CALIFORNIA ASSOCIATION OF REALTORS®

January 20, 2005

John E. Bowman
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street, N.W.
Washington, D.C. 20552

2005 OFFICERS

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Re: RIN 1550-AB48
Community Reinvestment Act – Community Development, Assigned Ratings

Dear Mr. Bowman:

On behalf of the 150,000 members of the California Association of REALTORS®, I submit the following comments on the proposed rule regarding the Community Reinvestment Act and creating an alternative weighting election for large retail institutions or eliminating the investment test. C.A.R.'s members are engaged in the business of real estate brokerage, sales, management and financing. REALTORS are active in their communities as small businesses, homeowners, and concerned citizens. REALTORS believe that homeownership is the best way to build community participation and a better quality of life for all Americans. It is important to remember that homeownership is a ladder and that each rung is as important as the next. Renters today are the homebuyers of tomorrow. It is with this holistic view towards homeownership that REALTORS feel compelled to comment on the substantial impact that these proposed changes may have on affordable housing for low and moderate income individuals and families.

According to the California Building Industry Association ("CBIA") 2005 housing forecast, California is not producing sufficient housing for its growing population. It is estimated that 250,000 new homes and apartments are needed each year to accommodate California's growing population. However, CBIA estimates only 210,000 housing starts in 2005. Thus, 40,000 households will be left without housing. This situation will strain current housing supply and force

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overcrowding situations as multiple households are forced to reside under the same roof.
In addition, a majority of the new homes that will be constructed will be out of the financial reach of many first-time homebuyers. In November 2004, the median home price in California was $473,260 and the median household income needed to purchase the home was $109,670 assuming a 20% down payment of $94,652. As is apparent by these numbers, there are few new homebuyers that would have the financial resources to purchase housing in California. In fact, the according to the second quarter numbers for 2004, the actual median household income was $52,629 compared to the necessary qualifying income to purchase of $107,276. Thus, a household would have to make 200% of the median household income in order to qualify to purchase housing in California. According to the California Association of REALTORS® Housing Affordability Index for November 2004, these figures translate into only 19% of all households in California being able to afford to buy a home. This is a 6% decrease in affordability from one year ago and has been part of a steady decline in housing affordability in California for several years. As for first-time homebuyers, their percentage as compared to all homebuyers continues to drop. In 1999, first-time homebuyers made up 42.4% of all homebuyers. This number has steadily dropped and in 2004 it to stood at only 26.0% or roughly 1 in 4 homebuyers. As purchasing a home becomes more out of reach, Californians are forced to turn to rental housing to meet their housing needs.

Starting in the early 1990's the supply of multifamily as a percentage of all homes being built has dropped significantly. In 1990, 37% of all housing permits were issued for multifamily (including rental) housing. However, in 2003 this number had fallen to 29%. Again, this is at a time when California's rental housing needs have continued to grow due to increased population and lack of affordable housing. A major cause for this drop has been the dramatically increased amount of litigations related to multifamily construction. As a result, investors and developers are less willing to develop this form of housing, which is desperately needed by the communities. In order for investors and developers to be willing to assume the risk of possible future litigation, they require a substantial return on their investments. This level of return is only achievable by renting the units at full market rate.

Low income housing tax credits (LIHTC) were created in order to encourage development of low and moderate-income rental housing. This additional incentive was devised as a means for overcoming the lower return on investment that would be received by investors on low and moderate income developments and, therefore, encourage more investments to occur. However, the average investor is typically more concerned with receiving a high rate of return rather than obtaining tax credits. As a result, the pool of investors willing to purchase the low income housing tax credits has remained relatively small. Historically, major investors in low income housing tax credits have been large savings associations. These entities viewed the low income housing tax credits as a convenient means to meet their investment requirement under the Community Reinvestment Act. Due to the recent change in the definition of "small" savings association by the OTS, there are very few entities that remain under the traditional test requiring lending, services, and investments. As a result, the LIHTC system has already been put in serious jeopardy. Under the proposed rule to eliminate the investment criteria or permit the large savings associations the opportunity to "choose" alternate means (100% lending) to meet their CRA requirements would eliminate the main motivation for

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these entities to purchase LIHTCs. The further loss of investors would likely cause the entire LIHTC system to implode and with it all hopes for additional rental housing in communities where the need is most urgent.

It is vital to remember the original purpose of the three criteria – lending, services, and investments – used for the existing Community Reinvestment Act test. Each criterion has a unique and important role to play in supporting the vitality of communities in which savings associations conduct business and receive substantial monetary benefits. The increase in one criterion cannot make up for the deficiency in another criterion, since each functions to serve a unique need. Therefore, to allow a large association to choose to ignore one or more criteria is a false economy and only serves to undermine the entire purpose of the Community Reinvestment Act. In addition, large savings associations have a comparably larger duty to their communities, since they receive a larger benefit from operating within those communities than smaller savings associations. These larger associations have more extensive resources available to seek out and encourage investment opportunities that would fulfill their existing investment requirements under the Community Reinvestment Act. It was the recognition of these facts that lead to the creation of the two separate tests for large vs. small associations. While this does impose a greater burden upon large savings associations this burden is fully justified and appropriate.

In conclusion, by allowing either the ability for large savings associations to "choose" not to make investments or eliminating the investment criterion altogether, the OTS would do a significant injustice to the Community Reinvestment Act and consumers throughout the nation. Only by OTS maintain each of the criterion – lending, services, and investments in the existing ratios will OTS stay within the original Congressional intent of the CRA and fulfill its duty to ensure that savings associations fully serve the communities from whom they receive substantial economic benefits. Thank you for your consideration of our views. If we may provide you with any additional information, please do not hesitate to contact Janet M. Gagnon-Stovall, Director of Public Policy, by phone 213-739-8272, fax 213-739-7272 or e-mail janetg@car.org.

Sincerely,

Jim Hamilton
President
California Association of REALTORS®

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