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From: OhioFHCS@aol.com
Sent: Wednesday, October 03, 2001 10:37 AM
To: regs.comments@ots.treas.gov
Subject: Fair Housing Contact Service's opinion: CRA regulation changes needed

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

To Whom It May Concern:

Fair Housing Contact Service believes that the Community Reinvestment Act (CRA) has been instrumental in increasing lending and investing to our community and many others around the country. The regulatory changes to CRA during 1995 strengthened the law by emphasizing a bank's performance in providing services and in making loans and investments. The federal banking agencies must now update the CRA regulations in order to further reinvestment in low- and moderate-income communities as well as underserved minority communities.

The results of the positive changes to the CRA regulation in 1995 have been significant. The Department of Treasury's study on CRA found that lending to low- and moderate-income communities is higher in communities in which banks have their CRA assessment areas than in communities in which banks are not examined under CRA. In our community, CRA has made possible collaboration with Firstar Bank to fund housing-related programs geared to low and moderate income first time homebuyers for two-years. The funding provides $90,000 each year for two years for matching downpayment assistance to those who attend homebuyer education classes. Charter One Bank has also provided funding for printing costs for lending related materials.

To preserve the progress in community reinvestment, the federal banking agencies must update CRA to take into account the revolutionary changes in the financial industry. The Gramm-Leach-Bliley Act of 1999 allowed mergers among banks, insurance companies, and securities firms. Banks and thrifts with insurance company affiliates are now aggressively training insurance brokers to make loans. Securities affiliates of banks offer mutual funds with checking accounts. Mortgage company affiliates of banks continue to make a significant portion of the total loans, often issuing more than half of a bank's loans.

The CRA regulation now allows banks to choose whether the lending, investing, or service activities of their affiliates will be considered on CRA exams. Fair Housing Contact Service strongly urges the regulatory agencies to mandate that all lending and banking activities of non-depository affiliates must be included on CRA exams. This change would most accurately assess the CRA performance of banks that are spreading their lending activity to all parts of their company, including mortgage brokers, insurance agents, and other non-traditional loan officers. Ending the optional treatment of affiliates also stops the manipulation of CRA exams and makes exams more consistent in their scope. Currently, banks can elect not to include affiliates on CRA exams if they make predatory loans or if they make loans primarily to affluent customers.

The CRA procedures for delineating assessment also need to be changed if CRA is to adequately capture the activities of banks in the rapidly evolving financial marketplace. Presently, CRA exams scrutinize a bank's performance in geographical areas where a bank has branches and deposit-taking ATMs.

Banks are increasingly using brokers and other non-branch platforms to make loans. As a result, CRA exams of large, non-traditional banks scrutinize a tiny fraction of bank lending. This directly contradicts the CRA statute's purpose of ensuring that credit needs in all the communities in which a bank is chartered are met. Fair Housing Contact Service believes that the CRA regulations must specify that a bank's CRA exam will include communities in which a great majority of a bank's loans are made.

If CRA exams hope to keep pace with the changes in lending activity, Fair Housing Contact Service strongly believes that CRA exams must rigorously and carefully evaluate subprime lending. The CRA statute clearly states that lenders have an affirmative obligation to serve communities in a safe and sound manner. CRA exams must be conducted concurrently with fair lending and safety and soundness exams to ensure that lending is conducted in a non-discriminatory and non-abusive manner that is safe for the institution as well as the borrower. Fair Housing Contact Service applauds a recent change to the "Interagency Question and Answer" document stating that lenders will be penalized for making loans that violate federal anti-predatory statutes. This Question and Answer must become part of the CRA regulation.

Fair Housing Contact Service believes that lenders should be encouraged to make as many prime loans as possible since prime loans are more affordable for minority and low- and moderate-income borrowers. Significant research concludes that too many creditworthy borrowers are receiving over-priced and discriminatory subprime loans. CRA exams must provide an incentive to increase prime lending. Fair Housing Contact Service proposes that lenders that make both prime and subprime loans will not pass their CRA exams unless they pass the prime part of their exams.

The CRA regulations must be changed so that minorities are explicitly considered on the lending test just like low- and moderate-income borrowers. Considerable research has revealed the domination of subprime lenders in refinance and home equity lending in minority communities. This lopsided market confronts minorities with few alternatives to high cost refinance lending. If minorities were an explicit part of the lending test, CRA exams would stimulate more prime lending in communities of color.

Segments of the banking industry will seek to weaken the CRA regulations and examinations. They will ask for the elimination of the investment test on large bank exams. They will also urge that more banks be allowed to qualify for the streamlined small bank exam and for the streamlined wholesale and limited purpose exam. Fair Housing Contact Service opposes the elimination of the investment test since low- and moderate-income communities continue to experience a shortage of equity investments for small business and other pressing economic development needs.

The present CRA exams are reasonable and are not burdensome for banks. Allowing more banks to qualify for streamlined exams will simply weaken CRA enforcement.

We urge the regulatory agencies to adopt these additional policies:

" Purchases of loans must not count as much as loan originations on CRA exams since making loans is the more difficult task. The lending test must receive primary emphasis because redlining and "reverse" redlining, or predatory lending, remain serious problems in working class and minority neighborhoods.

" The emphasis on quantitative criteria must remain in CRA exams. If the bank's "qualitative" or "innovative" programs produce a significant number of loans, investments, and services, the bank will perform well on the quantitative criteria. Banks must not receive an inordinate amount of credit for an "innovative" program or practice that does not produce much in terms of volume.

" The Federal Reserve Board must enact its proposed HMDA reform to include information on interest rates and fees so that subprime lending can be assessed on CRA exams. The CRA small business data must include information on the race, gender, and specific revenue size of the borrower and the specific census tract location of the business.

" The service test must be enhanced by data disclosure regarding the number of checking and savings accounts by income and minority level of bank customer and census tract. Payday lending is abusive and must not count on CRA exams. The cost of services must be a factor on CRA exams since high fee services do not meet "deposit" needs and strip consumers of their wealth and savings. The service test must award the most points to banks that provide a high number of affordable services to residents of low- and moderate-income communities.

" Low and high satisfactory ratings must be possible overall ratings as well as ratings for the lending, investment, and service test of the large bank exam. Banks must be required to submit improvement plans subject to a public comment period if they have ratings of low satisfactory or below.

Currently, banks are only required to submit improvement plans to their public file if they fail CRA exams.

" The Gramm-Leach-Bliley Act of 1999 prohibited banks with failing CRA ratings from expanding into the insurance and securities business. This provision of the statute must apply to the bank acquiring another institution as well as a bank being acquired. The Federal Reserve Board's interpretation of this provision allows a bank failing its CRA exam to be acquired by another institution. Under the Board's interpretation, a bank has little incentive to abide by CRA obligations if their chief executives and board are contemplating a sale of their bank.

Fair Housing Contact Service believes that our suggestions for updating the CRA regulation will produce CRA exams that are rigorous, performance-based, more consistent, and that are able to better capture the lending, investment and service activity of rapidly changing banks. These recommendations lead to enhanced enforcement of CRA.

This review of the CRA regulations is so vital that we urge the regulatory agencies to hold hearings around the country when they propose specific changes to the CRA regulation. It is vital that the federal banking agencies hear the diverse voices of America's communities as they consider a regulation that ensures that community credit needs are being met.

Thank you for your consideration.

Sincerely,

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