NEW YORK LAW SCHOOL

Economic Justice Project
A Justice Action Center Initiative

DIRECTOR

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

Attention: No. 2004-53 & 2004-54

To Whom it May Concern:

The proposed changes to the Community Reinvestment Act (CRA) undermine the statute's ability to ensure that low- and moderate-income (LMI) communities are provided with adequate banking, lending, and investment services from the thrifts regulated by the Office of Thrift Supervision (OTS). This proposal reduces the regulatory burden on the thrifts without any finding that such changes are necessary and without any consideration for the effect that lesser regulatory standards will have on LMI communities.

Large thrifts, with assets of $1 billion or more, are currently required to complete a CRA exam that consists of a lending test, investment test and service test. The proposed changes would allow large thrifts to design their own exams by permitting them to forgo or reduce the significance of the investment and services tests. As the National Community Reinvestment Coalition points out, allowing large thrifts to opt out of the investment tests will allow them to "opt" out of financing affordable rental housing via the Low Income Housing Tax Credit Program and permit them to "opt out" of financing small businesses via equity investments. Allowing large thrifts to opt out of the service test will allow them to "opt out" of placing and maintaining branches in low- and moderate-income communities and permit them to ignore the needs for remittances and other low-cost banking services. Allowing a regulated entity to design its own compliance test is illogical and unwise.

Furthermore, there is no showing that thrifts are unduly burdened by being required to meet the investment and service needs of LMI areas. Nor is there a showing that these investment and other services would be provided in the absence of these tests.

The proposed changes will also allow large thrifts to satisfy their community development obligations by lending to areas hit by natural disasters or to rural areas, regardless of the income level of the area or the recipients of the services. Thus, a bank could satisfy its community development obligations by providing services to wealthy persons or neighborhoods. This is contrary to the intent of the CRA, which requires banks to meet the needs of their entire communities, including LMI neighborhoods.

The OTS is the only federal banking regulatory agency that is proposing these changes. Not only does this reflect the unorthodoxy of the proposal, but it also has the potential to create future problems. If a bank sees that one form of incorporation allows it to do less to meet the needs of LMI communities than another, it may choose ease over wise community choices. The proposed changes will encourage new banks to incorporate as thrifts so that they can enjoy relaxed compliance rather than providing services to the communities in which they operate.

The CRA has been an effective tool that has allowed communities and thrifts to work together for the benefit of both. These proposed changes will weaken this relationship by reducing a thrift's accountability to the communities it serves. In doing so, these communities are in danger of losing ground that has been gained over the years. When a community is weakened and belittled all are harmed – when a community is strengthened and empowered all are benefited. We oppose these changes to the CRA.

Thank you for you time.

Yours truly,

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cc: National Community Reinvestment Coalition

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