



City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, N.Y. 10038

SHAUN DONOVAN
Commissioner

Regulation Comments, Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW.
Washington, DC 20552
Attention: No. 2004-53

January 24, 2005

Subject: U.S. Department of the Treasury, Office of Thrift Supervision (OTS)
Community Reinvestment Act—Community Development, Assigned Ratings
Notice of Proposed Rulemaking: Docket No. 2004-53 RIN 1551-AB4B

Dear Sir or Madam:

On behalf of the City of New York, the New York City Department of Housing Preservation and Development (HPD) wishes to comment on the Office of Thrift Supervision, Treasury (OTS) Notice of Proposed Rulemaking [Docket No. 2004-53] RIN 1550-AB48, which was published in the Federal Register on November 24, 2004. In the notice, the OTS proposes changes to, and solicits comment on, its Community Reinvestment Act (CRA) regulations in two key areas: first, OTS proposes to revise the definition of "community development," enabling savings associations to receive special credit for their community development lending, qualified investments, and community development services in rural areas, regardless of whether the rural area is predominantly low- or moderate-income. The proposal also solicits comment on the merits of OTS further encouraging savings associations to perform community development activities in any areas affected by natural or other disasters, or other major community disruptions, in addition to the low-income communities that have historically been targeted. Second, the proposal solicits comment on an OTS policy of giving large retail institutions a choice as to how they will be evaluated – offering them discretion on the weight given to lending, investments, and services in assessing performance. As a result, each savings association could choose to have OTS eliminate the association's community investment or community service requirement.

HPD is the nation's largest municipal housing agency, and is the administrative grantee of HUD's HOME Investment Partnership grant to New York City, which in 2005 is over \$124 million. HPD is also the fourth-largest Public Housing Agency administering Housing Choice Vouchers. In addition, HPD is the primary user of federal Community Development Block Grant (CDBG) funding for New York City. The City of New York has a long and productive history of using its federal-source funding, combined with



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state, local and private funds, to assure that affordable housing opportunities are made available to the neediest New Yorkers. Mayor Michael R. Bloomberg's plan, "*The New Housing Marketplace: Creating Housing for the Next Generation*," commits to funding the new construction or rehabilitation of 65,000 homes and apartments from fiscal years 2004 through 2008. The City's challenges can be met by fostering mixed-income communities, transforming derelict former industrial areas, and encouraging the development of new housing and investment in our existing housing stock. HPD's success depends in part on innovative partnerships, which involve the use of leveraged private funds that are often covered by the Community Reinvestment Act.

As currently administered, CRA has been an important component in providing affordable housing, revitalizing distressed communities, and fostering economic development throughout New York City and State. The purpose of CRA is to combat redlining of low- and moderate-income communities. However, the proposed rule seeks to add a range of new, largely unrelated goals, and consequently, will lessen the financial resources available to meet the affordable housing needs of the nation's cities. The proposed rule states that the OTS is not proposing a specific definition of "rural" at this time. Without defining this essential term, the City of New York is unable to determine whether the proposed rule change will adversely impact the City. We therefore request that the OTS postpone the issuance of special credits until such time as a clear definition is proposed.

In giving the large retail institutions a choice as to how they will be evaluated – by offering them discretion on the weight given to lending, investments, and services in assessing performance – the OTS risks upsetting the fragile balance where banks and needy communities must work together to improve the lives of millions of low- and moderate-income Americans. With the proposed change, each savings association could choose, for example, to have OTS eliminate the association's community investment requirement. Without an investment requirement, CRA reviews would not hold banks accountable for investing in Low Income Housing Tax Credits (LIHTC), a major source of affordable rental housing for low-income working families. The LIHTC is an important tool of affordable housing development in New York City. During the last decade, 24,146 apartments in projects financed with investments generated by the LIHTC accounted for fully one-fourth of New York City's increase in renter-occupied housing.

Similarly, the proposed rule would permit the large retail institutions to be evaluated based solely on lending, with no service requirement. The impact of such an option would lead to reductions in branch banking and greater difficulty for low- and moderate-income households to access banking services in their communities.

We appreciate your attention to this important matter. Please contact Harold M. Shultz at (212) 863-6070 if you have any questions. We look forward to your response.

Sincerely,



Shaun Donovan



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