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Regs.comments@occ.treas.gov
OCC
Docket No. 01-16
Communications Division
Public Information Room, MS 1-5
250 E Street, SW
Washington, DC 20219 RE: RIN 1557-AB98

Regs.comments@federalreserve.gov
Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551 RE: Regulation BB

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Robert E. Feldman
Executive Secretary
Attention: Comments/OES
FDIC
550 17th Street, NW
Washington, DC 20249 RE: RIN 3064-AC50

Regs.comments@OTS.treas.gov
Chief Counsel's Office
Office of Thrift Supervision
Attention: Docket No 2001-49
1700 G. Street, NW
Washington, DC 20552

Dear FFIEC Members,

We wish to thank you for this opportunity to comment on the July 19, 2001 Advanced Notice of Proposed Rulemaking relating to the Community Reinvestment Act.

The Access Capital Strategies Community Investment Fund (the "Fund") is an institutional mutual fund that invests in debt securities that support underlying community development activities targeted to low and moderate individuals in areas of the United States designated by Fund investors.

As of this date, the Fund has more than $185 million in assets under management committed by 42 banks directing investments in 23 states and the District of Columbia. On a personal level, I am a former bank chief executive officer and in 1994-95 had the opportunity to serve on the Federal Reserve Consumer Advisory Council and chair the ABA Center For Community Development. The Fund was created in 1997 in an effort to provide banks and thrifts a cost effective vehicle to help meet the needs of low and moderate-income individuals and communities consistent with safe and sound banking practices.

The CRA regulations issued in 1995 have served to encourage federally insured banks and thrifts to help meet the needs of low and moderate income communities more effectively and consisted with safe and sound banking practices. The regulations have also encouraged a wide range of non-CRA regulated entities to organize and adopt new and innovative policies and products aimed at helping banks meet the needs of low and moderate-income communities.

Hopefully any proposed changes to the regulations would have a goal of increasing the amount of capital flows in low and moderate-income communities while reducing the net economic costs of the regulation on banks and thrifts.

With this in mind we offer the following comments.

1) Large Retail Institutions: Lending, Investment and Service Tests.

More flexibility should be given to an institution in the manner in which it chooses to meet the credit needs of its community. A predescribed weighting of the various tests should be eliminated; replaced by a composite rating based upon a qualitative and quantitative evaluation using all three tests plus community development activities. The performance context should be used as a guide to determine an appropriate level of performance for each institution in each test based upon the range of its business activities and strategies.

A) Lending Test

Loan originations, loan purchases and the purchase of asset backed securities comprised of community based loans all help to meet the credit needs of a community. Loan originations may receive more qualitative credit (e.g. count twice as much or some other appropriate multiple) than purchased loans or asset backed securities since an origination also comprises a service and upfront risk and costs. Loan purchases in areas in which securitization is not routinely accommodated by private investors might count for more than a purchase of a conforming loan or credit enhanced asset backed security. However, if a bank purchases loans or securities at a premium in order to compensate the originator for its service and costs, the purchase might also be given higher weighting because such purchases are enabling for the originator.

In particular, purchases that provide any loan originator a reliable source of liquidity at a reliable price should be given credit for the loan activities directly attributable to the purchase or investment. For example an investment in a fund that commits to making ongoing purchases of CRA loans by an originator either as whole loans or as securities should be given more weight than spot purchases of a CRA MBS purchased from a broker/dealer that may be rolling over the same MBS with two or three institutions in any given period. This is particularly true if the purchase price reimburse the originator for its costs.

B) Investment Test

Investments that are directly tied to meeting the credit needs of low and moderate-income individuals should be given the same weighting as lending in assessing an institutions record of helping to meet the credit needs of its entire community. This would include loan purchases, purchases of asset backed securities, purchases of low income tax credits and new market tax credit investments, community loan funds, venture capital funds or investments in intermediaries that do any of the above.

The relative weight and appropriate quantity of these investments as compared to direct loan originations should be determined for each institution under the performance context provisions. For example a dominant originator in low-income home mortgage and small business loans may chose not to make any of the above mentioned investments. However a less proficient originator may serve the community largely through such investments. Institutions that operate in a wide geography may originate in some low-income communities and invest in others depending on the relative needs of the communities.

The closer an investment can be linked or tied to an origination activity or a specific credit need such as affordable housing, small business lending and first time home buying, the more weight it should be given in assessing a banks record of serving the credit needs of its community. Grants and contributions should be only count as an investment if they serve an investment purpose i.e. loan reserves. Otherwise they should be counted as services. In all cases the actual dollar amount of loans and investments that are targeted exclusively to the underserved should be weighed heavily.

We fail to see the validity of the argument regarding the availability of qualified investments. Our own experience in 23 states ranging in size and diversity from California to South Dakota indicates an oversupply of investment opportunities at acceptable risk weighted returns. If loan purchases and asset backed security purchases are included in this category then the supply and demand factors could be addressed appropriately in the Performance Context. The perceived lack of qualified borrowers is an assessment area does not invalidate the lending test.

C) Services

Many studies have demonstrated that having a physical presence in low and moderate communities is an important factor in how well a bank serves these communities. Therefore a physical presence in any form should be given strong consideration in assessing a banks record of meeting the needs of its community particularly in low-income areas. Correspondingly, banks without a physical presence, including Internet, wholesale and limited purpose banks, should have higher levels of expectation for investments and community development activities.

D) Community Development activities of large retail institutions

These activities should be combined with lending, investment and service activities and should be evaluated as they relate to satisfying the credit needs of a specific community based upon quantifiable results tied to that specific community's need e.g. new housing units, enhanced homeownership opportunities, new businesses, new jobs.

2) Small Institutions

No comment other than to allow small institutions to include targeted asset backed securities as part of the streamlined lending test to the extent that they are readily accessible and consistent with safety and soundness.

3) Limited Purpose and Wholesale Institutions: The Community Development Test

Should be applied to all institutions with proportionately higher standards for branchless, limited purpose and wholesale banks.

4) Strategic Plans

No Comment

5) Performance Context

A performance context as currently defined should be used to evaluate an institutions overall record in meeting the credit needs of its entire community. For example, an aggressive originator with a strong branch & ATM network in low-income communities may have low investment and community development activity and have a more than satisfactory record in serving community needs. A mid level performer in branching and originating loans may need much higher levels of purchased loans and investments and/or community development activities to have a satisfactory record. A bank that is low in originations and low in branches or ATM's may need very high investment and/or community development activity numbers to have a satisfactory record.

Multiple options give every bank the opportunity and flexibility to choose the most cost effective methodology and business alignment for meeting its obligation to serve its entire community. While a bank may be recognized as an outstanding lender or investor or service provider or community developer only those banks that excel in all categories should be deemed outstanding. Satisfactory performance should be evaluated based upon the institutions capacity to perform given its business model and how it chooses to service other parts of the community.

6) Assessment Areas

Assessment areas should be redefined to include all areas where an institution delivers banking services, attracts deposits and/or derives the benefits of deposit insurance.

We thank you for your thoughtful consideration of these comments.

Sincerely,

Ronald A. Homer
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