NATIONAL COMMUNITY REINVESTMENT COALITION NCRC

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January 21, 2005

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

Attention: No. 2004-53

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. The National Community Reinvestment Coalition (NCRC), the nation's economic justice trade association of 600 community organizations, asks you to withdraw this harmful proposal and work with the other federal banking agencies in a uniform manner on CRA regulatory issues.

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 neglect 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

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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.

National Impacts of the Proposal

Your proposed change to CRA is profoundly damaging because it lessens the rigor of CRA scrutiny for thrifts controlling trillions of dollars of assets. While thrifts with assets of greater than $1 billion are only 11 percent of all savings and loans, they control 87 percent of the assets in the thrift industry, or a huge $1.1 trillion in assets (see Tables 1 through 3 in the appendix following our comment letter). Focusing on thrifts with assets above $1 billion actually understates the total impact of your recent decisions. If you implement your latest proposal for thrifts with more than $1 billion in assets, your agency will have dramatically streamlined CRA exams and reduced reinvestment obligations for all savings and loans. In October of 2004, your agency implemented streamlined exams for institutions with assets between $250 million and $1 billion in assets, providing them with the same watered down exams as thrifts with less than $250 million in assets. If you implement your latest proposal following your October 2004 ruling, all 896 savings and loans, with $1.26 trillion in assets, would have reduced CRA obligations. Low- and moderate-income communities can ill afford to experience reduced levels of investments and services from financial institutions controlling more than $1 trillion in assets.

The harm of your proposal becomes clearer and even more profound when considering the impacts 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 control $9.8 trillion in assets. They have 89,868 branches and $6.38 trillion in deposits (see Table 3). Allowing depository institutions to pick and choose whether they will provide investments and bank services to low- and moderate-income communities will be disastrous in terms of lessening the reinvestment obligations of institutions with trillions of dollars of assets and deposits.

A state-by-state analysis of the proposal similarly reinforces its harmful nature. In 23 states, thrifts with assets above $1 billion control more than 50 percent of the assets owned by all thrifts located in these states. In 15 states, thrifts with assets above $1 billion control 80 percent or more of all thrift assets. In absolute dollar terms, the impacts are also dramatic. In 10 states, large thrifts collectively control more than $25 billion in assets. In California, large thrifts control $521 billion in assets. In Delaware, Virginia, and Pennsylvania thrifts with assets above $1 billion own more than $50 billion in assets. If large thrifts suddenly had reduced reinvestment obligations, nearly half the states (where large thrifts control more than half of all thrift assets) would suffer an immediate loss of substantial amounts of investment financing and banking services.

Levels of Thrift Investment Imperiled

Another way to illustrate the proposal's devastating impacts is through an analysis of investment and service levels documented on CRA exams. NCRC sampled 93 large institution CRA exams of thrifts with assets above $1 billion as of September 2004. These are virtually all the thrifts with assets above $1 billion (see Table 4 for a list of the lenders).[1]

The sample revealed that the thrifts had combined investment levels of an impressive $1.3 billion. This represents the investment levels that occur every two or three and a half years, or the approximate period of time covered by CRA exams.[2] If large thrifts have the option to reduce the weight of the investment test, it is quite likely that the amount of investments over CRA exam cycles will decrease below $1.3 billion and may be considerably less than $1.3 billion. For example, if most thrifts opt to weigh their investments tests at 12 percent of their total CRA grade instead of the current 25 percent weight, then the thrifts will likely make half as much effort as they currently do. Translated into dollar amounts, half as much effort translates into about half a billion dollars every two or three years for investments in low- and moderate-income communities instead of more than $1 billion.

NCRC's analysis of investment levels by CRA ratings suggests that optional weights will reduce total dollar investment levels by even more than half. The 26 savings and loans in NCRC's sample with Outstanding ratings on the Investment Test had a median level of investment of $12.5 million and a median investment to asset ratio of .43 percent. The 31 thrifts with High Satisfactory ratings had a median investment level of $6.1 million and a median investment to asset ratio of .17 percent. Thrifts with low ratings on the investment test made considerably fewer investments. The 34 thrifts in the sample with Low Satisfactory ratings on the investment test had a median investment level of only $645,000 and a median investment to asset ratio of .04 percent. Likewise the two thrifts with Needs-to-Improve ratings also had a median investment to asset ratio of .04 percent (see Table 5).

[1] We believe that the 93 CRA exams are almost all the thrifts with assets above $1 billion as of September 2004 (the most recent Call report data from the FDIC web page). A few of the thrifts with assets above $1 billion had special purpose or wholesale lender status and thus did not have the large institution CRA exam. These thrifts were not included in our sample. In one case, a thrift had a strategic plan and was not included in our sample. In a few other cases, the thrifts had assets above $1 billion as of September 2004, but had assets below $1 billion during the date of the last CRA exam. These thrifts were included in our sample since they now have assets above $1 billion.

