ACORN

January 20, 2005

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

RE: No. 2004-53

To whom it may concern:

On behalf of the more than 170,000 member families of ACORN, the Association of Community Organizations for Reform Now, I urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations. The proposed changes will reduce access to capital in hard-pressed low- and moderate-income neighborhoods, which will be devastating to the families we represent.

ACORN believes that since the passage of the CRA in 1977, great progress has been made in ending redlining and pushing banks and thrifts to improve their lending performance in underserved communities. We have worked with banks and thrifts to improve their outreach efforts, remove barriers in underwriting criteria that excluded credit-worthy low- and moderate-income applicants, and create loan counseling programs that assist first-time homebuyers.

There is still a long way to go, however, and the proposed changes to the CRA do not help us get there. Furthermore, the proposed changes will thwart the Administration's goals of improving the economic status of immigrants and creating 5.5 million new minority homeowners by the end of the decade. At a time when stronger curbs against predatory lending and other unscrupulous practices are needed, this proposal weakens the already inadequate regulations of thrifts. We cannot understand how an administration hopes to promote community revitalization and wealth building when its regulatory appointees propose to dramatically diminish banks and thrifts' obligation to reinvest in their communities.

We believe the Office of Thrift Supervision's CRA regulations are already too weak. Your recent decision to raise the threshold for the large institution test so that it only applies to thrifts with more than $1 billion in assets means that 88% of thrifts are covered

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by the weak small institution test. Many thrifts no longer face performance evaluations that scrutinize the three essential areas of lending, investment, and services to low- and moderate-income communities. Instead they are evaluated by their lending performance alone.

The current OTS proposal essentially extends this toothless small institution test to all institutions evaluated by the OTS. While it offers the fig leaf of allowing thrifts to have up to half their evaluation be based upon investment and services, they are free to pick and choose whatever evaluation areas they desire—even if means they are not evaluated on their lending and service performance at all.

Under the proposal, thrifts can now choose the CRA-qualifying activity that is easiest for the institution instead of providing the comprehensive community development activities needed by low- and moderate-income communities. As a result, the proposal will result in significantly fewer loans and investments in affordable rental housing, Low-Income Housing Tax Credits, community service facilities such as health clinics, and economic development projects.

The elimination of the service test will also have harmful consequences for low- and moderate-income communities. CRA examiners will no longer expect thrifts to maintain and/or build branches in low- and moderate-income communities. They will no longer have to make sustained efforts to provide affordable banking services and checking and savings accounts to consumers with modest incomes. There will also be less pressure to meet the needs of immigrants for low cost overseas remittances. The current service test, while not as strong as it should be, helps push thrifts to provide vital banking services to underserved neighborhoods, helping give alternatives to the check cashers and payday lenders who take advantage of our communities.

Lastly, to make matters worse, you propose that community development activities in rural areas can benefit any group of individuals instead of only low- and moderate-income individuals. Since thrifts will be able to focus on affluent residents of rural areas**,** your proposal threatens to divert community development activities away from the low- and moderate-income communities and consumers that CRA targets. At its worst, thrifts could be getting CRA credit for shopping malls and luxury resorts, rather than rental housing and small business loans in distressed neighborhoods.

As one of the leading organizations fighting predatory lending nationwide, we are concerned that these changes would not only do nothing to help solve this crisis, but would in fact make this problem worse. No institution that makes or purchases predatory loans should be given a satisfactory or better rating on a CRA exam. Nor should institutions be given credit for giving high cost subprime loans when borrowers' credit warrants prime loans. Yet the proposed changes do not incorporate these important improvements. Instead, they allow thousands of thrifts to escape their responsibility to provide good loans in our communities. In too many instances, this void will be filled by predatory lenders.

Too many lenders we have talked to in the small institution category think of this test as a virtual exemption from the CRA. Making this category apply to all thrifts, as this proposal essentially does, threatens to make the CRA meaningless for the institutions you regulate, especially when you allow credit for activities in rural areas that do not benefit low- and moderate-income families.

We are also concerned that the Office of Thrift Supervision's continued undermining of the CRA threatens to force other regulatory agencies to follow suit, in order to stem the flight of charters to a weaker regulator. This could spell the end of the CRA as an effective tool for community revitalization. This would indeed be a sad end for an important law that so many struggled to enact and enforce.

The proposed changes to CRA will decrease access to credit and capital at our time when our communities remain mired in recession and economic hardship. They will intensify the damage a weak economy has inflicted on the communities we represent. The proposal must be withdrawn.

Sincerely,

Maude Hurd
ACORN National President