

NATIONAL CENTER ON POVERTY LAW

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Cover Sheet

Docket No. 01-16
Communications Division
Public Information Room
Mailstop 1-5
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219
Fax: (202) 874-4448

Robert E. Feldman
Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Fax: (202) 898-3838

Docket No. R-1112
Ms. Jennifer J. Johnson
Secretary, Board of Governors of
the Federal Reserve System
20th St. & Constitution Ave., NW
Washington, DC 20552

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20551
Attention Docket No. 2001-49
Fax: (202) 906-6518

Email to regs.comments@occ.treas.gov; regs.comments@ots.treas.gov;
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Serving Low-Income People Through Policy Advocacy and Legal Resources

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To Whom It May Concern:

I am writing on behalf of the National Center on Poverty Law (the Center) to comment on the Advanced Notice of Proposed Rulemaking on the Community Reinvestment Act regulations. The Center, a nonprofit organization based in Chicago, conducts public policy advocacy and provides legal representation for low-income people in a wide variety of areas, including welfare reform and social safety net issues, workforce development, public and affordable housing, and community reinvestment.

Most of our clients are families with children and have incomes under 200 percent of the federal poverty level. Most of these parents are working in low-wage jobs. Many must rely on Temporary Assistance for Needy Families (TANF) cash assistance, Food Stamps, and other types of public aid. Some of our clients are immigrants and refugees, persons whose native tongue is not English. Our clients pay ATM fees each time they use their government-issued debit card to access their cash benefits because they don't have a bank account. Less than five percent of the TANF recipients in Illinois use a bank account for direct deposit of their cash benefits.

Most of our clients conduct their financial transactions at check cashers/currency exchanges. While their communities are overflowing with check cashers and payday loan stores, bank branches and full-service ATMs are few and far between. Even where branches are available in low-income neighborhoods, many lack the skills and information necessary to take advantage of mainstream financial services. Some of our clients are unable to open a basic bank account because they do not have a credit history or have a blemished credit record. Others cannot afford the minimum amount to open or maintain an account or to pay high fees. Our clients have little or no savings or emergency funds. Our clients are the ones who are victimized by predatory and payday lenders.

We need to bring these low-income people into the financial mainstream. To that end, we have worked with the Chicago CRA Coalition, the National Community Reinvestment Coalition, financial institutions, regulators, and others. In the last two years, the Center has spearheaded a new coalition called Financial Links for Low-Income People (FLLIP). FLLIP recently launched a financial education program and an Individual Development Account (IDA) program targeted to low-income people in Illinois.

Maintaining and continuing the progress made in the 1995 revisions to the CRA regulations is important to the Center and to its clients. The Center supports the comments submitted by the Woodstock Institute and the National Community Reinvestment Coalition. The Center agrees that the three separate tests for lending, investments and services should be retained and strengthened.

Given the type of clients that we represent, we would like to focus our comments primarily on the service test (Part C, Question 1). Even assuming that the lending test should retain the most weight, we believe it is especially important that the regulators and financial institutions pay more attention to the service test.

Using a free or low-cost checking account helps our clients to save money on transaction costs, keep earnings safe, track expenses, and establish a credit history. A Federal Reserve study shows that a person with a bank account is more likely than someone without a bank account to have a credit card, own a car, own a home, and have investments. For our clients, having a basic bank account is the first step up the economic ladder. For these reasons, the service test should be maintained as a separate test. In addition, the regulators need to add some teeth to enforcement of this test.

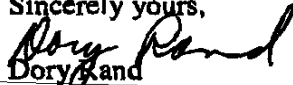
The regulations/regulators should require the following in determining whether a financial institution (FI) is meeting the (credit and deposit) services needs of low- and moderate-income people and communities under the service test:

1. The service test should be applied to all FIs that provide retail banking services, regardless of how the services are delivered.
2. Regulators must insure that FIs use appropriate assessment areas that do not redline LMI areas or areas with a substantial minority or ethnic population.
3. Assessment areas must include areas where FIs do significant business without branches (e.g., Internet banking).
4. Regulators should emphasize current distribution of branches over openings and closings and consider whether the branches are open at convenient hours.
5. Regulators should ask each FI to document what steps it is taking to serve the unbanked and underserved segments of the community, including LMI consumers, LMI areas, and minority and ethnic group consumers. It is important to include minority consumers because over forty percent of African-American and Hispanic consumers with incomes under \$40,000 are unbanked.
6. FIs 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.
7. Regulators should specifically ask FIs if they provide Electronic Transfer Accounts (ETAs) for federal payment recipients, lifeline banking products, i.e., free or low-cost accounts with low opening deposit (many banks charge a minimum of \$100), no minimum balance, no monthly fees, unlimited check-writing, free ATM access, etc.), allow flexibility in credit history or credit scoring requirements to open an account, provide or support financial education and Individual Development Account (IDA) programs, offer surcharge-free ATM access for public assistance recipients, and offer other low-cost products and services *in a bank setting* to induce people away from high-cost check cashers (e.g., bill payment, money orders, check cashing, and wire transfers).
8. FIs that enter into alliances with check cashers should receive favorable consideration only where the FI can document that the LMI consumers are being brought into the financial mainstream through financial education and the opening of regular bank accounts.
9. When an FI claims that a branch is accessible by public transit or other means to LMI communities, regulators should not give credit unless the FI can document that, in fact, a significant number of LMI individuals do business at that branch.

10. Regulators should not give credit to FIs for providing alternative delivery mechanisms such as telephone and Internet banking and full-service ATMs unless the FIs can document that such services are being used in the LMI community.
11. Regulators should not give credit for free or low-cost cost account products unless the FI can demonstrate that it is effectively marketing to the LMI community and that a significant portion of the LMI community is using such products.
12. Regulators should not give credit for financial education activities that are targeted exclusively or primarily to higher-income consumers. FIs should receive credit only for those financial education initiatives that directly produce benefits for LMI consumers.
13. In order to receive an Outstanding rating, an FI should be required to show that it provides lifeline banking products in the LMI community and supports financial education targeted to low-income people (not just home-buyer seminars).
14. FIs that form alliances with firms that harm low-income consumers such as payday lenders should receive no higher than a Needs to Improve rating on the service test. (In one case, a bank received a Satisfactory rating despite the fact that it made loans to and entered into noncompetition agreements with check cashers that route EFT payments through the bank and back to the check casher.)
15. FIs that do not directly provide retail services to low-income consumers such as trusts and Internet-only banks should be required to provide or support financial services for low-income people through other means in order to obtain a Satisfactory rating under the service test.
16. FIs should not be allowed to get away with not serving the LMI market by claiming that LMI market is not their "niche." Even if an FI's business strategy is to target primarily high-income customers, regulators must insure that it still meets the needs of LMI consumers directly or indirectly.
17. FIs should not be excused from serving the needs of the LMI market based on arguments that such markets are not "profitable." Regulators must encourage FIs to take a longer-term view of profitability and consider the potential for cross-selling other products down the road, not just immediate profits from deposits.
18. Regulators must now allow the service test to be used to bolster poor a poor showing under another test. On the other hand, an FI should not receive an overall Satisfactory rating if it does not receive at least a Satisfactory rating on the service test.

Thank you for the opportunity to provide comments. Please let me know if I can provide further information or clarification.

Sincerely yours,


Dory Rand

Staff Attorney/FLLIP Coordinator