[2] Per CRA exam procedure, NCRC is counting outstanding investments as well as current investments made during the exam time period. In the majority of CRA exams sampled, outstanding investments were the minority of total investments. Thus, the cumulative investment level of the sampled thrifts occurs over a time period of typical CRA exams or slightly longer. We estimate that the cumulative investment level occurred every two to three and a half years.

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Differences in thrifts' asset levels may account for some of the differences in performance on the Investment Test, but is unlikely to account for most of the differences in performance. The High Satisfactory thrifts had a median asset level ($2.9 billion) that was more than twice the median asset level of the Low Satisfactory thrifts ($1.4 billion). Nevertheless, the median investment to asset ratio was about 4 times greater for the High Satisfactory thrifts than the Low Satisfactory thrifts. Furthermore, there is only about a $150,000 difference in the median asset levels between Outstanding and High Satisfactory thrifts but Outstanding thrifts have a median investment to asset ratio more than 2.5 times greater than High Satisfactory thrifts.

Tests of statistical significance revealed that differences in the investment to asset ratios are statistically significant when comparing thrifts with Low Satisfactory ratings to thrifts with High Satisfactory or Outstanding ratings. This finding reinforces the importance of the current investment test. Differences in ratings translate into meaningful differences in investment levels. Any diminution in the importance of the investment test will probably lead to much reduced levels of investments. The median investment to asset ratio for Outstanding thrifts is 10 times greater than the ratio for Low Satisfactory thrifts, and the ratio for High Satisfactory thrifts is more than 4 times greater than the ratio for Low Satisfactory thrifts. These large and statistically significant differences suggest that it is more than likely that investment levels will plummet by more than half if most thrifts place considerably less weight on their investment tests. If savings and loans place considerably less weight on the investment test, the thrifts are more likely to perform as thrifts with Low Satisfactory ratings than those with High Satisfactory and Outstanding ratings.

In your proposal, you state that thrifts' traditional business focus means that they cannot invest as much as banks. Thrifts have less legal authority to make investments than banks since 65 percent of their assets must consist of home loans. You also state that Interagency CRA guidance allows thrifts to make relatively low levels of investments, score Low Satisfactory on the investment test, and then compensate by making higher levels of community development lending.[3]

Your arguments fail to make a convincing case for a proposal to significantly reduce the importance of the investment test. Firstly, you have already established a mechanism to account for the business orientation of thrifts. Thrifts can currently concentrate more on community development lending if they wish. We find evidence that this is the case as a higher percentage of thrifts score Low Satisfactory on the Investment Test than either the Lending or Service Test. A new approach that threatens to dramatically reduce investment levels is not needed since the existing approach works to accommodate thrifts that may not have many investment opportunities in their communities or whose business

[3] Notice of Proposed Rulemaking, Department of Treasury, Office of Thrift Supervision, Community Reinvestment Act – Community Development, Assigned Ratings, in the Federal Register, Vol. 69, No. 226, Wednesday, November 24, 2004, pp. 68260 - 68262.

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orientation is not conducive to investing. Secondly, arguing that investment capacity is constrained because lending must account for at least 65 percent of thrift assets is not relevant. Even thrifts with Outstanding ratings had investment dollar amounts that were less than 1 percent of their assets. CRA investment requirements do not come close to imperiling a thrift's legal obligation to have most of the assets committed to lending.

Lastly, none of the thrifts in NCRC's sample failed their CRA exams, meaning that the investment test did not pose any significant threat towards their overall CRA grade. Since none of the thrifts failed their CRA exams and the existing investment tests leverage significant amounts of investments, it would seem that the current test is a win-win proposition. The investment test promotes community reinvestment without unduly burdening banks with the possibilities of compliance failure.

Changing the Investment Test without Obliterating It

NCRC believes that if the OTS conducted its own serious cost-benefit analysis, it would find that the rhetorical heat about the burden of the investment test (or any of the other tests) would not be justified by the evidence. But 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?

Community groups have long proposed that the regulators award more points for the difficult investments that require patient capital and/or earn below market rates of interest. Yet the regulatory agencies still weigh investments in mortgage-backed securities or other readily available investments the same as scarce equity investments in vehicles that finance small businesses in low- and moderate-income communities. Moreover, given the paucity of small businesses in low- and moderate-income communities and the dire shortage of housing, NCRC believes 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.

