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March 26, 2004

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
RE: Regulation BB; Docket No. R-1181

Docket No. 04-06
Communications Division
Public Information Room
Mailstop 1-5
Office of the Controller of the Currency
250 E Street, SW
Washington, DC 20919

Robert E. Feldman
Executive Secretary
ATTN: Comments, Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RE: 12 CFR Part 345

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attn: No. 2004-04

RE: Community Reinvestment Act Regulations—Joint notice of proposed rulemaking

Dear Regulator:

I am writing to urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. Greater Rochester Housing Partnership is a member of the Greater Rochester Community Reinvestment Coalition, and a non-for profit lender for affordable housing.

CRA has been instrumental in increasing access to homeownership, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities. Your proposed changes are contrary to the CRA statute because they will facilitate predatory lending and reduce the ability of the general public to hold financial institutions accountable for compliance with consumer protection laws and regulations.

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

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data collection and reporting for small business lending 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 under their proposal, and thus missed a vital opportunity to continue CRA's effectiveness.

Streamlined and Cursory Exams. Under the 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. This 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. In the Rochester market, the affected banks would be regional institutions. These banks are an important player in the provision of banking services to urban neighborhoods and rural communities.

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 the necessary income to afford monthly payments, but they are still losing wealth because of a lender's excessive fees or unnecessary products.

Any 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, will allow CRA exams to be used to cover up predatory lending practices. 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 lending standard will not provide the necessary protections. By shielding lenders 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.

We suggest the CRA definition of predatory lending should mirror the New York State anti-predatory lending law definition of high cost loans and curtail the same

practices that the New York State law prohibits. The law includes a reasonable cap on fees and points, provisions against pre-payment penalties, loan flipping, mandatory arbitration, balloon payments, etc.

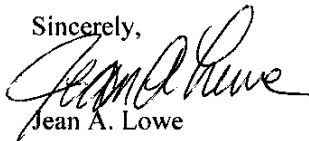
Enhanced data disclosure. The federal agencies propose that they will publicly report the specific census tracts of small businesses receiving loans in addition to the current items in the CRA small business data for each depository institution. This will improve the ability of the general public to 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.

Missed Opportunity to Update Exam Procedures: The agencies also failed to close gaping loopholes in the CRA regulation. Banks can still elect to include affiliates on 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 a considerable portion 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 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. The proposed data enhancements would become much more meaningful if the agencies update 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,



Jean A. Lowe
President