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COMMUNITY
REINVESTMENT
COALITION**

NCRRC

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Communications Division

Office of the Comptroller of the Currency

250 E St. SW, Public Information Room, Mailstop 1-5

Washington DC 20219

Attention: 1557-0081

Jennifer J. Johnson

Secretary

Board of Governors of the Federal Reserve System

20th and C Streets, NW

Washington, DC 20551

RE: Consolidated Reports of Condition and Income, 7100-0036

Robert E. Feldman

Executive Secretary

Attention: Comments/Legal Division

Federal Deposit Insurance Corporation

550 17th St, NW

Washington DC 20429

RE: Consolidated Reports of Condition and Income, 3064-0052

Information Collection Comments

Chief Counsel's Office

Office of Thrift Supervision

1700 G St., NW

Washington DC 20552

RE: TFR Revisions, OMB No. 1550-0023.

Dear Officials of Federal Financial Institution Regulatory Agencies:

The National Community Reinvestment Coalition (NCRRC) believes that the federal regulatory agencies must expeditiously collect safety and soundness data on Call Reports and Thrift Financial Reports. As the agencies indicate in their request for comments, subprime lending programs pose an "increased risk to those institutions

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involved and to the deposit insurance funds." The agencies further estimate that of the 130 depository institutions involved in subprime lending, a disproportionate number of them are on the FDIC's "problem institution" list.

Considering that subprime lending poses substantial safety and soundness difficulties and that subprime loan volume fluctuates wildly, quarterly data on subprime lending volume and performance is critical. The spectacular and devastating failures of Superior Bank and other subprime depository institutions illustrate that the federal agencies need to detect problems in subprime lending early before they threaten the entire institution. Quarterly call report data is vital to quickly intervening in order to safeguard the FDIC insurance fund and to protect consumers in minority and low- and moderate-income communities.

As revealed recently by the Harvard University and the Department of Treasury studies, the Community Reinvestment Act (CRA) and lender-community group partnerships have succeeded in increasing prime and affordable lending to borrowers in low- and moderate-income communities.¹ CRA must be strengthened in the current regulatory review underway to further increase safe and sound lending to traditionally underserved communities. At the same time, the regulatory agencies must increase the rigor of their safety and soundness and fair lending enforcement to protect the gains made possible by CRA. Enhanced and frequent Call Report data disclosure provides regulatory agencies and the public at large with the tools to detect and halt problematic lending activity before it endangers institutions and communities.

Standardized and Publicly Available Data

In order for performance data on subprime lending to realize its full potential, it must be standardized and cannot remain confidential beyond a short pilot phase. The agencies are proposing confidential data collection because they believe that the data cannot be standardized under their proposed reporting format. They admit that the data will be inconsistent from institution to institution, and subject to misunderstanding by the public. NCRRC believes that it is possible to considerably improve the consistency of the data, thereby removing the dangers of misinterpretation.

¹ *The 25th Anniversary of the Community Reinvestment Act: Access to Capital in an Evolving Financial Services System.* Prepared for the Ford Foundation by The Joint Center for Housing Studies at Harvard University, and United States Department of Treasury, *The Community Reinvestment Act after Financial Modernization: A Final Report, January 15, 2001.*

Publicly available data is indispensable in holding institutions engaged in subprime lending accountable for safe and sound lending. While confidential data disclosure to regulatory officials and examiners may deter some predatory and unsafe practices, it will not be very effective if regulatory enforcement is not rigorous and swift. In recent years, NCRC has observed too many inconsistencies in regulatory enforcement within agencies as well as across agencies. Therefore, we are not confident that confidential data disclosure will substantially diminish unsound and predatory lending. In contrast, if the public had access to data on subprime lending performance, lending institutions would know that community organizations, public agencies, stockholders, and other community leaders would have instantaneous access to data on the soundness of subprime loans. The mere act of data disclosure to a concerned and engaged public is more powerful in stopping unsafe and predatory practices than confidential disclosure to regulatory agencies.

