

Neighborhood Reinvestment Corporation



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April 5, 2004

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 N W
Washington DC 20552

Dear Officials of Federal Bank and Thrift Agencies:

In accordance with the request for comments regarding the Advance Notice of Proposed Rulemaking (ANPR) Regarding the Community Reinvestment Act of 1977, published in the Federal Register on April 18, 2004, the Neighborhood Reinvestment Corporation submits the following comments for consideration.

Background Information Regarding the Neighborhood Reinvestment Corporation:

The Neighborhood Reinvestment Corporation is a public nonprofit corporation established by an act of Congress in 1978 (P.L. 95-557).

Neighborhood Reinvestment's mission is to strengthen distressed urban, suburban and rural communities across America, through a national network of local community-based partnership organizations composed of community residents, private sector and local government entities – known collectively as the NeighborWorks® network.

In pursuing its mission, Neighborhood Reinvestment:

- provides technical assistance, training, information services and other resources and funding (that is leveraged many times over by private sector funding) to its affiliated NeighborWorks® network members, and also provides training, information services and other resources to the broader community development industry;
- coalesces public and private support for local, regional and national community reinvestment efforts;
- contributes to public policy discussions concerning affordable housing and other means of transforming communities and improving the lives of lower-income families; and
- monitors changes in the field, assesses the need for new approaches, and initiates research or programmatic initiatives to address those needs.

The NeighborWorks® network founded by Neighborhood Reinvestment has evolved to an impressive network of 228 locally-directed nonprofit organizations working to expand affordable housing opportunities and support community revitalization efforts in more than 2,500 communities across the United States -- in 49 states, the District of Columbia and the Commonwealth of Puerto Rico. NeighborWorks® organizations operate in our nation's largest cities and in some of its smallest rural communities. In FY 2004 alone, the NeighborWorks® network will generate more than \$2.2 billion in direct reinvestment in distressed communities across the nation.

The following comments are informed by our experience in working with these local NeighborWorks® organizations and their local, regional and national lending partners.

Comments Regarding the Proposed Rule:

The creation of the Community Reinvestment Act in 1977 has spurred many positive developments for the community development field. As a direct result of this act, regulated financial institutions have produced innovations in lending, investment and services, evidenced by billions of dollars in additional lending activity. Some of the financial institutions that now provide an impressive level of lending activity in support of affordable housing and community revitalization were not previously involved in activities that promoted community reinvestment prior to the promulgation of CRA regulations, and now are willing and able participants in programs that are economically sound.

Our affiliated NeighborWorks® organizations agree that the Community Reinvestment Act has been effective in encouraging banks and thrifts to provide vital capital to under-served communities. More specifically, Neighborhood Reinvestment and its affiliated NeighborWorks organizations have seen a substantial positive change in the flow of capital to previously under-served communities and populations resulting from the regulatory changes to CRA promulgated in the early 1990s. Mortgages, home equity and home rehabilitation loans are more available in the low-income communities served by NeighborWorks® organizations, as are credit card, automobile and personal loans.

However, while the availability of credit for lower-income and minority families has grown, the credit is often provided by subprime lenders, at a high cost -- and an increasing number of 'predatory lenders' have entered this market aggressively. NeighborWorks® organizations are experiencing an increase in the number of consumers seeking assistance after they have fallen victim to predatory lending tactics, such as home refinance with excessive fees that strip the homeowners of their hard-earned equity or tax-refund anticipation loans that charge exorbitant interest rates and fees. For years, NeighborWorks® organizations

have looked to the Community Reinvestment Act to reinforce the commitments of regulated institutions toward serving the capital needs of low and moderate-income communities and populations. Clearly, any regulatory changes that may be seen as having the potential to 'erode' the effectiveness of CRA would be cause for significant concern.

Toward that end, we offer the following thoughts and observations regarding the Advance Notice of Proposed Rulemaking.

Abusive Lending Practices

We applaud the regulatory agencies for specifically stating that predatory lending activities of financial institutions or the institutions' affiliates would adversely affect their CRA performance evaluations. We believe that this change will send a clear message that the financial regulatory agencies are paying close attention to this issue, and will help reduce the level of delinquencies and foreclosures brought on by abusive lending practices in the distressed communities served by NeighborWorks organizations.

However, we would encourage the regulatory agencies to consider widening the definition of predatory lending practices. In the experience of NeighborWorks® organizations, many of the predatory lending tactics involve excessive fees or unnecessary products that serve only to reduce the already-limited assets of low-income families.

Definition of Small Institutions

This proposed change would change the performance standards for banks and thrifts with assets between \$250 and \$500 million. Many of our affiliated NeighborWorks® organizations have developed strong partnerships with these small- to medium-sized institutions, and our affiliates have expressed concern about the future of these relationships if the proposed CRA changes were enacted.

The issue is particularly relevant for organizations serving rural communities and small towns. NeighborWorks organizations have spent many years cultivating their partnerships with the small- to medium-sized financial institutions, and they are concerned that the proposed rule could allow their financial institution partners' interests in community reinvestment to fade, and negatively affect low-income families and communities. One affiliate serving upstate New York, (Rural Opportunities, Inc.) has estimated that 46 of the 270 banks serving upstate New York would be defined as small institutions, under the proposed rule. If this proposal passed, and the affected financial institutions interpreted this change to represent a reduction in the commitment of the regulatory agencies to monitor their performance under CRA, New York communities could potentially lose billions in capital annually that has historically been stimulated by CRA.

Neighborhood Reinvestment recommends that if this change in definition is finalized, the financial regulatory agencies issue a strong statement indicating that this change will be re-visited if there is any appreciable reduction in the lending, investment and services traditionally provided pursuant to CRA.

Financial Services Landscape

We would also like to take this opportunity to comment briefly on an important CRA-related issue not addressed in the Advance Notice of Proposed Rulemaking.

Clearly, the financial services industry and environment have changed dramatically since the Community Reinvestment Act was enacted in 1977, as institutions' assets have grown substantially and many banks and thrifts have consolidated, and increasingly financial services are offered over the internet. As important as the current CRA regulations are, these and other changes sweeping over the financial services industry could make the current CRA regulations less and less relevant over time. For example, while financial services offered over the internet serve consumers on a truly national basis, these

institutions are only held accountable under CRA for investment in the location of their corporate headquarters (or their defined 'service area'). As this trend continues, it provides previously unavailable opportunities for financial institutions to manipulate or 'game' the system on which their CRA rating is based. We know that this is a knotty problem and that the financial regulatory agencies have been considering the implications of the trend toward internet banking and loan origination. As the internet continues to serve the financial needs of increasing numbers of consumers, we simply want to encourage the regulators to continue to consider the implications of this trend on CRA.

Conclusion

The Community Reinvestment Act has been a vital element in stimulating community reinvestment across America. We appreciate the need for regulations to keep pace with the changing marketplace, and we thank you for your consideration of these comments and for your efforts on behalf of underserved communities and households across America.

Please feel free to contact me (at 202-220-2410 or by email at kwade@nw.org) or Steven Tuminaro, Director, Public Policy and Legislative Affairs (at 202-220-2415 or by email at stuminaro@nw.org) with any questions or concerns you may have regarding these comments.

Sincerely,



Kenneth D. Wade
Executive Director