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Regulation Comments
Chief Counsel's Office, Office of Thrift Supervision
1700 G Street, N.W.,
Washington, DC 20552
Attention: No. 2004-53
E-mail: regs.comments@ots.treas.gov

Re: Proposed Rulemaking concerning the Community Reinvestment Act—Community Development, Assigned Ratings

Dear Sir or Madam:

LaSalle Bank Corporation ("LBC") appreciates the opportunity to comment on the Notice of Proposed Rulemaking regarding the Community Reinvestment Act issued November 24, 2004 by the Office of Thrift Supervision.

LBC is an indirect subsidiary of ABN AMRO Bank N.V. ("ABN AMRO"), which is headquartered in Amsterdam, the Netherlands. ABN AMRO has over $700 billion in assets and a network of over 3,000 offices in over 60 countries. ABN AMRO maintains several branches, agencies, and offices in the United States.

LBC is a financial holding company headquartered in Chicago, Illinois. LBC owns LaSalle Bank National Association, located in Chicago, Illinois, and Standard Federal Bank National Association, located in Troy, Michigan (collectively, the "Banks"). The Banks combine for over $110 billion in assets and maintain over 400 offices in Illinois, Michigan, and Indiana.

LBC believes that the proposals and considerations raised in the Proposed Rulemaking, if implemented, would have impact for all financial institutions and the communities they serve. We are particularly interested in the definition of "community development" and the possible extension of community development credit to activities in rural and underserved nonmetropolitan areas. We will also comment on the proposed extension of community development credit for activities related to disasters and other community disruptions.

Another issue raised in the Proposal solicits comment on providing flexibility in the assignment of Community Reinvestment Act (CRA) ratings based on the needs of the community being served. Finally comment is requested on the possibility of eliminating the investment test completely.

Response to these issues and proposals must be made within the context of broader considerations affecting the implementation of the Community Reinvestment Act and community development. It should be stressed that whatever the particulars of any revisions made to the Community Reinvestment Act, it is imperative that financial institutions and regulatory agencies work collaboratively, and not competitively, to achieve common regulations that are transparent and support efforts to meet community needs. Anything less than a joint rule will create confusion and ultimately disadvantage the low and moderate income people that community reinvestment is intended to help.

We would like to outline some considerations which we believe are critical to this discussion.

<u>Overriding considerations for Community Reinvestment and Community Development:</u>

"Sustainability" – No loan or investment should be made in pursuit of community development if it is not viable in its own right– meaning that it can achieve its developmental purpose over time without continued sustaining financial intervention.

- Note that a comprehensive community development strategy will also include grants and other types of financial assistance to low- and moderate-income individuals and organizations.

"Flexibility" – The key to what is allowable and credit worthy under CRA should be "what works" – meaning what loans, investments, and services contribute to improvement in the lives of low- and moderate-income people or to the revitalization of low- and moderate-income communities.

"Responsiveness to community/market needs" – Financial institutions should be able to create, change, and modify their CRA oriented programs to reflect changed conditions in their communities and the markets they serve. On their part Examiners should recognize such changes in community and market conditions and reward CRA programs that work.

Community Development Oriented Plan

As an option for financial institutions that choose it, the institution could, as an alternative to the standard Lending, Investment, and Service Tests, opt to be assessed under two new tests which differentiate between the community reinvestment responsibility to provide financial services to the institution's assessment community on the one hand, and the narrower but pressing need to assist low and moderate income people and/or revitalize the communities within which they live or work. These alternative tests would be:

- Retail Banking Test – consisting of mortgage loans, small business loans, consumer loans (optional), and retail banking services. This would be consistent in scope to the existing small retail institution test.
- Community Development Test –consisting of community development lending, community development investments, and community development services.

Retail Banking Test

The Retail Banking Test will measure the institution's success in meeting the credit and financial service needs of its assessment community. These activities (whether lending or services) will be included in the Retail Banking Test as a component of the institution's assessment area activity and to ascertain the institution's distribution of these activities within the assessment community.

The Community Development Test – Definition and Purpose

Community Development encompasses those activities of a financial nature or otherwise, which have the effect of improving the life condition of low- to moderate-income individuals or of stabilizing and revitalizing the communities in which they live or work. In order to receive community development credit for CRA purposes, a project need not have community development as its "primary purpose", so long as a significant consequence of the project or activity is to benefit low- and moderate-income individuals or communities. For example, all of a mixed-income development transaction where the market rate units *enable* affordable units should count (not just the affordable portion) because the transaction meets the community's need for low- and moderate-income housing. Another example might be a city-sponsored project in a community which is not low or moderate income where the institution finances or supports downtown revitalization or rehabbing of an older shopping center where low to moderate income individuals will find employment and affordable shopping. In addition, it should not be required that an activity be explicitly "financial" if it works to the benefit of low- to moderate-income individuals or communities.

