



**DELAWARE COMMUNITY REINVESTMENT
ACTION COUNCIL, INC. (DCRAC)**

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April 2, 2004

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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:

On behalf of the Delaware Community Reinvestment Action Council, Inc., (DCRAC), I am writing to urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. DCRAC is a statewide non-profit advocacy organization founded to ensure fair and equal access to credit and capital.

122 B. North Race Street, Georgetown, DE 19947
Tel: 302-854-9410; Fax: 302-854-9369

838 Walker Road, Suite 22-2, Dover, DE 19904
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Our mission is "to ensure equal access to credit and capital
for the under served populations and communities throughout Delaware
through Education, Advocacy, and Legislation."

A Private 501 (c) (3) non-profit founded in 1987

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DCRAC is also a member of the National Community Reinvestment Coalition (NCRC) and supports comments by the NCRC membership asking for stronger not weaker Community Reinvestment regulations.

In Delaware, CRA has been instrumental to increasing access to homeownership, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities.

The proposed changes are contrary to the CRA statute because they will halt the progress made in community reinvestment. Additionally, they will thwart the Administration's goals of improving the economic status of immigrants and creating 5.5 million new minority homeowners by the end of the decade.

Our comments are limited to the following 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
- 3) Expand data collection and reporting for small business and home lending

In addition, we will address two missed opportunities, namely affiliates and assessment areas.

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 thereby reduce the rigor of CRA exams for 1,111 banks that account for more than \$387 billion in assets.

The elimination of the investment and service tests for more than 1,100 banks translates into considerably less access to banking services and capital for underserved communities. Banks will no longer have the incentive to invest in Low Income Housing Tax Credits, credited as a major source of affordable rental housing. Likewise, the banks would no longer be accountable for the provision of bank branches, checking accounts, Individual Development Accounts (IDAs), or debit card services.

Thus, the effectiveness of the Administration's housing and community development programs would be diminished. Moreover, the federal bank agencies will fail to enforce CRA's statutory requirement that banks have a continuing and affirmative obligation to serve credit and deposit needs if they eliminate the investment and service test for a large subset of depository institutions.

We propose that at the present time there be no changes to the current practice of evaluating banks under Lending, Investment, and Service tests.

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Predatory Lending Standard

The proposed CRA changes contain an anti-predatory screen that will actually perpetuate abusive lending. The asset-based standard does not cover many instances of predatory lending.

For example, the proposal will lower a CRA rating in abusive lending situations only if such lending results in delinquency or foreclosure. There are many abuses associated with predatory lending such as packing of fees into mortgage loans, high prepayment penalties, loan flipping, mandatory arbitration, etc. The current proposal fails to address them.

We suggest that 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.

We propose that anti-predatory standards must apply to ALL loans made by the bank and ALL of its affiliates, not just real-estate secured loans issued by the bank in its "assessment area".

Enhanced data disclosure

We support the proposals for small business data disclosure and enhancements to HMDA. However, the positive aspects of the proposed data enhancements do not make up for the harm caused by the first two proposals.

In addition, the federal agencies are not utilizing the data enhancements in order to make CRA exams more rigorous. Therefore, the enhancements become rather meaningless.

We propose that this data is used in CRA exams such that high cost loans and loan purchases are given less weight than prime loans and loan originations.

Missed Opportunity to Update Exam Procedures

The proposals 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.

We propose that a CRA exam must include ALL affiliates.

The proposed changes need to update assessment areas to include geographical areas beyond bank branches. Many banks make considerable portions of their loans beyond their branches; this non-branch lending activity MUST be scrutinized under CRA exams.

We propose that Assessment Areas must be expanded to take into account the degree of non-branch lending activity.

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In closing, we reiterate that 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 too vital to be gutted by harmful regulatory changes and neglect.

Thank you for the opportunity to comment and your attention to this critical matter.

Sincerely,


Rashmi Rangan
Executive Director

CC:

President George W. Bush
Treasury Secretary John W. Snow
Senator Joseph Biden
Senator Thomas Carper
Representative Michael Castle
National Community Reinvestment Coalition