A new study sponsored by the Federal Reserve Bank of San Francisco finds that CRA exams do not mechanistically rate banks on the investment test by only considering the quantity of their investments. Contrary to the bank trade association rhetoric, examiners do not expect mid-size banks or thrifts to "out-bid" larger institutions just to secure investments for their CRA exams. Instead, the study shows that depository institutions can do well on the investment test if their investments respond to pressing community needs. Responsiveness to community needs and flexibility of the investments contributed more to the overall rating than the dollar amount of the investments according to the study. This finding is striking in that although NCRC found statistically significant differences between the dollar level of investments and ratings on the investment test, the regulators appear to be carefully weighing qualitative and quantitative factors instead of inappropriately only considering quantity. The study suggests that the investment test is not punitive or burdensome, but is fair and leverages needed investments.[4] Further refinements can successfully alleviate problems instead of proposals to basically eliminate the test.

The bottom line is that the OTS is responding to vague notions and highly charged rhetoric about burden instead of specific complaints. The OTS is proposing a massive change that does not alleviate any particular difficulty with precision while leaving the three tests intact. Instead of proposing well thought out solutions to specific problems, the OTS is dramatically diminishing the three test structure and lessening the effectiveness of CRA exams in leveraging increases in credit and banking services.

Levels of Community Development Lending: A Number of Thrifts Do No Community Development Lending

NCRC's sample 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. The 93 thrifts in NCRC's sample offered an impressive $4.3 billion in community development lending as documented by their CRA exams. Yet, an astonishing 13 percent of the thrifts or 12 of the 93 thrifts did not issue any community development loans. 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.

Interestingly, 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. The amount of community development lending ($4.3 billion) in our sample is about four times the amount of investment ($1.3 billion). 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 by up to 25 percent as calculated from NCRC's sample (up to $1 billion in investments not being made means that total community development financing would be reduced by a level of about $5 billion to $4 billion). The $1 billion in investments in NCRC's sample would probably not be replaced by community development lending in a watered

[4] Ryan Trammell, *Understanding the Relationship Between Investment Test Examination Criteria and Investment Test Ratings*, published by the Federal Reserve Bank of San Francisco, August 2004.

down exam regime. The new 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.

NCRC's sample finds that thrifts with different ratings on their lending test exhibited sizable differences in their dollar amounts of community development lending and in the median community development lending to asset ratios (see Table 7). Interestingly, however, these differences were not statistically significant unlike the differences observed in the investment test. The lack of statistical significance implies that the amount community development lending counts less on the lending test than the amount of investment counts on the investment test. This is additional evidence that watering down, if not eliminating the investment test, will result in significantly less community development financing. The OTS is proposing to lessen the importance of the test in which the quantity of community development financing matters more to the rating. This approach is not what struggling communities need right now.

Levels of Thrift Services: Service Test Needs to Be Made More Rigorous Not Reduced in Importance

NCRC's sample reveals that despite the slipshod nature of the existing service test, CRA exams contribute to a sizable number of branches in low- and moderate-income (LMI) communities. The 93 savings and loans in the sample had 4,539 branches, and 780 or 17.2 percent of them were in LMI census tracts. While 780 branches in LMI neighborhoods is a high number of branches, NCRC's analysis suggests that the existing service test is not realizing its potential to increase bank branch presence in LMI neighborhoods. Examiners did not utilize CRA ratings to award higher ratings to thrifts with the highest percentages of branches in LMI neighborhoods. The median percent of branches in LMI neighborhoods was 14.3 percent, 17.4 percent, and 13.8 percent for thrifts with ratings of Outstanding, High Satisfactory, and Low Satisfactory, respectively, on the service test (see Table 6).

The differences in the percent of branches in LMI census tracts among institutions with the various ratings were not statistically significant. Moreover, when asset levels were most similar, as in the case of thrifts with High and Low Satisfactory service test ratings, the differences among either the percent or number of branches in LMI census tracts were not statistically significant. Examiners were not utilizing ratings as a means of encouraging thrifts to place more branches in LMI neighborhoods. Indeed, on many CRA exams, the distribution of branches in neighborhoods of different income levels was reported on briefly without any meaningful commentary about whether the distribution was acceptable in terms of industry comparisons or community demographics and need.

Enhance Service Test Instead of Jeopardizing It

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. For instance,

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NCRC has previously called upon the agencies to require data disclosure on the number and percentage of checking and savings accounts for 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 differentiated 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 re-organizations. De novo thrifts are also less likely to place branches in LMI tracts since they will no longer have the possibility of ever facing a service test with a predetermined weight. As the number of payday lenders and check cashers explode in LMI and minority communities, the last thing we 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.

