The letter below was printed onto letterhead of the

Metropolitan Milwaukee Fair Housing Council
600 E. Mason Street, #200
Milwaukee, WI 53202

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March 30, 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 NW
Washington DC 20552

Dear Officials of Federal Bank and Thrift Regulatory Agencies:

I am writing to express the concern of the Metropolitan Milwaukee Fair Housing Council (MMFHC), regarding the proposed changes to the Community Reinvestment Act (CRA). We join with the National Community Reinvestment Coalition (NCRC) and colleagues across the country in urging you to reject the proposed changes to the CRA regulations because we believe they will reduce bank investment and services in low- and moderate-Income communities.

MMFHC is a 26 year-old private nonprofit organization which works to promote fair housing throughout the State of Wisconsin by guaranteeing all people equal access to housing opportunities, and by creating and maintaining racially and economically integrated housing patterns. MMFHC's Community and Economic Development Program works in the arenas of fair lending, fair growth, and affordable housing. Our fair lending activities focus on helping to connect lenders with opportunities for investment in central city neighborhoods, monitoring banks' CRA performance, and placing a special emphasis on counteracting the work of predatory lenders.

Here in Milwaukee, indeed in communities across Wisconsin, and many other communities around the country, we have seen that CRA has been instrumental in increasing lending and investing. The results of the positive changes to the CRA regulation in 1995 have been significant. In Milwaukee, WI, CRA has made possible a wide variety of projects, including affordable single family and duplex in-fill developments like the Beauchamp Townhomes, Lindsay Heights, and City Homes; multifamily rental developments like King Heights, and commercial revitalization in our downtown, and near north, south and west side neighborhoods.

Additionally, we have seen CRA nudge lenders toward significant efforts to reach previously underserved populations with mortgage and home repair loan products, helping people of color and lower income people become homeowners and remain as homeowners. As they begin to make more of these loans, the lenders are finding that they have uncovered a whole new profitable market. But many lenders still need that nudge, and many lenders, including the smaller ones, still need more than a nudge to serve the entire population of their assessment areas – not just the more affluent folks.

Besides decreasing lenders' attention to lower income communities, MMFHC is concerned that the proposed CRA changes will thwart the Administration's efforts to improve the economic status of immigrants and create 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.

While we are in full support of expanding data collection and reporting for small business and home lending, the good aspects of that proposal are overwhelmed by the proposal for an alarmingly weak standard for predatory lending compliance and the damage imposed by the proposal to provide streamlined and less stringent exams for banks with assets between $250 million and $500 million. In addition, MMFHC is concerned that 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.

Predatory Lending Standard As the coordinator of "Strategies to Overcome Predatory Practices" (STOPP), a component of MMFHC's Community and Economic Development (CED) Program, the Metropolitan Milwaukee Fair Housing Council is very familiar with the issues surrounding predatory lending. Utilizing a coalition of community-based organizations, housing industry representatives and government to identify and eliminate predatory lending practices throughout Milwaukee County, STOPP helps victims of predatory loans via its hotline, which hooks up borrowers with financial and homeowner counseling, legal counsel, and access to "good loans" from good lenders. Additionally, the STOPP legislative workgroup has examined state and national legislation designed to protect borrowers from predatory lenders and is very aware of the lending industry's concerns about additional regulation.

We are pleased to see that the regulators are attempting to address the predatory lending issue. However, the proposed CRA changes set an alarmingly low standard for what would be considered a predatory loan. If the changes go through, banks with unconscionable loans could point to the low standard and claim that they are not involved in predatory lending. The proposed CRA changes contain an anti-predatory screen that will actually perpetuate abusive lending.

CRA exams would 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, balloon payments, and many other 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, MMFHC strongly agrees with the National Community Reinvestment Coalition that 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.

Exempting banks and thrifts with $250 to $500 million in assets If the proposed changes are enacted for banks and thrifts with assets between $250 and $500 million, the investment and service parts of the CRA exam would be eliminated on 36 out of the 311 banks located in Wisconsin, and their requirement to do community development lending would go away. This is 11.6% of all banks located in WI. These 36 banks have $12.5 billion in assets. Across the country, the proposed changes 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 more than 1,100 banks translates into considerably 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.

Enhanced data disclosure MMFHC agrees with the proposal to 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. That change should dramatically improve the ability of the general public to determine if banks are serving traditionally neglected neighborhoods with small business loans. The proposal to separately report purchases from loan originations on CRA exams and separately report high cost lending should be used to give examiners the data necessary to enable them to provide less weight on CRA exams to high cost loans than prime loans and assign less weight for purchases than loan originations.

Other Exam Procedure Updates Necessary 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 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 all 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.

In summary, MMFHC believes that the proposed changes to CRA will directly undercut the Administration's emphasis on minority homeownership and immigrants' 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 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,

William R. Tisdale
President and CEO

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