



L I N C O L N
ACTION
P R O G R A M

April 2, 2004

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:

As a Community Action Agency, Lincoln Action Program 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 businesses in minority, immigrant, and low- and moderate-income communities. Your proposed changes are contrary to the CRA statute because they will halt the progress made in community reinvestment. The effects of these rule changes are expected to impact Nebraska and our neighboring rural states most, because we are served by more small banks that fall under the proposed changes.

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. In Nebraska, 11 lenders with combined assets of \$4 billion would no longer face service and investment tests. The elimination of the investment and service tests translates into considerably less access to banking services and capital for our 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 funds for our Housing Development Corporation's affordable rental housing construction. The units built by our agency house families leaving homelessness and people with disabilities, as well as other low income families.

In our experience with Microenterprise, many people have succeeded in moving from poverty to self-sufficiency with loan money that originates through CRA investment and loans to the Nebraska Microenterprise Partnership Fund. One such individual is Mina Atai. Mina arrived as a refugee with her five children in 2001. She worked long hours to save money in an Individual Development Account, and she also took a loan from the Partnership Fund to open the Papijon Grill, Lincoln's first Afghan restaurant, in 2003. Without this loan supported by CRA investment, she would not have been able to borrow money from a bank, because of her very short credit history and lack of assets.

Under proposed changes, mid-size banks would no longer be held accountable for the provision of bank branches, checking accounts, or debit card services to low-income people. This would hurt the community we serve, and make it more difficult for us to find willing banking partners to provide no-cost Individual Development Accounts (IDAs) to low-income families. With the service test, bankers are motivated to offer informative workshops to low-income homebuyers, entrepreneurs, and youth.

We are also concerned because the proposed CRA changes contain an anti-predatory lending standard 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

Helping Families—Changing Lives



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in CRA ratings. This asset-based standard falls short. 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 the necessary income to afford monthly payments, but still lose wealth because of a lender's excessive fees or unnecessary products.

Rigorous fair lending audits and severe penalties on CRA exams for abusive lending are necessary in order to ensure that minority and low-income homeowners are protected. 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 as proposed. 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.

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 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 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.

The proposed changes to CRA will directly undercut the Administration's emphasis on minority homeownership and immigrant access to jobs and banking services. The proposals 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.

CRA is simply a law that makes capitalism work for all Americans. It is vital to community development in Nebraska. Please move to strengthen, rather than weaken its impact.

Thank you for your attention to this critical matter.

Sincerely,

A handwritten signature in black ink that reads "Brian Mathers". The signature is written in a cursive style with a long horizontal stroke at the end.

Brian Mathers
Lincoln Action Program

Cc:

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