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EDGEMONT CENTER

PAGE 02

Edgemont Neighborhood Coalition, Inc.

357

Projects
Edgemont



Youth Enrichment
Computer-Edgenet

915 Valley Chapel Road
Dayton, Ohio 45408-2672

April 5, 2004

Docket No. 04-08
Communications Division

Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
250 E. Street SW
Washington, DC 20219

Docket No. R-1181
Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street 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 Official of Federal Bank and Thrift Agencies:

Edgemont Neighborhood Coalition 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 the nation's 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.

Edgemont Neighborhood Coalition

Edgemont Neighborhood Coalition, Inc. is a nonprofit community organization located in Dayton, Montgomery County, Ohio. The group consists of residents of the Edgemont neighborhood, a low-income African American neighborhood in Dayton, who have associated in order to foster pride in their neighborhood and address the issues of crime, youth and adult joblessness, inadequacy of educational opportunities, affordability of utilities, and business and community development.

 Standard Register

Partnership

- Chem First
- Dayton Urban League
- University of Dayton

Edgemont Neighborhood Coalition

4/3/2004

2

One issue of importance of the Edgemont Neighborhood Coalition, Inc. has been the availability of affordable financial services in the community. Edgemont has been active in Community Reinvestment Act activities in order that residents have access to mainstream financial services at mainstream prices, and not be relegated to high-cost "fringe bankers" such as payday lenders, "subprime" mortgage lenders, rent-to-own vendors and pawnshops.

In furtherance of these goals, Edgemont has commented on proposed regulations by federal agencies and has appeared as amicus curiae in court cases involving payday lending and predatory mortgage lending. Edgemont has been a party in proceedings in the Public Utilities Commission of Ohio, and has also cosponsored conferences concerning payday lenders and their effects on the community. Edgemont supports the work of the National Community Reinvestment Coalition, and of the Community Reinvestment Institute Alumni Association here in Dayton.

In addition to being a community organization, Edgemont Neighborhood Coalition, Inc. functions as a small business, operating an office, storefront, community garden and community computer center.

Local Concerns

Montgomery County, Ohio, where we are located, is experiencing an explosion of mortgage foreclosures. There were more than 4,300 foreclosures in Montgomery County in 2003, up 250% in six years. The study report Predation in the sub-Prime Lending market: Montgomery County - 2001, examined of a random sample of mortgages associated with foreclosure filings and found that a significant minority of sub-prime loans involved with foreclosures exhibit interest rates or other features that are predatory in nature.

Subprime mortgage lending is more prevalent in minority neighborhoods. Minority homeowners, particularly women, have frequently been the targets of predatory lenders. Foreclosed homes add to the problem of abandoned properties, which blight the neighborhood and contribute to crime.

A recent study by ACORN found that 23% of all refinance loans to African-Americans in the Dayton/Springfield area were made by higher cost subprime lenders, as opposed to 6% to whites.¹ A study by the National Community Reinvestment Coalition found that African-Americans are more likely to get a subprime loan than whites even if the borrowers credit scores are the same.²

The Federal Reserve Board has found that the median value of financial assets for non-whites is only 1/5 of that of whites.³ The equity in a family home is the most common financial asset for African-Americans. Unreasonably high cost mortgage loans attach the equity in the home, prevent upward mobility and ultimately can result in losing the home and what the home means to the American dream.⁴

Our neighborhoods also suffer from the proliferation of payday lenders who charge high interest rates for short-term loans. The community is also in severe need of business development and jobs which businesses provide.

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1. Predatory Lending in America, ACORN (February 2004) available at <http://acorn.org/filesadmin/CommunityReinvestment/Reports/SandE2004/sept04sandunaq12004.pdf>
 2. The Broken Credit System, National Community Reinvestment Coalition, (2003) available at <http://www.nccrc.org/news/030403study.pdf>
 3. Acosta, Kenneth and Moore, Recent changes in Family Finances: Evidence from the 1998 and 2001 Survey of Consumer Finances, Federal Reserve Bulletin, January 2003.
 4. Carr and Schurz, Financial Services in Distressed Communities: Framing the Issue, Finding solution, and Carr and Kellum, Predatory Lending: An Overview, in Financial Services in Distressed Communities: Issues and Answers, (Fannie Mae Foundation, August 2001).

Objections to the Proposed Changes

We are concerned that the proposed CRA changes would facilitate predatory lending and reduce the ability of the general public to hold financial institutions accountable for compliance with consumer protection laws. The proposed CRA changes will also 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.

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 data collection and reporting for small business 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 in 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 assets.

The elimination of the investment and service tests for more than 1,100 banks translates into considerable 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. 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.

Predatory Lending Standard:

The proposed CRA changes contain an anti-predatory screen that will actually perpetuate abusing 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 as a result of a lender's excessive fees or unnecessary products.

CRA exams will allow abusing lending if they contain the proposed anti-predatory 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. Rigorous fair lending audits and severe penalties on CRA exams for abusing 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.

Edgemont Neighborhood Coalition

4/3/2004

4

**Anti-Predatory Standard Must Apply to All Loans
Made By the Bank And All Of Its Affiliates**

In addition, and anti-predatory standard 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" as proposed by the agencies. Many banks have subprime affiliates that charge unjustifiably high rates and engage in abusive practices or fund loans made by mortgage brokers who engage in them. By shielding banks from the consequences of abusing 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: 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 that loan originations.

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 service 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 needed to update assessment areas to include geographical areas beyond bank branches. Many banks made considerable portions 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,

Barbara J. Hurt, Executive Director
Edgemont Neighborhood Coalition

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