NAHB
NATIONAL ASSOCIATION
OF HOME BUILDERS

HOUSING AND FINANCE POLICY

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October 18, 2001

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

Dear Chief Counsel's Office:

On behalf of the 205,000 member firms of the National Association of Home Builders (NAHB), I appreciate the opportunity to respond to the Advance Notice of Proposed Rulemaking (ANPR) issued jointly by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision (the agencies) to undertake a review of the Community Reinvestment Act (CRA) regulations and seek public comment on how to improve the effectiveness of the regulations.

NAHB strongly supports the goal of the CRA, which is to encourage federally insured banks and thrifts to help meet the credit needs of their entire communities. We feel that the 1995 revision of the CRA regulations brought significant improvements to the effectiveness of the CRA Act. We believe additional improvements are needed, however, in light of the tremendous changes that have occurred in the operational, competitive, and legal structure of the financial services sector. Our comments focus on the need to address gaps in the present system through changes in the performance-based evaluation process and the determination of assessment areas. We also urge the retention of the current requirements for data collection and reporting as well as maintenance of public files.

Addressing Gaps in the Present System

Despite the improvements made in 1995 to CRA regulations and supervision, there are *still many geographic areas, particularly rural communities, that are not receiving adequate levels*

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of financial services or that are being neglected altogether. For example, our members report instances where several banks in proximity to an underserved community declined to finance proposed housing projects because that community was not considered to be in their assessment areas. Apparently, the financial institutions felt no incentive to lend in communities considered outside of their assessment areas since they would probably not receive CRA credit for such lending.

NAHB believes that further changes are needed in the regulations related to performance-based evaluation of lending, investment and service activities as well as in the rules covering the delineation of CRA assessment areas. Our recommendations for such changes are detailed below.

Evaluating Lending, Investment and Service Activities

NAHB believes that the performance-based tests need greater qualitative evaluation, not only with respect to the degree of innovation and difficulty of an activity, but also in terms of the strength of efforts to provide financial services in geographic areas that an institution can be reasonably expected to serve. Current regulations do not provide incentives for lending and investment in rural areas. We understand that many projects intended to revitalize or stabilize rural communities do not qualify under the current regulatory definition of community development because those activities are not located in low- or moderate-income geographies, as defined in the regulations.

This is also true in the service test, where the agencies consider an institution's branch distribution among geographies of different economic levels, with particular emphasis on low- and moderate-income geographies. We believe that it is important to strengthen this part of the CRA examination by providing greater CRA credit for initiatives that serve geographies that previously did not have adequate access to credit. NAHB believes such a revision would provide incentives for institutions to establish branches and lending relationships in more difficult to serve areas.

Assessment Areas

Federally insured financial institutions must define one or more assessment areas in which their record of helping to meet the credit needs of the community are measured. The assessment area is the geographic area in which the agencies will evaluate an institution's record of meeting the credit needs of its community. The agencies do not review the institution's delineation of its assessment area as a separate performance criterion. However, the regulations provide that the assessment areas must consist generally of one or more metropolitan statistical area (MSA) or one or more contiguous political subdivision in which the financial institution has its main office, branches, and deposit taking ATMs. Additionally, large and small banks must include surrounding geographies where the financial institution has originated or purchased a substantial portion of its loans. Consistent with the CRA regulations, a financial institution may adjust the boundaries of its assessment areas to include only the portion of a political subdivision that it can reasonably expect to serve. However, the regulations provide that assessment areas can only consist of whole geographies, should not illegally discriminate, must not exclude low- or moderate-income geographies and may not extend substantially beyond a state boundary unless the assessment area is located in a multi-state MSA.

We believe that this portion of CRA regulations also has not been effective in ensuring that banks and thrifts address credit needs in areas that are more difficult to serve, such as rural and other underserved communities. Institutions have been able to define their assessment areas in ways that have left gaps in the financing system. In fact, we believe the regulation's approach to assessment areas may create disincentives for financial institutions to provide financial services to low- and moderate-income communities and rural areas where they have no physical presence and which they decide are not part of their assessment areas.

We think the agencies should amend the CRA regulations to require institutions to delineate geographically defined assessment areas wherever they deliver retail-banking services, whether or not they have physical deposit-gathering branches or ATMs in each locale. In addition, the CRA regulations should include an institution's delineation of its assessment area as a performance criterion to determine if the institution is meeting the credit needs of the community. NAHB suggests the agencies also amend the CRA regulations so that the assessment areas of financial institutions are influenced by the locations of business and consumer customers in nearby geographic areas consisting of rural and other underserved areas.

Finally, NAHB believes that the banks should have less discretion in determining which geographic areas should be included in their assessment areas. Current CRA regulations allow financial institutions to basically carve out the areas they choose to serve. While institutions are not permitted to arbitrarily exclude low- or moderate-income communities from their assessment areas, there is no similar prohibition to excluding rural areas. Further, there is no means in the current CRA process to address circumstances where rural areas are consistently left out of an institution's delineation of its assessment area. We believe that the CRA regulations should be amended to require such an evaluation and to require institutions that are engaging in such practices to include rural geographic areas in their assessment area delineation.

Data Collection and Reporting and Maintenance of Files

NAHB believes that current CRA regulations pertaining to data collection and reporting as well as maintenance of public files assist in the assessment of whether a bank is meeting the credit needs of its community. The 1995 CRA regulatory changes strengthened these requirements to help make CRA examinations more objective and performance-based. We support the retention of these requirements, which we feel achieve an appropriate balance in providing adequate information without creating an undue burden for institutions. We support the streamlined reporting requirements for institutions with less than $250 million in assets, but believe that this threshold is at the appropriate level and should not be increased.

Thank you again for the opportunity to comment. We are available to answer any questions you may have concerning our statement or provide any additional information that may be needed.

Sincerely,

David A. Crowe
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Housing and Finance Policy