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Evans, Sandra E

From: ESOP [esop_fighting_to_win@ameritech.net]
Sent: Tuesday, October 16, 2001 5:36 PM
To: regs.comments@ots.treas.gov
Subject: ANPR Comment Letter

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October 16, 2001

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, NW
Washington, DC 20552
Attention Docket No. 2001-49

Dear Regulators:

The East Side Organizing Project (ESOP) is writing to comment on the Advanced Notice of Proposed Rulemaking on the Community Reinvestment Act that was published in the Federal Registry in July 2001. ESOP is a non-profit, tax exempt, community based organization in Cleveland, Ohio that creates organized leadership around issues that impact neighborhood life. ESOP works with community residents, schools, businesses, churches and other neighborhood institutions to identify, prioritize and take actions that create partnerships with public and private entities using traditional organizing and leadership development methods. Over the last several years, much of ESOP's work has focused on the development of meaningful partnerships with local banks to spur greater investment in neighborhoods that have traditionally been underserved by traditional banking services. Much of this work is the result of the growing predatory lending problem in our community and the recognition by our membership that the only way to end this abusive lending is to bring more responsible lending products into our neighborhoods.

Since CRA was passed, some have estimated that a trillion dollars have been lent in our neighborhoods. This speaks to the importance of this law to ensure credit to our communities. The truth of the matter, though, is that financial institutions still make excuses for not lending to low and moderate-income individuals. Improvements can be made to the CRA, which would encourage lenders to offer better financial services to low and moderate-income individuals. Predatory lenders are charging outrageous interest fees for financial services in our neighborhoods because banks are not doing their jobs. ESOP makes these proposals in response to the ANPR:

1. The principle of the lending test should focus on the quality of loans as well as the quantity. **Therefore, more information regarding the loan terms should be disclosed as part of Home Mortgage Disclosure Act (HMDA) data.** We are pleased that there is a proposed addition of the annual percentage rate and fees being to HMDA data. **Any abusive terms and credit scores should be accounted for in this disclosure, as well.** Again, the quality not just quantity is important when considering a bank's lending performance.

Since HMDA data is so important in evaluating a bank's performance if there are HMDA reporting violations, it should automatically prohibit a bank from receiving an outstanding rating on its CRA exam.

2. **Banks are not serving the credit needs of low and moderate communities by making predatory loans.** We have seen many examples of banks steering low/moderate income

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people to their own sub-prime subsidiaries, even in cases where individuals have prime credit ratings. This serves to create two tiers of lending in the United States, with the people who can least afford it, being the ones paying the most for financial services. Aside from the financial devastation this type of steering has caused to the individual borrower, the devastation is equally great on the community as the home is often foreclosed on which results in another vacant house in our neighborhood.

CRA exams should evaluate a bank's subprime loans for any predatory practices. Banks should get points subtracted from their CRA test if they are making predatory loans.

Under the current CRA, institutions have the option to count affiliate activity in or out of their CRA exam. This leads to a bank's potential to manipulate its CRA rating. Currently, a bank can own a predatory lender and use those loans to affect its CRA rating. First, in order to differentiate between the loans we need the aforementioned increased HMDA disclosure. Secondly, **all non-bank affiliates of bank holding companies that engage in lending should be covered under the CRA.** Understanding that CRA only covers depositories, we believe that any financial institution (like mortgage companies) that receives depository money should be covered under CRA. After all, HMDA was amended in 1988 and 1991 which expanded the reporting to cover most mortgage banking subsidiaries of bank and thrift holding companies and independent mortgage companies not affiliated with depository institutions.

3. **CRA ratings should be localized.** A localized rating system could require the top 10 banks in the state's market to have separate MSA based and rural area ratings and performance evaluations.
4. **Small business data disclosure should be increased.** More people are able to get home mortgage loans through non-depository institutions, but depository institutions are still primarily the lenders for small businesses. Therefore, banks should be equally scrutinized for their small business lending and they are for home mortgage lending. Small business lending has always been incredibly important to the health of our neighborhoods. Small business lending should be held to as equal scrutiny as home mortgage lending. **We propose that CRA data would more closely mirror HMDA by including the status of the application, whether it is denied, withdrawn, incomplete, approved but not accepted, and originated.** Also included in small business disclosure should be the race, gender of applicants, and the actual census tract that the business resides. It is our experience that banks refuse to provide this information voluntarily. The only way to make all banks provide this information is to require it.
5. Banks receiving CRA credit for a multi-family loan that is not serviced properly is another example of the quality vs. quantity principle. Servicing the loan is of equal importance to making the loans. For instance, in a housing market where property values are on the rise, landlords may decide to refinance a property. Banks saddle a building with excess debt by loaning out the maximum money that they feel a property can sustain. In neighborhoods that this trend is prevalent, the housing stock begins to deteriorate. **For this reason, a bank's record of servicing the non-owner occupied properties that it finances is a community reinvestment issue and should be considered under the lending test.**
6. **Every bank should still be required to maintain a public file at its branch.** Under no circumstance should this be weakened due to the claims that the public does not utilize the files. In fact, the data disclosure should that banks are responsible for should actually be expanded. As mentioned before, the specific score for each test should be made available to the public. For example, the public exam should include if a bank gets 10 points on the lending test. Also, banks and regulators should be required to make exams available from 1990. Every CRA exam should also summarize basic past and present HMDA data denial rates with peer comparisons.