More Consistent Data Disclosure

The most effective method for disclosing performance data would be on a loan-by-loan basis. In that manner, lending institutions would submit databases that would include Annual Percentage Rates (APRs), information on borrower characteristics such as creditworthiness, and information on loan characteristics such as debt-to-income ratios. Included in the database would be loan performance including delinquencies, defaults, and recoveries. In contrast to the current proposal, lenders would not have to guess which of their loan programs had the characteristics of subprime lending programs. Instead, they would have the more straightforward task of creating and submitting databases with objective criteria of loan characteristics and borrower characteristics. For closed-end loans subject to HMDA data disclosure, the most effective approach would have been to add data fields to HMDA to include loan performance information. This approach would create the most consistent and rigorous database.

Recognizing that the agencies are unlikely to amend HMDA in this manner, NCRC suggests the following options:

- 1) For closed-end home loans, the federal regulatory agencies could require performance data to be submitted for loans that the Federal Reserve Board has ruled must have price information as part of their HMDA data submissions. In other words, performance data would be submitted for first lien loans with APRs three percentage points greater than Treasury security rates and for subordinate lien loans with APRs five percentage points greater than Treasury rates.

2) Instead of using the five proposed criteria for classifying lending programs as subprime, the agencies should use only one or two criteria. As the agencies admit, lending institutions may use different combinations of the five criteria or even use other criteria in deciding which of their lending programs are subprime for the purposes of submitting loan performance data in the Call Reports. The result will be inconsistent data reporting by the lending institutions. In contrast, the agencies could adopt one or two criteria and mandate that banks and thrifts submit loan performance data if their subprime loans include those criteria. This would be more straightforward for the lending institutions and would result in more consistent data that could be publicly reported. NCRC believes that the one or two criteria should be broad and capture most subprime lending made by depository institutions. For example, a FICO score criterion of 660 or below would capture the great majority of subprime loans. The rationale for capturing most subprime loans is that an institution engaged in predatory and unsound subprime lending is likely to be making predatory loans across the board to "A-" borrowers as well as "B," "C," and "D" borrowers. NCRC has observed predatory lending to borrowers with a wide range of risk characteristics as part of our Consumer Rescue Fund initiative, under which we arrange prime refinances for victims of predatory lenders. If the criteria effectively confined reporting to a narrow range of subprime borrowers (say, only to D borrowers), and those borrowers constituted a small portion of a bank's subprime business, the Call Report data would miss indications that a predatory lender was making unsafe loans. In this case, the bank would not be reporting detailed Call Report data on delinquencies, defaults, and recoveries because the criteria only covered a small part of its subprime business (less than the proposed threshold of 25 percent of Tier I capital for detailed reporting).

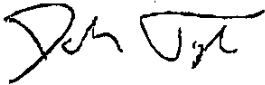
NCRC believes that either of our options would create a standardized database ready for public dissemination and free of inconsistencies that could cause misunderstandings. NCRC also urges the federal regulatory agencies to keep short any initial time period during which the data is confidential. One year of confidential treatment would be plenty of time to sort through reporting issues and create a standardized database. One year would also approximately coincide with the beginning of price data collection on HMDA data in 2004. If Call Report data on subprime loan performance also became publicly available in 2004, regulatory agencies and the public at large would be able to compare the performance of closed-end subprime home loans in Call Report data with HMDA data on subprime loans. This would add to the ability of regulatory agencies and the public at large to enforce the fair lending laws.

Conclusion

The agencies originally proposed collection of performance data for subprime loans in May of 2000. NCRC and several of our 700 member organizations commented on the proposal two years ago. The only dynamic that has changed since 2000 is that predatory and unsafe lending has increased from already high levels. Publicly available data on the safety and soundness of subprime lending would be a powerful tool for deterring predatory lending. The federal regulatory agencies cannot afford to delay any further. NCRC urges the federal agencies to swiftly enact requirements for the collection and public dissemination of subprime loan performance data on call reports and thrift financial reports.

NCRC Vice President of Research and Policy Josh Silver on (202) 628-8866 can answer questions of a technical nature. Please inform us of your final ruling in this matter and thank you for consideration of our views.

Sincerely,



John Taylor
President and CEO