

Advocates for Basic  
Legal Equality, Inc.

**ABLE**  
**Dayton Office**  
333 W. First Street  
Suite 500B  
Dayton, Ohio 45402

(937) 228-8104  
1-866-837-8832  
Fax: (937) 449-8131  
TDD: (937) 449-8125

**New Applicants**  
1-888-534-1432

[www.ablelaw.org](http://www.ablelaw.org)

January 18, 2005

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

Dear Sir/Madam:

Re: No. 2004-53 & 2004-54; Community Reinvestment Act

**PLEASE DO NOT ALLOW LENDERS TO DECIDE HOW MUCH WEIGHT  
TO GIVE TO THE LENDING, SERVICE AND INVESTMENT TESTS,  
AND DO NOT ELIMINATE THE INVESTMENT TEST**

Edgemont Neighborhood Coalition urges you not to change the Community Reinvestment Act Regulations to allow thrifts to decide how much weight to give to the lending, service and investment tests. We also urge you not to eliminate the investment test. If enacted, these proposals will result in significantly fewer loans and investments in affordable rental housing, health clinics, community centers, and economic development projects.

EDGEMONT NEIGHBORHOOD COALITION, INC.

Edgemont Neighborhood Coalition, Inc. is a nonprofit community organization located at 919 Miami Chapel Road, in Dayton, Montgomery County, Ohio. The group consists of residents of the Edgemont neighborhood, a low-income African American neighborhood in Dayton, who have associated in order to foster pride in their neighborhood and address the issues of crime, youth and adult joblessness, inadequacy of educational opportunities, affordability of utilities, and business and community development.

One issue of importance of the Edgemont Neighborhood Coalition, Inc. has been the availability of affordable financial services in the community. Edgemont has been active in Community Reinvestment Act activities in order that residents have access to mainstream financial services at mainstream prices, and not be relegated to high-cost "fringe lenders" such as

payday lenders, "subprime" mortgage lenders, rent-to-own vendors and pawnshops.

In furtherance of these goals, Edgemont has commented on proposed regulations by federal agencies and has appeared as amicus curiae in court cases involving payday lending and predatory mortgage lending. Edgemont has been a party in proceedings in the Public Utilities Commission of Ohio, and has also cosponsored conferences concerning payday lenders and their effects on the community. Edgemont supports the work of the National Community Reinvestment Coalition and of the Community Reinvestment Institute Alumni Association here in Dayton.

In addition to being a community organization, Edgemont Neighborhood Coalition, Inc. functions as a small business, operating an office, community garden and community computer center.

#### LOCAL CONCERNS

Ohio is the center of the mortgage foreclosure epidemic, Montgomery County, Ohio, where we are located, leads the state in mortgage foreclosures. There were more than 4,300 foreclosures in Montgomery County in 2003, and nearly 4,000 filed through August 2004, up 250% in six years. The University of Dayton based study report Predation in the Sub-Prime Lending market: Montgomery County - 2001, examined of a random sample of mortgages associated with foreclosure filings and found that a significant minority of sub-prime loans involved with foreclosures exhibit interest rates or other features that are predatory in nature.

Subprime mortgage lending is more prevalent in minority neighborhoods. Minority homeowners, particularly women, have frequently been the targets of predatory lenders. Foreclosed homes add to the problem of abandoned properties which blight the neighborhood and contribute to crime.

A recent study by ACORN found that 23% of all refinance loans to African-Americans in the Dayton/Springfield area were made by higher cost subprime lenders, as opposed to 6% to whites. A study by the National Community Reinvestment Coalition found that African-Americans are more likely to get a subprime loan than whites even if the borrowers' credit scores are the same.

The Federal Reserve Board has found that the median value of financial assets for non-whites is only 1/5 of that of whites. The equity in a family home is the most common financial asset for African Americans. Unreasonably high cost mortgage loans attack the equity in the home, prevent upward mobility and ultimately can result in losing the home and what the home means to the American dream.

Our neighborhoods also suffer from the proliferation of payday lenders who charge high interest rates for short term loans. They thrive in part because more reasonably priced lenders, including thrifts, are no longer as present in the neighborhood. A number of bank mergers have affected lenders with branches here, and their impact on access to financial services remains unclear.

The community is also in severe need of business development and jobs which businesses provide. Dayton has suffered job losses in the manufacturing and particularly the automotive areas. These job losses are expected to continue into the future. Business lending is an important part of neighborhood revitalization.

#### OBJECTIONS TO THE PROPOSED CHANGES

The Community Reinvestment Act (CRA) has been instrumental in increasing homeownership, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities.