Concrete Examples of Community Development Investments Likely to Decline

Quantifying the proposal's likely decreases in reinvestment is compelling, but concrete examples clearly and powerfully illustrate the looming harm of the proposals. Simply put, the streamlining would result in much less affordable rental housing, fewer homeless shelters, less economic development projects, and fewer community health centers and other facilities. On most of these projects, savings and loans realize a profit. Projects that do not generate economic returns, such as homeless shelters, still benefit thrifts and their local communities by reducing poverty and deprivation.[5] If the OTS believes that it is desirable to substantially decrease affordable housing and economic development activities, then you should proceed with your proposed streamlining. If, on the other hand, you come to believe that the societal and human costs of streamlining are too high, you should immediately abandon the proposal.

Since thrifts focus on housing, NCRC's review of CRA exams highlighted examples of thrifts making large investments in housing. The breadth and depth of critical

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[5] In terms of economic theory, CRA has encouraged banks to "internalize" the positive externalities of some social projects that otherwise would not be undertaken since no party realizes private profit from them.

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investments will decrease substantially if you proceed with your proposal. It is also likely that the affordable housing shortage would worsen in America, given the high levels of investment in affordable housing by thrifts that face an investment test with a 25 percent weight. In our review of 93 CRA exams, NCRC found the following investments:

- As recorded on its most recent CRA exam, Washington Mutual Bank, FA had made commitments totaling $110.7 million in Low Income Housing Tax Credits. Of the commitments, the thrift disbursed $43.2 million. These investments financed 577 low-income housing projects and provided 27,569 units of affordable housing.

- Sovereign Bank, based in Pennsylvania, committed $104 million to Low Income Housing Tax Credits according to a 2002 CRA exam. The thrift funded $67 million, which provided 3,207 units of affordable housing.

- A 2001 CRA exam documents that Citicorp Trust Bank invested $10 million in Delaware State Housing Bonds issued by the state housing authority. The exam states that Delaware's bonds provide new mortgage financing for first time homebuyers and are targeted to families below the median income.

- Astoria Federal Savings invested in $6.5 million in low-income housing tax credits through the New York Equity Fund. Astoria's investment helped the fund produce over 6,700 apartments for low-income families.

- The $4 billion asset Sterlings Savings Bank, based in Spokane, Washington, invested $1.75 million in Washington State Housing Finance Commission bonds according to a 2004 CRA exam. The bonds financed an elderly affordable housing project in Vancouver. The bank also made a $5 million equity investment with Homestead Capital, which financed the construction and rehabilitation of properties located in rural areas of Washington, Oregon, and Idaho.

Despite thrifts' orientation towards housing, the investment test also motivated savings and loans to be responsive to a wide variety of needs and finance vital activities including small business development and community revitalization. NCRC's review found the following:

- Washington Mutual Bank, FA made over $7.1 million in investments in Small Business Investment Companies (SBICs) and other venture funds. These investments included $5 million in a minority enterprise fund in the Los Angeles area.

- An April 2003 CRA exam documents that Capital One made commitments of $23.5 million for three equity investments in small business investment

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corporations. One of these investments is in the New Markets Growth Fund, which invests and provides technical assistance to small businesses with incomes of less than $2 million and are based in low-income communities in Maryland, the District of Columbia, and Northern Virginia.

- Other examples of small business equity investments on the east coast include Travelers' $2 million investment in the Inner City Ventures Fund and Chevy Chase's $1 million commitment to the New Markets Growth Fund in the Baltimore-Washington DC corridor. The great majority of the New Markets Growth fund is targeted to companies located in empowerment zones and other low-income areas.

- According to a 2003 CRA exam, Provident Bank invested in short term notes and bonds of close to $4 million from the village of Haverstraw, New York, which had been designated as economically distressed by Rockland County's Office of Community Development. One of the financed projects included the creation of a park that was one of the few recreational facilities for a town that was over 60 percent minority. In addition, the bank granted $250,000 to a local hospice that offers reduced prices to terminally-ill members of lower income families.

- Regency Savings Bank in Illinois purchased $4.8 million in municipal bonds that financed the revitalization of commercial and industrial properties, and helped increase employment opportunities in low- and moderate-income communities. In addition, the thrift committed $2 million to an SBIC dedicated to financing niche manufacturing and service companies.

Concrete Examples of Community Development Services Likely to be Diminished

The NCRC survey of CRA exams also revealed several examples of innovative and extensive levels of community development services. If a large number of thrifts opted against a service exam or chose to lessen the importance of the service test, then the level of services, including community development services, will decrease substantially.

NCRC's sample found the following levels of services:

- A 2004 CRA exam of Fidelity Federal Bank and Trust in West Palm Beach Florida reports that the thrift has made available 26,669 free checking accounts with balances of about $73.3 million. The accounts have no minimum balance requirement, no monthly fee, and an opening deposit requirement of just $100. The CRA examiner did not have any information available on how many of these accounts were for LMI borrowers; as stated above, data on how many accounts were for LMI customers would improve CRA exams. Yet, it is highly probable that the current CRA service test has motivated banks and thrifts to offer a higher level of affordable accounts to LMI borrowers than they would have otherwise.

