

Community Economic Development Law Project

Randolph Tower
188 W. Randolph, Suite 2103
Chicago, Illinois 60601
(312) 939-3638
Fax (312) 427-6172
cedlp@aol.com

Susan Kaplan, Esq.
Director
Jody Rachel Adler
Staff Attorney
Norma J. Sutton
Staff Attorney
Maria Woltjen
Staff Attorney

October 16, 2001

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G St. NW
Washington, D.C. 20552

To Whom It May Concern:

I am writing from the Community Economic Development Law Project (CEDLP) to comment on the Advanced Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA) regulations. CEDLP believes it is vitally important that we continue the progress made with the 1995 revisions to the CRA regulations. The following is a list of principles that we believe should be incorporated into the final regulations:

- Quantitative measures should remain a significant emphasis in the regulations. If the focus on quantitative analysis is rescinded, we will go back to the time when CRA examinations were based on process rather than outcome. At the same time, improvements in measurements that incorporate qualitative differences in lending, investment, or service activities are needed.
- It is very important that the lending test continue to be a key component of CRA exams. The location, distribution, volume, and quality of an institution's residential, small business, and consumer lending are all important. However, the regulations should direct examiners to also evaluate the quality of an institution's lending. Subprime loans should be examined for predatory features and lenders making a significant number of these loans should not receive Satisfactory lending test ratings. The origination or purchase of loans that violate state or federal lending laws should result in a Substantial Noncompliance lending test rating. Any lender significantly engaged in payday or auto title lending at or above unregulated standard industry rates should receive no higher than a Needs to Improve rating on the lending test.
- The investment test is critical to evaluating an institution's record of meeting the credit

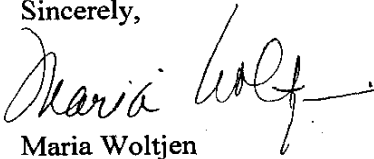
needs of its community and should be retained as a separate test. Investments are crucial to the capacity of nonprofits, community development banks and others to serve the credit needs of those who are otherwise not well served. Exams should distinguish between different types of investment activity, between lower- and higher-risk investments, and between higher-return and lower-return investments. Investments in mortgage- and asset-backed securities should be reviewed for predatory or illegal lending practices, and banks involved in such practices should be downgraded accordingly.

- The provision of basic retail banking services is critical to the financial health of low-income people. The service test should be applied to all institutions that provide retail banking services. In the CRA exam process, emphasis should be placed on branches and special weight should be given to the current branch distribution. Banks should not receive Satisfactory ratings on this test if they are involved in alliances that harm low-income consumers, such as alliances with predatory payday loan firms. Banks that by their nature do not provide deposit products for low-income customers should have to document their support for community development financial service providers in order to receive a Satisfactory rating on this test.
- The current definition of a "small bank" should not be liberalized to include more institutions, because if it were, consumers would lose out, as fewer financial institutions would be required to submit detailed accounts of how they serve their communities. Also, the small bank performance standards are not currently adequate. Since small bank exams focus on lending, their lending records should be examined in the same fashion as large banks. The limited scope and infrequency of small bank exams seriously reduces any burden on such institutions. All banks should be examined for their provision of loans, investments, and retail services in underserved areas and to underserved individuals. Exams should employ quantitative and qualitative measures as well as emphasis on assessment areas, geographic distribution of loans, and level of service to low-income people.
- The existing regulations on assessment areas are not sufficient in today's market, where Internet, credit card, telephone and other types of banking that are not rooted in bricks-and-mortar proliferate. The agencies should not only take physical branches into consideration when evaluating an assessment area but should consider where the bank takes a significant portion of its deposits or makes a significant portion of its loans. Also, no large bank should be allowed to go below the county level when defining its assessment area in a particular metro area or state. The appropriate agency should regularly evaluate a bank's delineation of its assessment area to make sure it does not violate the intent of the regulations.
- The lending of a bank's affiliates should always be examined; this should not be up to the bank to decide. Failing this, the regulations should specify that an institution can choose only whether to have all affiliates included in the exam, rather than to have some affiliates included and others excluded. Moreover, all residential, consumer and small business lending products of all affiliates should be examined.

- Small business data, which are critical to the meaningful evaluation of a bank's CRA performance, should be revised to mirror the Home Mortgage Disclosure Act (HMDA) format and be made available to the public. Data should be reported on each loan application, including race and gender of applicants. Small business renewals or refinances should also be separated from regular originations.
- Institutions should be required to report and make public data on account holders, including income, race, census tract of residence, average balance, type of account, and whether the account was opened in the reporting year.
- The current definition of "community development" is too broad. In particular, "activities that promote economic development by financing small businesses and farms" is far too general. Business development activities should meet the following criteria to fall under the definition of "community development": 1) affected firms are small businesses located in low-or moderate-income geographies or are minority-owned; and 2) the activity of the firm is not perceived as deleterious to the community (payday loan stores, liquor stores, etc.).

Thank you for considering these comments. Please let me know if you have questions or need further information.

Sincerely,



Maria Woltjen