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CRA-NC

COMMUNITY REINVESTMENT ASSOCIATION
of NORTH CAROLINA

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
VIA FACSIMILE: 202-874-4448

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
VIA FACSIMILE: 202-452-3819

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St., NW
Washington DC 20429
VIA FACSIMILE: 202-898-3838

Regulation Comments, Attention: No. 2004-04
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington DC 20552
VIA FACSIMILE: 202-906-6518

Dear Officials of Federal Bank and Thrift Agencies:

The Community Reinvestment Association of North Carolina (CRA-NC) submits comments regarding 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 businesses in minority and low- and moderate-income communities. The

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proposed changes will negatively affect the very communities that CRA intended to help. We therefore urge the regulators to withdraw the proposed changes.

Increasing the asset size for small banks will harm communities.

Current CRA regulations require that large banks with assets of at least $250 million be evaluated according to their level of lending, investments, and services to low- and moderate-income communities. Banks with less than $250 million in assets are held to a much lower standard and evaluated much less frequently. Nationwide, the proposed changes to raise the large bank threshold from $250 million to $500 million would affect 1,111 banks that account for $387 billion in assets. In North Carolina, the proposed changes would affect 21 banks with 149 branches in the state. Collectively, those banks hold more than $7.3 billion in assets, making them the sixth largest bank in the state (*see Appendix A*). In 2002, the last year for which publicly available CRA data is available, those banks contributed more than $8.7 in community development lending. If the large bank threshold is raised, those banks would have less incentive to take an active role in community development.

The current small bank exam is extremely limited. Increasing the number of banks that fall into the small bank category will harm community development, particularly in rural areas where small banks are important in economic development.

- Small banks are examined approximately once every five years, meaning that more banks would be examined less frequently.
- Evaluation of lending performance often relies on one aspect of lending. For example, a small bank exam can include an analysis of only consumer loans or only business loans.
- The institution chooses whether or not to be reviewed on its performance in making qualified investments and providing services.
- Regulators are not required (though they are allowed) to compare the institution to other lenders in assessment area, even when there is low loan penetration in a particular geography. However, comparison to the market is essential in determining performance.
- There is no detailed analysis of community development lending or activities. Small banks can provide leadership and capital to community development. They shouldn't be exempt from this responsibility.
- There is no evaluation of the credit needs or opportunities in the small bank's assessment area, which limits understanding of the context of the bank's lending.

The small bank test does not include evaluation of investments and services. To eliminate the investment and services test for more than 1,100 banks nationwide will result in less access to fairly priced capital and banking services for underserved communities. The banks will no longer be held accountable under CRA for low-income housing tax credits, which have been a major source of affordable rental housing, or for innovative community development projects. The 1,111 banks will no longer be held accountable for the provision of bank branches, checking accounts, Individual Development Accounts (IDAs), or debit card services. While these services may be available through larger banks in metropolitan areas, in rural areas small banks are the key players in economic and community development.

The increase in the small bank threshold would also impact the evaluations of several banks engaged in "rent-a-charter" payday lending, which three of the four banking regulatory agencies have found to be unsafe and unsound. For example, County Bank of Rehoboth Delaware, which has $256 million in assets, would be considered sophisticated enough to do payday lending all over the country, but too small to comply with the CRA investment and service tests. To hold this bank to a lower standard is ridiculous. Examining a bank engaged in predatory payday lending across state borders only every five or six years is insufficient and does not protect the communities and consumers that CRA is designed to benefit.

Rather than lower the standard for more banks, CRA should increase the standard for all banks. The large bank threshold should not be increased, and the small bank evaluation should be improved to make it more effective. CRA should measure a bank's performance compared to its capacity and to its importance in the community. Small banks may be important players in economic development and should be evaluated to ensure that they are meeting the credit needs of their entire community.

The predatory lending standard will perpetuate abusive lending.

CRA-NC believes that CRA should more adequately address and prevent predatory lending by banks and their affiliates. The proposed CRA changes will not be sufficient. The proposed standard states that loans based on the foreclosure value of the collateral, instead of the borrower's ability to repay, can result in downgrading a bank's CRA rating. This asset-based standard falls far short because it will not prevent many instances of predatory lending. Predatory lending can strip equity without leading to foreclosure. A borrower can have the necessary income to afford monthly payments, but can be losing wealth because of a lender's excessive fees or unnecessary products.