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- Union Federal Bank of Indianapolis has 19 bilingual staff members and makes special outreach efforts in the Hispanic community, including efforts to hire additional Hispanic employees. Union's ATMs are equipped to allow recipients of food stamps to withdraw their food stamp benefits from the ATMs. Finally, Union offers Interest on Lawyers' Trust Accounts, which are special accounts of $650,000 that finance legal representation for poor people. If it were not for the current service exam, there is a good chance that Union would not be as engaged in the Hispanic community or offering as many community development services to LMI communities.

- Dollar Bank, FSB in Pittsburgh has established community development services targeting female heads of households and public housing clients according to a 2004 CRA exam. "Mortgages for Mothers" is a home buying workshop program attended by 500 female household heads on an annual basis. "Mission" is a homeownership program involving the bank, the local public housing authority, and the YWCA. The program provides homeownership counseling for Section 8 recipients and also establishes Individual Development Accounts (IDAs) for them.

- Sterling Savings Bank in Spokane, Washington engaged in 484 hours of financial education instruction for 5,968 students from LMI communities. The bank also spent 174 hours with Native American tribes providing financial expertise or services according to a 2004 CRA exam. This level of financial education is significant and helped the bank earn an Outstanding rating on its service test.

- Sovereign Bank in Pennsylvania offered a free checking account and an Individual Development Account. It also participated in 56 seminars regarding housing counseling and basic banking that reached 1,850 individuals. Citibank, FSB, based in Reston, Virginia, conducted 1,300 financial education classes attended by 30,000 consumers according to a 2003 CRA exam.

- A 2004 CRA exam documents that North Shore Bank, FSB became the first Wisconsin-based institution to use matricular consular identification cards from Mexican immigrants as proof of identity. Immigrants opening Matricular checking and savings accounts with the thrift receive free training and education. The customers also receive two ATM cards so that relatives in Mexico can obtain funds through ATMs and thus not have to pay wire transfer fees for remittances. The thrift worked with the Mexican Consulate in Chicago on a matricular registration drive that resulted in 4,000 Mexican immigrants receiving matricular consular identification cards. North Shore also accepts Taxpayer Identification Numbers (ITINs) for immigrants who lack Social Security numbers so that these consumers can receive tax refunds.

- A number of thrifts successfully processed applications to the Federal Home Loan Banks for affordable housing funding on behalf of nonprofit organizations. For example, Astoria Federal Savings in New York received $1.5 million in loan subsidies from the Federal Home Loan Bank in New York to provide 322 affordable housing units. Other thrifts that belong to Federal Home Loan Banks and secured financing for community development include Sovereign, Columbia Savings Bank in New Jersey, and Sterling Savings Bank in Washington state,

Definition of Rural Community Development Will Direct Development Away from Low- and Moderate-Income Areas

To make matters worse, you propose that community development activities in rural areas and areas afflicted by natural disasters can benefit any group of individuals instead of only low- and moderate-income individuals. Since thrifts will be able to focus on affluent residents of rural areas, your proposal threatens to divert community development activities away from the low- and moderate-income (LMI) communities and consumers that CRA targets. The effect of diverting financing away from LMI communities is magnified by your proposal's application of the new definition of community development to all OTS-supervised thrifts.

Using CRA Wiz software produced by PCI Services, Inc., NCRC calculates that 7.6 million households or about 40 percent of all households are LMI in non-metropolitan counties (2000 Census data and 2004 metropolitan area boundaries are used by CRA Wiz). Instead of the sole beneficiaries of CRA-related community development activities, these households will now have to compete with the much larger group of 11.1 million middle- and upper-income households to receive community development activities.

Fifteen percent or 1,802 census tracts in non-metropolitan counties are LMI. Instead of targeting their community development activities to these tracts, OTS-supervised thrifts can now engage in community development in any tract in rural America. Consequently, LMI tracts will no longer benefit from targeted community development activities that are most likely to revitalize neighborhoods. Instead LMI tracts in rural areas will be lucky to receive any community development financing as they are greatly outnumbered by middle- and upper-income tracts.

Rather than removing the income targets on CRA exams, NCRC recommends that the bank regulators begin using the state median income (rather than the non-metropolitan median income) as the base for establishing the LMI levels in non-metropolitan counties. Because of higher median incomes in metropolitan areas under current definitions, there are more LMI people and census tracts in urban areas than there are in rural areas. Shifting the median income benchmark for non-metropolitan counties would help alleviate this problem.

