

Consumers Union

Publisher of Consumer Reports

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Ms. Jennifer Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Communications Division
Public Information Room
Office of Comptroller of the Currency
250 E St. SW
Washington, D.C. 20219

Mr. Robert Feldman
Executive Secretary
Attention: Comments/OES
FDIC

550 17th St. NW
Washington D.C. 20429

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

Dear Federal banking regulators:

This letter is in response to the advance notice of proposed rulemaking on the Community Reinvestment Act regulations, Board of Governors Docket No. R-1112; OCC Docket No. 01-16, OTS Docket No. 2001-49, and the FDIC (no docket number). The Community Reinvestment Act (CRA) has been critical to economic improvement of low income communities across the nation. At the same time, banking is changing rapidly, and the regulations need to pace with these changes.

This letter is submitted on behalf of Consumers Union¹, the nonprofit publisher of *Consumer Reports*; Consumer Federation of America, a

¹ Consumers Union is a nonprofit membership organization chartered in 1936 under the laws of the State of New York to provide consumers with information, education and counsel about goods, services, health, and personal finance; and to initiate and cooperate with individual and group efforts to maintain and enhance the quality of life of consumers. Consumers Union's income is solely derived from the sale of *Consumer Reports*, its other publications and from noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, *Consumer Reports* with over 4 million

nonprofit organization of approximately 250 national, state, and local consumer organizations; and the Texas Community Reinvestment Coalition; a statewide CRA coalition. In a variety of ways, our organizations represent, serve, or advocate for the interests of low and moderate income consumers.

Lending should continue to be the primary test for evaluating the adequacy of financial institution activity under the Community Reinvestment Act, although investments and services are also very important. The following are key changes which should be made in the regulations:

* Consolidation in the financial services industry requires that the bank-like subsidiaries of financial institutions be reviewed under CRA. All activities of a subsidiary should be considered, with negative CRA consequences when subsidiaries engage in predatory activity.

* Banks and other financial institutions should not receive CRA credit for predatory practices such as payday lending or high cost check cashing services. Instead, financial institutions that support predatory activities or that charge noncustomers a fee to cash "on-us" or for government checks should receive reduced CRA ratings. Financial institutions who offer check cashing services rather than full banking services in low income neighborhoods should not receive CRA credit for this activity unless it is accompanied by a proven program to convert check cashing customers to full bank account customers. Financial institutions should be encouraged to offer services which may increase familiarity and comfort with banking services among the unbanked, including no-surcharge access to bank-owned ATMs for electronic benefit transfer (EBT) cardholders.

* Public disclosure of information that allows for an assessment of a financial institution's service to communities is essential. Regulators should assure this disclosure in addition to HMDA data disclosure. Such information should include the credit worthiness of borrowers (a credit score, for example), the cost of the loan (interest rate and fees), and the type of loan to allow regulators and the public to assess more accurately whether banks are making loans fairly across communities.

* The advent of Internet banking and non-branch lending mean that CRA geographic assessment areas should be expanded to include all areas where significant lending, investment or deposit taking occur. At the same time, brick and mortar branches should be rated highly because

paid circulation, regularly, carries articles on health, product safety, marketplace economics and legislative, judicial and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

they provide critical access for low income people. Because of the persistence of the digital divide in the U.S., Internet-based account strategies must be complemented with other strategies to reach the markets which Internet accounts do not effectively serve.

* The expansion of subprime lending by regulated financial institutions and their subsidiaries requires that bank examiners more carefully review subprime lending for predatory activities and not include subprime lending in the same category as prime loans. Investments in mortgage-backed securities that include subprime loans should not receive CRA credit. In addition, every lender who has both prime and subprime loans, whether or not in an affiliate structure, should be examined to determine if the lender has in place an effective, fully implemented structure to refer consumers to the best-priced loan for which each consumer qualifies, regardless of which affiliate or channel brings in the consumer's loan application. In addition, lenders making subprime loans should be scrutinized for practices that lead to excessive foreclosures.

* The service test and the investment test both are critical pieces of CRA. The purchase of mortgage loans should be considered only under the investment test, not under the lending test.

CRA needs to be strengthened and adjusted to promote increased household and neighborhood economic self-sufficiency for low income communities. In addition, examiners should visit community and consumer organizations in their examination process, so that they build a stronger understanding of community development and how it can best be implemented in individual neighborhoods.

Very truly yours,



Gail Hillebrand
Consumers Union
West Coast Regional Office

Jean Ann Fox
Consumer Federation of America

Robert Widrow
Texas Community Reinvestment Coalition