The Community Development Test will include, but not be limited to, activities such as the following:

- Loans to low and moderate income individuals or within low- and moderate-income communities;
- Funding of CDFI's and other community development intermediaries;
- Funding community development venture capital funds;
- Loans or investments in projects which provide housing affordable to low and moderate income individuals, or to low- and moderate-income communities;
- Loans or investments in projects which provide jobs, services, or other relevant benefits to low and moderate income individuals, or to low- and moderate-income communities;
- Facilitating the creation of affordable housing through the use of low income tax credits;
- Purchase of Mortgage Backed Securities backed by loans to low- and moderate- income individuals;
- Participation in government sponsored programs, such as the SBA, with evaluation based on the LMI definition that the specific government entity uses;
- Grants to organizations engaged in community development activities;
- Providing financial education and banking services tailored to the needs of the unbanked;
- Equity investments in organizations, small businesses, or other projects for the purpose of community development;
- The initiative shown by the institution in developing unique/special LMI targeted lending programs; and
- Related activities such as:
  - Applications to the Federal Home Loan Bank for support of community development projects, the contingent liability taken on with such projects, and employee time spent in administering and monitoring these activities;
  - Providing standby letters of credit or other credit enhancements supporting community development projects (to be included and itemized in the CRA Loan Disclosure);
  - Employee time devoted to a large variety of community development activities, such as construction of homes through the auspices of organizations such as Habitat for Humanity;
  - Bank Officers and other employees taking leadership positions in community development organizations, even if they include non-financial activities.

Rating Flexibility and Weighting

When examining an institution's community development program under the Community Development Test the Examiner would look to the totality of the bank's community development activity, recognizing that the balance between community development lending, investments, services and other related activities may vary substantially from bank to bank and community to community so long as the total impact of the bank's community development outreach is consistent with its performance context and institutional expertise, and meets a reasonable standard related to community needs.

LBC believes that the weighting for the Community Development Test should be no lower than 25% and no higher than 50% of the total, with the actual weighting being based on the performance context of the individual institution.

Investment Test

If the above recommendations were to be accepted, there would be no need for or relevance to a distinct Investment Test. Community Development Investments would be considered, as appropriate, within the context of the Community Development Test.

Rural Communities, Disaster Areas, and Major Community Disruption

LBC believes that community development credit for activities benefiting individuals should continue to apply only to low- and moderate-income individuals or within low- and moderate-income areas. In this respect rural and nonmetroplitan areas should not be treated differently than communities located within a metropolitan area. A specific definition of "rural" becomes unnecessary in this context.

However, as a reasonable exception to the above, LBC supports the granting of community development credit for all activities undertaken in response to natural or other disasters, as well as other major community disruptions. This is based on the premise that low- and moderate-income individuals frequently suffer disproportionately when such events occur.

Small Financial Institution Threshold

In light of the consideration raised regarding community development activities in rural and nonmetropolitan communities, LBC questions the appropriateness of raising the threshold for the full Community Reinvestment examination for retail banks from the $250 million asset level to $1 billion. If rural and nonmetropolitan communities are suffering from a lack of adequate community development activities from their local banks, excusing a significant portion of those banks from the requirement of robust Community Reinvestment examination would seem to be counter-intuitive and counter-productive.

Finally LBC wants to re-emphasize and underscore the standards for successful community reinvestment and community development highlighted above in this letter; that is, that such activities be sustainable without continued outside intervention, that flexibility be used when judging the CRA and community development merits of any given activity, and that consideration be given for a project's responsiveness to community and market needs. In addition, we want to stress again how important it is that whatever specific provisions are included in the final rule, all financial institutions, regardless of Regulator, be pursuing community reinvestment goals using the same consistent set of standards.

We hope the above comments will be helpful as you address the issues contained in the Proposed Rulemaking and within the larger context of Community Reinvestment and Community Development. LaSalle believes that changes which will improve the flow of credit and financial services to low- and moderate-income individuals and communities are constructive and should be considered favorably.

Thank you for providing us with this opportunity to comment on the Proposed Rulemaking.

Sincerely,

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