The OTS proposal will violate the intent and spirit of the Community Reinvestment Act since LMI tracts most in need of reinvestment financing will go starving and will likely face a new round of disinvestment. Moreover, the statute requires banks to serve LMI

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communities, and does not refer to all rural communities as low- and moderate-income. NCRC agrees with the letter from several members of the House Financial Services Committee that your proposed changes are contrary to the CRA statute and will decrease reinvestment in low- and moderate-income areas in rural parts of states.

It is disingenuous for the OTS and the FDIC to suggest that your proposals for defining rural community development respond to community group concerns.[6] Community groups were concerned about cursory exams applying to the great majority of depository institutions located in rural areas. We were not expressing a desire to further dilute the meaning of community development in rural areas.

Your proposal for rural America merely exacerbates the harm of your proposed streamlined exam. Your streamlined exam will result in considerably less community development activity. In rural America and areas afflicted by natural disasters, that reduced amount of community development activity can now earn CRA points if it benefits affluent consumers and communities. What's left over for low- and moderate-income rural residents are the crumbs of a shrinking CRA pie of community development activity.

Conclusion

Over the years, CRA has been effective because the banking agencies have issued regulations in a careful and uniform manner. Once again, your unilateral 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.

In sum, your proposal is directly the opposite of 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. You compound the damage of your proposal in rural areas, which are least able to afford reductions in credit and capital. In addition, your proposal regarding areas affected by natural disasters is not justified because LMI families and communities are least likely to have adequate insurance coverage and other resources for recovering from disasters. Diluting lender attention from LMI communities in the wake of natural disasters will only exacerbate their distress. 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.

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[6] Federal Register, Vol. 69, No. 161, Friday, August 20, 2004, p.51614, and Federal Register, Vol. 69, No. 226, Wednesday, November 24, 2004, p.68258.

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If you have any questions, please call Josh Silver, Vice President of Research and Policy, or myself on 202-628-8866.

Sincerely,

Sincerely,

John Taylor
President and CEO

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Appendix: Tables Showing Impacts of OTS Proposal

NCRC Analysis of OTS Proposal to Weaken CRA

Table 1: Thrifts by Asset Size (In Thousands of Dollars) in Each State

	Institutions Assets >$ 1billion		Total Thrifts:
	$ (000's)	%	$ (000's)
United States	$1,107,748,698	87.49%	$1,266,150,061
Alabama	$1,428,586	62.99%	$2,267,811
Alaska	$0	0.00%	$172,410
American Samoa	$0	0.00%	$0
Arizona	$0	0.00%	$633,582
Arkansas	$0	0.00%	$1,856,739
California	$521,281,008	98.57%	$528,882,129
Colorado	$1,803,205	63.15%	$2,855,287
Connecticut	$0	0.00%	$1,847,414
Delaware	$86,895,091	100.00%	$86,895,091
District of Columbia	$0	0.00%	$184,116
Florida	$29,520,792	82.00%	$35,998,835
Georgia	$4,471,598	53.55%	$8,350,504
Guam	$0	0.00%	$80,338
Hawaii	$7,846,603	100.00%	$7,846,603
Idaho	$0	0.00%	$1,365,769
Illinois	$21,504,770	70.87%	$30,346,103
Indiana	$4,924,066	36.15%	$13,620,728
Iowa	$1,256,290	24.84%	$5,066,168
Kansas	$10,230,371	82.05%	$12,467,858
Kentucky	$0	0.00%	$2,713,401
Louisiana	$0	0.00%	$4,742,992
Maine	$0	0.00%	$1,131,559
Maryland	$0	0.00%	$8,783,502
Massachusetts	$3,180,678	40.01%	$7,949,252
Michigan	$12,762,193	80.72%	$15,810,241
Minnesota	$0	0.00%	$4,008,196
Mississippi	$0	0.00%	$926,496
Missouri	$1,354,039	24.85%	$5,449,010
Montana	$0	0.00%	$279,396
Nebraska	$14,265,273	93.17%	$15,311,772
Nevada	$1,156,070	74.15%	$1,559,001
New Hampshire	$0	0.00%	$1,988,938
New Jersey	$31,329,348	77.25%	$40,556,131
New Mexico	$0	0.00%	$2,826,718
New York	$42,653,196	84.19%	$50,664,376
North Carolina	$0	0.00%	$3,605,784
North Dakota	$0	0.00%	$1,006,890
Ohio	$35,230,537	74.37%	$47,369,474
Oklahoma	$9,309,365	95.91%	$9,706,254
Oregon	$0	0.00%	$808,760
Pennsylvania	$66,218,716	86.02%	$76,979,703
Puerto Rico	$0	0.00%	$0
Rhode Island	$0	0.00%	$760,806
South Carolina	$3,707,248	52.39%	$7,075,865
South Dakota	$0	0.00%	$1,326,073
Tennessee	$2,670,596	48.23%	$5,537,391
Texas	$47,273,294	94.99%	$49,765,890
Utah	$36,349,901	97.78%	$37,175,408
Vermont	$0	0.00%	$336,409
Virgin Islands	$0	0.00%	$0
Virginia	$77,941,955	95.53%	$81,586,015
Washington	$15,141,899	88.86%	$17,040,849
West Virginia	$0	0.00%	$1,188,192
Wisconsin	$16,039,966	83.04%	$19,316,795
Wyoming	$0	0.00%	$393,076

