



“A Tradition of Native American Housing”

1.24.05

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

Attention: No. 2004-53 & 2004-54

To Whom It May Concern:

On behalf of the National American Indian Housing Council, I am pleased to provide the OTS these comments on proposed changes to 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, including Indian country. Your proposed changes are contrary to the CRA statute and Congress' intent because they will slow down, if not halt, the progress made in community reinvestment, because it will significantly reduce the amount of community development financing and thrift services in low- and moderate-income communities. Your proposal, which contradicts the purpose of the CRA, allows large thrifts themselves to design watered-down CRA exams. 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. **The changes proposed for rural communities will disproportionately affect Native Americans living in tribal areas.**

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 the 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. **Native Americans living on and near reservations currently are one of the most un-banked populations. The Navajo Nation, which is located in 3 states and whose landmass is the size of West Virginia, has just 4 bank branches for 250,000 people. This proposal will negatively impact Indian country at a critical time, as banks have recently begun increasing their lending to reservation communities.**

With no service test, the thrifts can also ignore the need 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 the many needs. If the Office of Thrift Supervision (OTS) adopts this proposal, the agency will fail in its responsibility to enforce CRA. **According to the GAO, the rate of homeownership for Native Americans living on reservations is just 33 percent, or half that of the general population and substantially lower than that of other minority groups. In addition, Native Americans are four times more likely than the average American family to live in substandard housing.** (Fannie Mae data, Testimony, Pattye Greene, May 3, 2004, House Financial Services Committee) Overcrowding has been documented in the NAIHC study "Too Few Rooms..." (2001) reporting as many as 25 or even 30 people living in deplorable conditions under one roof in a 2- or 3-bedroom house.

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. **No large thrifts will need to make the effort to serve Indian country. Washington Mutual, which has steadily been ramping up its services to Indian country, could no longer feel compelled to provide these services if your proposal is enacted.**

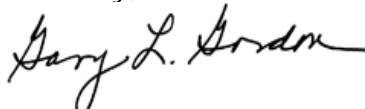
Finally, you would reduce vital opportunities for community groups and thrifts to meet with your agency to discuss CRA and anti-predatory lending matters when thrifts are merging.

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 or **even** decline to hold a meeting. This is inadequate, as merging institutions often conceal important data and information regarding CRA and fair lending compliance. They will only provide this information if repeatedly prodded by community groups during meetings with the regulatory agency.

Over the years, CRA has been effective because the banking agencies have issued regulations in a careful and uniform manner. Once again, your ill-conceived proposal threatens the gains in community revitalization, **particularly very recent gains in Indian country, made possible by CRA.** We urge you to withdraw this latest proposal, which is so ill-advised that it has not been issued by the other banking agencies.

If you have any questions, please call me at 202-789-1754.

Sincerely,



Gary L. Gordon  
Executive Director  
National American Indian Housing Council