



Affordable Housing Clearinghouse

A network of lenders, community groups, and public agencies dedicated to the creation of quality affordable housing

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October 3, 2001

Chief Counsel's Office
OFFICE OF THRIFT SUPERVISION
1700 G Street NW
Washington DC 20552

RE: CRA Regulation Review
Docket No. 2001-49

Dear Regulatory Agency:

The Affordable Housing Clearinghouse wishes to submit commentary for your scheduled review of the Community Reinvestment Act.

The Affordable Housing Clearinghouse (AHC) is a nonprofit organization with a mission to expand financial opportunities for the development of affordable and special needs housing over a five county area in California: Los Angeles, Orange, San Diego, San Bernardino and Riverside counties. The members of this organization are financial institutions, community organizations whose mission is affordable or special needs housing, and local government agencies. AHC has been organized since 1991 and to date has helped to finance over 200 units of affordable ownership housing and over 400 units of affordable rental or special needs housing. AHC currently has 25 lender members, which include large, medium and small financial institutions from all our regions.

Periodically, AHC sponsors a CRA Roundtable as a service to its lender members. The purpose of the Roundtable is to discuss and share CRA related issues that will help in developing or establishing practices that will improve each member's CRA program. Our most recent Roundtable discussion dealt with the scheduled CRA review. Represented in this Roundtable were 11 large institutions, 2 small institutions and 6 community-based organizations. The conclusions of the discussion are presented to you in this letter. Please note that while AHC represents community organizations, public agencies and financial institutions, this letter expresses the views of those institutions and community organizations present at the CRA Roundtable discussion and whose signatures are attached.

The Fundamental Question

The goal with the revision of 1995 was to make the CRA examination more objective and performance-based. However, an issue that comes up often among bankers when discussing exam procedures is the fairness in which the institutions are measured. The fundamental question of whether changes to the regulation are beneficial or warranted will be answered when addressing this primary concern. Does the regulation (as it is currently written) effectively and fairly assess an institution's efforts in meeting the needs of the low and moderate-income communities? In other words, have there been significant changes in the nation's economy, technology and legislative mandates that require a revision on how financial institutions are measured? To this point a



community based organization, the National Community Reinvestment Coalition, expressed concern that the financial modernization legislation recently enacted weakened the CRA and negatively impacted under-served communities. Our discussion attempts to answer these questions by directly addressing specific issues of the regulation.

The Review

Large Bank versus Small Bank

Current regulation states that an institution is considered a Large Institution and subject to the more strenuous requirements if the institution is independent and has assets of \$250 million or more; or is an affiliate of a holding company with total bank assets of \$1 billion or more. It is this group's finding that the measurement for defining an institution as a "small" or "large" does not provide a reasonable standard. Community organizations argue that recent legislation allow small banks to limit their CRA oversight by maintaining their asset size below the target mark. In response to this, our small bank participants suggest that the streamlined test for small institutions be enhanced to encourage growth and to address specific needs of a community. Further, our banking participants suggest that a holding company's assets are not relevant to the abilities of a small affiliate institution to meet the Large Institution tests, unless the holding company is held responsible to direct and support the CRA activities of the whole entity. Other recommended changes to this part of the regulation are as follows:

- Evaluations of small institutions should be commensurate with the institutions' asset size.
- Evaluations of small institutions should be more definitive and relate to actual community needs.
- To encourage growth, there should be specific time limits for being examined under the streamlined test. A tier step can be utilized reflecting length of time and asset size. As the institution grows, the institution's CRA responsibilities can expand.

The definition of "Assessment Area" is another concern for both small and large institutions. Here is an example of how the current definition can have negative consequences. One of our small institution members has one branch and it happens to be in a small community where a large employer employs a substantial number of individuals who reside outside the community. A substantial portion of the bank's business is to employees and clients of this large employer. Unfortunately, the CRA rating is negatively affected because of the percentage of business going 'outside the assessment area'. Similar concerns have been heard from large institutions who offer their products and services through web-sites reaching households beyond their typical assessment area boundaries. A recommended change to this may be to define assessment area by the type of customer base or to recognize any relevant performance constraints created by the definition of an institution's assessment area.