Source: FDIC Statistics on Depository Institutions database, 9/04

NCRC Analysis of OTS Proposal to Weaken CRA

Table 2: Numbers of Thrifts in Each State

	Institutions Assets >$ 1billion		Total Thrifts
	#	%	#
United States	104	11.61%	896
Alabama	1	9.09%	11
Alaska	0	0.00%	1
American Samoa	0	0.00%	0
Arizona	0	0.00%	4
Arkansas	0	0.00%	7
California	16	47.06%	34
Colorado	1	9.09%	11
Connecticut	0	0.00%	8
Delaware	6	100.00%	6
District of Columbia	0	0.00%	1
Florida	10	25.00%	40
Georgia	1	5.26%	19
Guam	0	0.00%	1
Hawaii	2	100.00%	2
Idaho	0	0.00%	3
Illinois	4	7.27%	55
Indiana	2	4.00%	50
Iowa	1	5.26%	19
Kansas	2	11.76%	17
Kentucky	0	0.00%	23
Louisiana	0	0.00%	28
Maine	0	0.00%	8
Maryland	0	0.00%	47
Massachusetts	2	9.52%	21
Michigan	1	6.67%	15
Minnesota	0	0.00%	22
Mississippi	0	0.00%	7
Missouri	1	3.23%	31
Montana	0	0.00%	3
Nebraska	2	18.18%	11
Nevada	1	50.00%	2
New Hampshire	0	0.00%	6
New Jersey	7	17.07%	41
New Mexico	0	0.00%	9
New York	8	19.05%	42
North Carolina	0	0.00%	16
North Dakota	0	0.00%	3
Ohio	8	9.52%	84
Oklahoma	1	20.00%	5
Oregon	0	0.00%	2
Pennsylvania	3	6.52%	46
Puerto Rico	0	0.00%	0
Rhode Island	0	0.00%	5
South Carolina	2	9.52%	21
South Dakota	0	0.00%	4
Tennessee	2	10.00%	20
Texas	5	25.00%	20
Utah	2	40.00%	5
Vermont	0	0.00%	2
Virgin Islands	0	0.00%	0
Virginia	4	25.00%	16
Washington	3	37.50%	8
West Virginia	0	0.00%	7
Wisconsin	6	25.00%	24
Wyoming	0	0.00%	3

Source: FDIC Statistics on Depository Institutions database, 9/04

NCRC Analysis of Proposed OTS CRA Ruling

Table 3: Impact of Streamlined CRA Exams on OTS Instituitions

Number of Institutions

	Institutions Assets > $1B		Institutions Total
	#	%	#
United States	600	6.6%	9,037
OTS	104	11.6%	896
FDIC	237	4.5%	5,273
FED	83	9.0%	926
OCC	176	9.1%	1,942

Dollar Amount of Assets (in Thousands)

	Assets Institutions > $1B		Assets Total
	$ (000's)	%	$ (000's)
United States	$ 8,490,238,774	85.9%	$ 9,887,290,695
OTS	$ 1,107,748,698	87.5%	$ 1,266,150,061
FDIC	$ 1,085,992,970	58.6%	$ 1,852,658,143
FED	$ 1,759,040,675	91.7%	$ 1,918,467,521
OCC	$ 4,537,456,431	93.6%	$ 4,850,014,970

Number of Branches

	Branches Institutions > $1B		Branches Total
	#	%	#
United States	56,930	63.3%	89,868
OTS	6,226	68.8%	9,053
FDIC	10,652	36.2%	29,400
FED	10,248	73.6%	13,918
OCC	29,804	79.5%	37,497

Dollar Amount of Deposits (in Thousands)

	Deposits Institutions > $1B		Deposits Total
	$ (000's)	%	$ (000's)
United States	$ 5,270,969,472	82.5%	$ 6,388,734,483
OTS	$ 603,759,620	83.6%	$ 721,934,909
FDIC	$ 739,654,994	54.4%	$ 1,358,607,349
FED	$ 1,059,859,130	89.2%	$ 1,187,600,909
OCC	$ 2,867,695,728	91.9%	$ 3,120,591,316

