NATIONAL COMMUNITY INVESTMENT FUND

a certified CDFI and CDE reinvesting in community- and minority-owned financial institutions with a community development focus

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April 5, 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
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 Regulatory Agencies:

National Community Investment Fund (NCIF) appreciates the opportunity to comment upon on the proposed changes to the Community Reinvestment Act (CRA or Act) regulations published in the Federal Register on February 6, 2004.

NCIF is a certified community development financial institution (CDFI) and community development entity (CDE) whose mission is to increase the number and effectiveness of domestic, depository institutions that are both effective agents of local community development in distressed markets and sound financial institutions. NCIF invests in institutions located in the range of urban, rural, and reservation distressed markets. Among NCIF's current portfolio, 70% of institutions are in urban and 40% in rural and reservation markets (with some in both); 82% percent are minority-focused and 67% of dollars invested in minority-owned institutions. Those institutions that are not minority-focused are located in rural, underserved markets.

Since NCIF began tracking in 1999, its portfolio institutions have generated almost $1 billion in over 11,000 loans that are geocoded to low income communities or low income borrowers. That is in addition to the quality retail financial services most provide to their low to moderate income, mostly minority and quite frequently unbanked local customer base. The average size of all loans of under $50,000--and of both small business and mortgage loans of under $100,000--is well below that of conventional financial institutions.

The majority of the depositories in which NCIF invests are small banks. However, some are required to participate in large bank CRA tests due to their asset size or holding company ownership. NCIF supports effective CRA regulations as one tool to increase the flow of capital and financial services in to all of the nation's communities, regardless of income levels or historic marginalization.

NCIF submits that the Notice of Proposed Rulemaking (NPR) misses the opportunity to increase the effectiveness of CRA regulations and may jeopardize current effectiveness. NCIF urges regulators to revisit the proposal to address our concerns following:

Definition of Small Bank. The proposal to provide streamlined and cursory exams for banks with assets between $250 million and $500 million will significantly reduce the number of banks that is required to meet the investment and services tests and to disclose CRA small business and HMDA data. Regarding the investment test, NCIF appreciates the difficulty that some small banks have generating attractive CRA investment opportunities within their marketplaces. We suggest that, where performance context indicates that the available demand for CRA investments is already met, the regulation should allow banks to more readily obtain get CRA credit for investments in qualifying statewide, regional or national vehicles that can direct capital to where it is most needed regionally and nationwide. Regarding the services test, with an estimated 50 million unbanked individuals in the United States, NCIF believes the services test remains an important stimulus for increased supply of fairly priced banking services to customers who otherwise can become hostage to local predatory providers. Regarding disclosure of CRA small business and HMDA data, we believe that the information tracked by small institutions is vital in helping bankers and policymakers understand and best meet local demand. While the NPR states that the proposed change will not affect a substantial portion of the nation's banking assets, it will affect a significant number of institutions, a disproportionate number of which will be in rural and small town locations. We believe that such markets frequently already lack competitive banking services. Relaxing CRA compliance expectations in these markets will further threaten the availability of quality services, particularly for harder to serve customers.

Predatory Lending Standard. We commend the NPR for addressing the issue of predatory lending in regulatory text. However, we believe that the proposed anti-predatory screen does not go far enough. An effective standard would examine not only liquidation value of the loan and ability of the borrower to repay, but also whether the loan will be wealth building or wealth stripping for the borrower. As a result of excessive fees or unnecessary products, predatory lending can be wealth stripping without leading to delinquency or foreclosure. In order to stem the increase of predatory lending, CRA exams must include both rigorous analyses of loans to determine whether they are predatory, as well as severe penalties when they are. In addition, such standards should be applied to all loans made by a bank and its affiliates, not just those that are real estate secured in a defined assessment area.

Enhanced data disclosure. We commend the increased CRA small business loan and HMDA disclosure proposed in the NPR. However, we caution that these benefits are largely negated if the proposed change in the definition of small bank is enacted. We add that the new data must not only be collected, but must also be tied to CRA ratings.

Missed Opportunity to Update Exam Procedures. Given significant and ongoing changes in the structure of the financial services industry since 1995, we believe that the NPR could greatly strengthen CRA by taking the changes into account. By allowing affiliate reporting to be at the option of the bank, and by retaining an approach to assessment area that ignores the increasingly regional or national reach of many banks, we believe this opportunity is missed.

From NCIF's vantage point, there remain tremendous gaps in the availability of fairly priced capital, credit and financial services across the nation's low income, minority and rural communities. CRA provides a time tested framework for mitigating these gaps by encouraging a range of large and small banks to provide investment, credit and services in underserved markets. We believe the regulations should continue to encourage this increased flow of capital, including by banks under $500 million in assets, which are often in markets most in need of banking services. The regulations can best achieve the aims of CRA by increasing rigor and flexibility, rather than by simplifying. Thus heightened rigor is needed in the analysis of predatory loans, and increased flexibility is needed in the geographic scope of permissible CRA investments, provided that local needs are met.

We trust that these comments will be useful as the agencies finalize proposed changes to CRA. We would be delighted to meet or provide further information if this would be helpful in the process.

Sincerely,

Lisa Richter
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National Community Investment Fund
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