

JESUIT CONFERENCE

THE SOCIETY OF JESUS IN THE UNITED STATES

SOCIAL AND INTERNATIONAL MINISTRIES

January 24, 2005

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

Regarding: No. 2004-53 & 2004-54

To Whom it May Concern:

I am writing to you on behalf of the Jesuit Conference board of the Society of Jesus in the United States regarding proposed changes to the Community Reinvestment Act (CRA) regulations. The Jesuit Conference represents the Society of Jesus in the United States, where there are approximately 3,300 U.S. Jesuit priests and brothers working in 28 Jesuit-affiliated universities and colleges, more than 60 high schools and middle schools, over 80 parishes, and numerous social programs throughout the country. **Propelled by a mission of social justice and a commitment to empower individuals, families and communities most at-risk in our society, I write to strongly urge you to withdraw the proposed changes to the Community Reinvestment Act (CRA) regulations.**

The bedrock of Catholic social teaching is respect for the human dignity of each person. From that flows responsibilities to promote just policies that foster the development of individuals, families and communities, among other things. The CRA has fostered the expansion of access to capital and credit for low- and moderate-income people, and has had a noticeable positive affect on their communities. This proposal, however, could result in disinvestment in low- and moderate-income communities, with far reaching ramifications that negatively affect children, families, minorities, immigrants, and indeed entire communities. Informed by our Catholic heritage and support for a preferential option for the poor, we strongly oppose this proposal.

Jesuits working throughout the country have witnessed the many positive fruits of CRA. It has been instrumental in increasing homeownership, boosting economic development, and expanding small businesses in the nation's low- and moderate-income communities. Your proposed changes are contrary to the CRA statute and Congress' intent because they will significantly reduce the amount of community development financing and thrift

services in low- and moderate-income communities. Your proposal allows large thrifts 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.

Investment Test

You have undoubtedly felt pressure about the burden of the investment test. We encourage the OTS to conduct its own serious cost-benefit analysis, which we believe would show that this rhetoric is not justified by the evidence. If after careful study, the OTS still thought that the investment test was presenting problems, why not propose changes in how investments are evaluated and considered, instead of significantly diminishing the test?

Given the paucity of small businesses in low- and moderate-income communities and the dire shortage of housing, we believe that ample opportunities exist for thrifts to invest in small business equity vehicles and Low Income Housing Tax credit deals or state housing bonds. The need for the investment test remains greater than ever. It can be altered to be both more rigorous and efficient, from both the community and banker point of view, but it must be preserved.

Lending Test

A sample (conducted by the National Community Reinvestment Coalition: www.ncrc.org) of CRA exams found that thrifts made high levels of community development lending but that a sizable minority of thrifts engaged in no community development lending at all. In some of these cases, the CRA examiner stated that he or she allowed the thrift to compensate for a lack of community development lending by strong performance on the investment test or elsewhere on the CRA exam. If it were not for a separate mandatory investment test, these thrifts would have offered no community development financing.

Financial trade associations complain about the inflexibility of the CRA exams coercing banks and thrifts to make sub-optimal investments, but the current exams tolerate much higher levels of community development lending than investments. According to the NCRC a sample, the amount of community development lending is about four times the amount of investment. Thus, it would seem that the current exams do not coerce banks to make investments when another form of financing may be more appropriate. A four-to-one ratio in favor of community development lending is not consistent with rhetoric about depository institutions being forced into a high level of inefficient investments.

Any burden reduction associated with watering down the investment test would be overwhelmed by the cost to communities of reducing community development financing. The new watered down exam regime would not expect a higher level of community development lending in exchange for less investment. Instead, the proposed regime merely allows thrifts to do away with their investment tests if they wish.

Service Test

Instead of weakening the CRA service test, the OTS must make it more meaningful by introducing measures of performance that will earn thrifts different ratings. The Jesuit Conference has previously called upon the agencies to require data disclosure on the number and percentage of checking and savings accounts for low- and moderate-income (LMI) borrowers and communities. This is a straightforward and fair measure of performance that would reflect meaningful differences in responding to deposit needs. If additional and rigorous measures of performance were introduced in the service test, the portion of branches in LMI communities may then differ in a statistically significant manner among thrifts with different ratings on the service test. The thrifts would find that they would have to place more branches in LMI neighborhoods in order to pass muster on the additional performance measures.

Methods exist for making the service test both fairer and more rigorous for thrifts so that it accurately differentiates among thrifts based on real differences in performance. Enhancing the rigor and fairness of the service test would mutually benefit thrifts and communities. In contrast, the current proposal only promises to reduce the number and percent of branches in LMI communities. If the OTS implements its proposal allowing thrifts to choose how to weight their service tests, most thrifts are likely to lessen its value. They are more likely to close branches in LMI tracts during mergers and reorganizations. As the number of payday lenders and check cashers explode in LMI and minority communities, the last thing that communities need is a proposal that lessens the motivation for depository institutions to build branches in LMI communities and offer affordable bank accounts to LMI customers.

Rural Areas

Congress enacted CRA in order to stop redlining and disinvestment from low- and moderate-income communities. Your proposal would shift the focus of community development activities in rural areas away from the activities that actually benefit low- and moderate-income individuals to those activities that benefit *any* individuals, regardless of their income level. Under your proposal, large thrifts can provide

community development financing to affluent communities while overlooking low- and moderate-income communities in rural areas and areas impacted by natural disasters, while not being penalized on the CRA exam.

Meetings

Your proposal would also 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 decline to hold a 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.

Broader Impact

The harm of your proposal becomes clearer and even more profound when considering the impact if the other regulatory agencies enact CRA streamlining for all the institutions they regulate. In the United States today, more than 9,000 banks and thrifts (with 89,868 branches) control \$9.8 trillion in assets. Allowing depository institutions to pick and choose whether they will provide investments and bank services to low- and moderate-income communities will be disastrous. It is obvious that this action will lessen the reinvestment obligations of institutions with trillions of dollars of assets and deposits.

Over the years, CRA has been effective because the banking agencies have issued regulations in a careful and uniform manner. Once again, your proposal threatens the gains in community revitalization made possible by CRA.

Conclusion

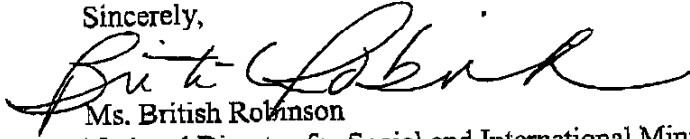
Your proposal is in direct opposition to the CRA's statutory mandate of imposing a continuing and affirmative obligation to meet community needs. Your proposal will drastically reduce thrifts' provision of investments and services in low- and moderate-income communities, and compound the damage in rural areas, which are least able to afford reductions in credit and capital. As payday and predatory lending has surged in the last few years, a proposal that will significantly decrease the provision of investments, branches and banking services by prime lenders will only exacerbate the scarcity of reasonably priced credit in minority and low- and moderate-income communities.

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.

CRA affects too many lives and is far too vital to be fundamentally altered in such a negative way by your proposal, which is so contradictory to the original statute of the

CRA that it has not been issued by the other banking agencies. Therefore, we strongly oppose this proposal. If you have any questions, please call me or our policy analyst, John Kleiderer, at 202-462-0400.

Sincerely,



Ms. British Robinson
National Director for Social and International Ministries
US Jesuit Conference

cc. National Community Reinvestment Coalition