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February 18, 2004

Regulation Comments, Attention: No. 2004-04  
Chief Counsel's Office  
Office of Thrift Supervision  
1700 G Street, NW  
Washington, D.C. 20551

To Whom It May Concern:

I am writing on behalf of the Cleveland Neighborhood Development Coalition to urge 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. In Cleveland alone, from 1991 to 2002, over \$4.6 billion in commitments were made by area financial institutions in Neighborhood Reinvestment Program Agreements, and from 1994 through 2000, over \$3 billion in home purchase, home improvement, small business community development lending and community development investments were made by financial institutions with CRA agreements with the city.

Your proposed changes are contrary to the CRA statute because they will halt the progress that has been made in community reinvestment. In fact, they are contrary to 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. Instead, 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 harmful elements in proposed changes include: streamlined and cursory exams for banks with assets between \$250 million and \$500 million; and a weak predatory lending compliance standard under CRA. In addition, the federal banking agencies did not update procedures regarding affiliates and assessment areas in their proposal, and therefore missed an opportunity to strengthen CRA's effectiveness given the recent and current changes in the financial services industry.

Under 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, which would 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 this number of banks translates into considerably less access to banking services and capital for underserved communities. These banks would no longer be held accountable under CRA exams for investing in Low Income Housing Tax Credits, the provision of bank branches, checking accounts, Individual Development Accounts, or debit card services – all of which would weaken that Administration's housing and community development programs.

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 as a result of a lender's excessive fees or unnecessary products.

CRA exams will allow abusive 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 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. In addition, an 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. By shielding banks 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.

Finally, the proposed changes do not close existing 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 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 considerable portions of their loans beyond their branches; this non-branch lending activity will not be scrutinized by CRA exams.

The one positive proposed change involves enhanced data disclosure. The federal agencies propose that they will publicly report the specific census tract locations 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. This change 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 has proved too valuable an instrument of neighborhood revitalization to be undermined by proposed changes, and the Cleveland Neighborhood Development Coalition strongly urges you to withdraw them. Thank you for your consideration.

Sincerely,

Mary Helen Petrus  
Director of Policy Development

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

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**From:** Mary Helen Petrus [maryhelen@cndc2.org]  
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