December 21, 2004

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

Attention: No. 2004-53 & 54

To Whom it May Concern:

Your proposal contradicts the purpose of the Community Reinvestment Act (CRA) because it will significantly reduce the amount of community development financing and thrift services in low- and moderate-income communities. Your proposal 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.

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 all of the 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. With no service test, the thrifts can also ignore the needs 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 all needs. If the Office of Thrift Supervision (OTS) adopts this proposal, the agency will fail on its responsibility to enforce CRA.

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.

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. This is inadequate as merging institutions often conceal important data and information regarding CRA and fair lending compliance, and 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 unilateral and reckless proposal threatens the gains in community revitalization made possible by CRA. We urge you to withdraw this latest proposal, which is so ill-conceived that it has not been issued by the other banking agencies.

Sincerely,

Charlene Tarver Johnson, President
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