actually implemented.

## 7. CRA Exams Fail to Close Loopholes

The value of CRA examinations are seriously undermined by loopholes that allow financial institutions to exclude affiliates that may ignore low-income borrowers and or engage in predatory lending. To improve the accuracy and worth of CRA exams, the Greenlining Institute believes that federal agencies should require the inclusion of all bank affiliates in CRA exams.

Respectfully Submitted,



Robert Gnaizda  
Policy Director



Vina Ha  
Banking Fellow