Unfortunately your proposal is one of a series by federal regulatory agencies that would weaken the CRA. It appears to us that regulatory agencies are competing with each other to make life easier for the financial institutions, and perhaps encourage institutions to seek out the most favorable regulator. This may benefit the regulatory agency, but comes at the expense of the people and communities the CRA is supposed to be protecting. Furthermore as deregulation has blurred the traditional distinctions between the activities of banks, thrifts and nondepository lenders, lending conglomerates are likely to have banks, thrifts and other entities under their control and direct assets and activities among them as appears desirable. Presently in Ohio, large thrifts control over \$35,000,000 in assets. All thrifts control \$47,000,000. While this is a

substantial amount of assets at risk, we are also concerned that your proposed action would not just be limited to assets presently in thrifts, but would eventually impact other assets as well.

Historically, CRA has been effective because the banking agencies have issued regulations in a careful and uniform manner. This is preferable to a race to the bottom in which communities are the ultimate loser. Your unilateral proposal has not been issued by the other banking agencies because it threatens the gains in community revitalization made possible by CRA. We urge you to withdraw it.

Your proposed changes contradict the purpose of the CRA because they would significantly reduce the amount of community development financing and thrift services in low- and moderate-income communities. Your proposal allows large thrifts themselves to design watered-down CRA exams, choosing which financial services to provide and which to ignore. In addition, your proposal allows all savings and loans to serve affluent neighborhoods, and neglect low- and moderate-income neighborhoods, in rural areas and areas impacted by natural disasters.

Currently, large thrifts with more than \$1 billion in assets have a "three part" CRA exam that consists of a lending test, an investment test, and a service test. Under your proposal, a large thrift can choose to eliminate its investment and service tests, and thus only have to pass a lending test. Or it can choose to have miniscule investment and service tests, meaning that the lending test counts for virtually its entire total grade.

The danger with this proposal is that large thrifts can get away with neglecting pressing community needs. If they eliminate their investment tests, they will not be required to finance affordable rental housing via Low Income Housing Tax Credits or finance small businesses via equity investments. At the same time, thrifts can abolish their service tests and not be required to place or maintain branches in low- and moderate-income communities. With no service test, the thrifts can also ignore the needs for remittances and other low-cost banking services. The "design your own easy CRA exam" option will increase the amount of abusive payday loans, check cashing, and other high cost services in low- and moderate-income communities since thrifts will reduce

their provision of basic banking services after implementing their own easy exams.

Under CRA, banks and thrifts have an affirmative and continual obligation to serve low- and moderate-income communities. Under your proposal, large thrifts can arbitrarily and capriciously respond to a few community needs instead of all needs. If the Office of Thrift Supervision (OTS) adopts this proposal, the agency will fail on its responsibility to enforce CRA.

In addition, your proposal regarding rural areas and natural disasters lacks any justification. Congress enacted CRA in order to stop redlining and disinvestment from low- and moderate-income communities. Under your proposal, large thrifts will suffer no CRA penalty if they provide community development financing to affluent communities, while overlooking low- and moderate-income communities, in rural areas and areas impacted by natural disasters. While we are not in a rural area and have fortunately had no significant natural disasters in our neighborhood, it is important that the CRA be applied to all.

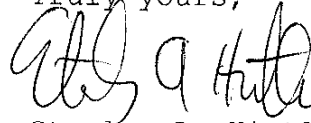
Finally, you would reduce vital opportunities for community groups and thrifts to meet with your agency to discuss CRA and anti-predatory lending matters when thrifts are merging. Under current regulation, your agency is required to hold two meetings to ensure that all facts and impacts of proposed mergers are thoroughly vetted. Your proposal would allow the OTS, at its own discretion, to hold only one meeting. This is inadequate as merging institutions often conceal important data and information regarding CRA and fair lending compliance, and will only provide this information if repeatedly prodded by community groups during meetings with the regulatory agency.

#### CONCLUSION

Your proposals are a bad idea. Lending, service and investment by financial institutions are all necessary in neighborhoods and communities. If you allow institutions to choose not to be measured, you allow them to choose not to provide adequate service to communities. The CRA and its examination process exist because financial institutions were not providing adequate lending, service and investments without it. There is neither legal nor economic justification for this proposed change. Please reconsider.

If you have any questions, please call me at 937-535-4410.

Truly yours,

A handwritten signature in black ink, appearing to read "Stanley A. Hirtle". The signature is written in a cursive, flowing style.

Stanley A. Hirtle  
Attorney for Edgemont  
Neighborhood Coalition

cc: Edgemont Neighborhood Coalition  
National Community Reinvestment Coalition