It is essential that regulators ensure that homebuyers are getting an American dream and not a nightmare. The proposed predatory lending standard does not provide necessary protections. The predatory lending standard does not address abusive predatory loans with high fees, high prepayment penalties, mandatory arbitration, and other numerous abuses. It does not address the issue of loan flipping, which is a common predatory practice. Regulators must offer more stringent standards against predatory lending.

<u>Any predatory lending standard should apply to non-collateral loans.</u>

An anti-predatory standard that offers real protections against abusive loans should be applied to banks and all of their affiliates, not just real estate secured loans issued by the bank in its "assessment area" as proposed by the agencies. The proposed standard does not address non-collateral loans, which can also be predatory. For example, payday loans have triple-digit interest rates, involve loan flipping, and do not consider the borrower's ability to repay the loan. Any anti-predatory standard should be expanded to include all bank lending.

The proposed standard also allows a bank or its affiliate to make predatory loans as long as they are not made in the bank's assessment area. For example, County Bank does not make triple-digit interest payday loans within its assessment area. But, it makes thousands of those loans outside of its assessment area, and repeatedly flips customers. 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 will benefit communities if it is used to enhance CRA evaluations.

The federal agencies propose that they will add the specific census tract location of small businesses receiving loans to current data reported in CRA small business data for each depository institution. Census tract data will improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. Together with reporting high cost lending under the new HMDA requirement, this enhanced data disclosure should be used by regulators to make CRA evaluations more rigorous.

Conclusion

The proposals to change CRA offer an opportunity for regulators to make CRA more effective. For example, the agencies could close loopholes by requiring banks to include all affiliates in their CRA exam. Proposed changes could address the need to update assessment areas to include geographical areas beyond bank branches since many banks make a considerable portion of their loans outside of traditional assessment areas. However, rather than strengthen CRA, the proposals to raise the large bank threshold and to apply a weak anti-predatory lending standard would threaten CRA's statutory purpose of the safe and sound provision of credit and deposit services to low- and moderate-income communities. We therefore ask that you maintain the large bank threshold at $250 million and develop more stringent anti-predatory lending standards that truly protect borrowers and communities. Thank you for your attention to this matter.

Sincerely,

Peter

Peter Skillern
Executive Director

Appendix A: Banks between $250 million and $500 million with branches in North Carolina

	[illegible]	[illegible]	[illegible]	State	[illegible]	[illegible] (000's)	[illegible]
1	[illegible]	Randolph Bank & Trust Company	Asheboro	NC	NM	$257,035	6
2	[illegible]	Asheville Savings Bank, S.S.B.	Asheville	NC	SB	$493,578	11
3	[illegible]	1st State Bank	Burlington	NC	NM	$359,653	7
4	[illegible]	Crescent State Bank	Cary	NC	NM	$273,594	5
5	[illegible]	Gateway Bank & Trust Company	Elizabeth City	NC	SM	$314,262	5
6	[illegible]	The East Carolina Bank	Engelhard	NC	NM	$433,243	18
7	[illegible]	Four Oaks Bank & Trust Company	Four Oaks	NC	SM	$342,827	10
8	[illegible]	Citizens South Bank	Gastonia	NC	SA	$492,807	9
9	[illegible]	Farmers & Merchants Bank	Granite Quarry	NC	NM	$371,691	8
10	[illegible]	Catawba Valley Bank	Hickory	NC	NM	$429,078	10
11	[illegible]	American Community Bank	Monroe	NC	NM	$281,351	8
12	[illegible]	The Community Bank	Pilot Mountain	NC	NM	$258,851	10
13	[illegible]	Paragon Commercial Bank	Raleigh	NC	NM	$276,136	1
14	[illegible]	Security Savings Bank, SSB	Southport	NC	SB	$301,403	8
15	[illegible]	Bank of North Carolina	Thomasville	NC	NM	$373,134	6
16	[illegible]	Patrick Henry National Bank	Basset	VA	N	$377,290	7
17	[illegible]	Essex Savings Bank	Norfolk	VA	SA	$336,883	1
18	[illegible]	SouthBank FSA	Corinth	MS	SA	$426,396	2
19	[illegible]	Peoples National Bank	Danville	VA	N	$371,213	10
20	[illegible]	Grayson National Bank	Independence	VA	N	$262,613	1
21	[illegible]	First National Bank	Rocky Mount	VA	N	$272,160	6
		Total				**$7,305,198**	**149**