

Chicago Appleseed Fund For Justice

An Affiliate of the Appleseed Foundation

750 N. Lake Shore Drive • Fourth Floor • Chicago, IL 60611
Phone: 312-988-6552 • Facsimile: 312-654-8644
E-mail: caffj@chicagoappleseed.org
Website: www.chicagoappleseed.org

April 5, 2004

359

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

I am writing from the Chicago Appleseed Fund For Justice (Chicago Appleseed) to comment on the proposed changes to the regulation of the Community Reinvestment Act (CRA). Chicago Appleseed is an affiliate of the Appleseed Foundation and is a participant in a multi-site, nationwide effort aimed at improving financial education in the immigrant community. We feel that the proposed changes to the CRA regulation will significantly roll back policy essential for community reinvestment and miss a critical opportunity to close loopholes and modernize the CRA regulation.

Small Bank Limits

The proposed CRA regulation would change the definition of "small bank" from any institution with less than \$250 million in assets and not part of a holding company with over \$1 billion in assets to include all institutions with less than \$500 million in assets regardless of holding company size. This change will dramatically increase the number of banks considered "small" that, for CRA purposes, are not examined for their levels of community investment and services under the streamlined small bank CRA examination. This will disproportionately affect rural communities and small cities where smaller institutions have significant market share. In Illinois, it will reduce the number of institutions covered by the comprehensive CRA exam by 63 percent, from 198 banks to 74.

Another concern is that by removing the holding company threshold from the definition of small bank, regulators will not only reduce the number of institutions covered by comprehensive CRA, but will also have created a potential loophole for large holding companies to exploit when trying to evade CRA compliance. This change raises the possibility that large holding companies will re-form their banking subsidiaries as a series of local "small banks" to avoid comprehensive CRA examinations.

Chicago Appleseed feels expanding the definition of "small bank" disproportionately harms rural communities and creates a loophole for larger financial institutions to exploit in getting around full CRA compliance.

Affiliate Lending

Regulators missed a significant opportunity to modernize CRA by not requiring affiliate lending to be considered in CRA exams. As bank holding companies increasingly use non-bank lenders to originate mortgages, it is critical that all lending affiliates be required to report lending in an institution's CRA exam. As currently structured, the CRA regulation allows banks to choose which affiliate loans in a given assessment area they want to apply toward the lending test. This allows institutions to cherry-pick the best lending affiliates for each assessment area and exclude affiliates in assessment areas where those affiliates might not be adequately serving the community. As holding companies increasingly acquire non-bank lenders, often subprime lenders, it is critical that this loophole be closed and all lending affiliates be considered in CRA exams.

Predatory Lending Standard

By setting a weak anti-predatory lending standard, regulators missed a significant opportunity to make a strong statement about predatory lending. The proposed standard allows that loans originated based on foreclosure value of collateral rather than borrower ability to repay can negatively affect a bank's CRA exam. This standard misses numerous predatory practices such as packing exorbitant fees onto mortgage loans, loan flipping, charging high prepayment penalties, and mandatory arbitration that can strip equity from homeowners and trap borrowers in abusive loans. Regulators should apply a strong predatory lending standard to bank loans and to loans made by affiliates.

Conclusion

Chicago Appleseed feels that the proposed changes undermine the mission of community reinvestment by creating loopholes for financial institutions to exploit in order to evade significant CRA compliance. We also feel regulators missed a significant opportunity to modernize CRA by not requiring affiliate lending to be considered in CRA exams.

Chicago Appleseed urges you to reject the proposed changes to the definition of small banks; adopt a more inclusive policy toward affiliate lending; and strengthen the proposed predatory lending standard.

Sincerely,

Malcolm C. Rich
Executive Director
Chicago Appleseed Fund For Justice
Direct Phone: 312-988-6552
E-mail: malcolmrch@chicagoappleseed.org