Lending, Investment and Service Tests

In the current regulation under the "Large Bank" exam, a higher emphasis is given to the Lending Test. A discussion on the merits of the weights assigned to the tests resulted in a variety of opinions. Institutions who do not engage in retail lending find the emphasis on the Lending Test challenging and suggest that the Lending and Investment Tests be combined. Institutions with consumer lending products respond to a community's commercial and mortgage credit needs by investing in community-based organizations that can better address these type of credit demands.



With regard to commercial loans, a major issue with some participants is the definition of "small business loan". Both small and large institutions felt that \$1 million was too low and recommended that the definition be expanded to include commercial loans up to \$5 million.

In discussing the investment test, participants felt that a distinction between active and passive investments is an important aspect of the Investment Test. There was an agreement among the participants that the distinction between active and passive investments is being appropriately addressed in the 'innovative and creative' category of the test. Nevertheless, the participants felt that the definitions for "Innovative" and "Leadership" are subjective and should be made clearer. The Service Test was discussed at length and the consensus of the participants was that some improvements could be made in this area. Some of our community organizations commented that examiners do not regularly visit non-profits in conjunction with the CRA exams. The Service Test presents an opportunity for community groups to speak both positively and negatively about an institution and recommend that the regulation ensure that the voice of the community is made part of the examination process. In addition, both community groups and institutions noted that there are differences in the amount of staff resources that institutions devote to CRA service activities, and this should be noted in the service test.

The following is a summary of recommendations to improve the balance between the quantitative and qualitative measures in the Large Bank Exam:

- Reduce evaluation from 3 tests to 2 - Lending/Investment Test and a Service Test. Weighted 2/3 or 1/2 lending/ investment and 1/3 or 1/2 for service.
- Redefine "Small Business Loan" to loans of \$5,000,000 or less.
- Clearer definition of "innovative" and "leadership" in describing an institution's investment performance.
- Improve the evaluation of an institution's participation with (and service to) community-based organizations.
- Community organizations suggest that a more proactive notification for upcoming exams would be appreciated.
- Recognize the importance of dedicating resources and staff to CRA service activities

Performance Context

The Performance Context is a document that under the current regulation is not a required document from the institution. Instead, it's prepared by the examining agency. Most institutions, however, understand that this document is important as it provides a context of information about the institution, its assessment area, its communities, peer banks and other economic and demographic data relevant to the qualitative and quantitative evaluation of its response to community credit needs.

In our discussion, a consensus of opinion was that the Performance Context is not being used effectively in establishing the basis for a fair review. Some institutions voiced that the Performance Context prepared by the institution was not considered during the evaluation. Other banks found that identifying peer banks was a difficult proposition for the examiners, resulting in unfair and incorrectly assessed lending comparisons. The following recommendations and comments are made:



- Regulators should review and take into consideration the bank-prepared performance context because the institution can present a clear understanding of their community needs and better identify peer banks.
- Specific community needs should be identified in the performance context and compared to an institution's business emphasis.
- The performance context should take into consideration an institution's business emphasis and clearly reflect appropriate test weights.
- An institution's assessment area should reflect the delivery of service through non-brick-&-mortar vehicles such as the Internet.

Summary

The conclusion of our discussion is that the answer to the fundamental question is yes. Amending the regulation is necessary to reflect the significant changes resulted from recent financial modernization legislation, the delivery of services and expansion of products offered by financial institutions as a result of new technologies. Consequently, a clearer and updated regulation will help the agencies prepare fair and balanced evaluations. A final note among our participants addresses the need for consistency in training and examination procedures among all regulatory agencies. A single voice with a single message will help direct the institutions towards a more efficient and effective community reinvestment program. We believe the comments and recommendations provided address critical issues relevant to your regulatory review. Thank you in advance for considering our remarks.

Sincerely,

Trinh LeCong
EXECUTIVE DIRECTOR

Elsa Monte
CHAIR, CRA COMMITTEE

Enclosure