Source: FDIC Statistics on Depository Institutions database 9/30/04

Table 4: NCRC Survey of CRA Exams of Large Thrifts: Names of Lenders

Lender	City	State
New South Federal Savings Bank	Irondale	Alabama
Downey Savings and Loan Assoc. FA	Newport Beach	California
El Dorado Savings Bank, F.S.B.	Placerville	California
First Bank of Beverly Hills, F.S.B.	Beverly Hills	California
First Federal Bank of California, FSB	Santa Monica	California
IndyMac Bank, FSB	Pasadena	California
La Jolla Bank, FSB	Rancho Santa Fe	California
Los Padres Bank	Solvang	California
Luther Burbank Savings	Santa Rosa	California
Pan American Bank, FSB	Newport Beach	California
PFF Bank and Trust	Pomona	California
Provident Savings Bank, F.S.B.	Riverside	California
Washington Mutual Bank, FA	Stockton	California
Western Financial Bank	Irvine	California
World Savings Bank, FSB	Oakland	California
Matrix Capital Bank	Denver	Colorado
Citicorp Trust Bank (Travelers)	Newark	Delaware
GMAC Bank	Greenville	Delaware
ING Bank, FSB	Wilmington	Delaware
Lehman Brothers Bank, FSB	Wilmington	Delaware
Wilmington Federal Funds Society, FSB	Wilmington	Delaware
BankAtlantic	Fort Lauderdale	Florida
BankUnited FSB	Coral Gables	Florida
Fidelity Federal Bank and Trust	West Palm Beach	Florida
First Federal Savings Bank of Lake County	Leesburg	Florida
Harbor Federal Savings Bank	Fort Pierce	Florida
IronStone Bank	Fort Myers	Florida
Peoples First Community Bank	Panama City	Florida
R-G Crown Bank	Casselberry	Florida
American Savings Bank	Honolulu	Hawaii
Territorial Savings Bank	Honolulu	Hawaii
BankFinancial, FSB	Olympia Fields	Illinois
Mid America Bank, FSB	Clarendon Hills	Illinois
Regency Savings Bank, A FSB	Naperville	Illinois
State Farm Bank, FSB	Bloomington	Illinois
Citizens Financial Services, F.S.B.	Munster	Indiana
Union Federal Bank of Indianapolis	Indianapolis	Indiana
Capitol Federal Savings Bank	Topeka	Kansas
Fidelity Bank	Wichita	Kansas
Boston Federal Savings Bank	Burlington	Massachusetts
Brookline Bank	Brookline	Massachusetts
Flagstar Bank, FSB	Troy	Michigan
North American Savings Bank, F.S.B.	Grandview	Missouri
Commercial Federal Bank, a FSB	Omaha	Nebraska
TierOne Bank	Lincoln	Nebraska
M & I Bank FSB	Las Vegas	Nevada
Columbia Savings Bank	Fair Lawn	New Jersey
Farmers and Mechanics Bank	Burlington Township	New Jersey
Kearny Federal Savings Bank	Kearny	New Jersey
OceanFirst Bank	Brick	New Jersey
Penn Federal Savings Bank	Newark	New Jersey
Spencer Savings Bank, SLA	Elmwood Park	New Jersey
Astoria Federal Savings & Loan Assoc	Lake Success, Nassau	New York
Dime Savings Bank of Williamsburgh	Brooklyn	New York
First Niagra Bank	Lockport	New York
Flushing Savings Bank	Flushing	New York
Maspeth Federal Savings and Loan Association	Maspeth	New York
Provident Bank	Montebello	New York
SBU Bank	Utica	New York
First Federal Bank of the Midwest	Defiance	Ohio
First Federal Savings and Loan Association	Lakewood	Ohio

First Place Bank	Warren	Ohio
Liberty Savings Bank	Wilmington	Ohio
Ohio Savings Bank	Cleveland	Ohio
Third Federal Savings & Loan Assoc.	Cleveland	Ohio
Union Savings Bank	Cincinnati	Ohio
MidFirst Bank	Oklahoma City	Oklahoma
Dollar Bank, FSB	Pittsburgh	Pennslyvania
Sovereign Bank	Wyomissing	Pennslyvania
Waypoint Bank	Harrisburg	Pennsylvania
Coastal Federal Bank	Myrtle Beach	South Carolina
First Federal Savings & Loan	Charleston	South Carolina
First Market Bank, FSB	Memphis	Tennessee
Home Federal Bank of Tennessee	Knoxville	Tennessee
Colonial Savings, F.A.	Fort Worth	Texas
Encore Bank	Houston	Texas
Guaranty Bank	Dallas	Texas
USAA Federal Savings Bank	San Antonio	Texas
World Savings Bank FSB (Texas)	Houston	Texas
Washington Mutual Bank, FSB	Salt Lake City	Utah
Capital One, FSB	McLean	Virginia
Chevy Chase Bank, FSB	McLean	Virginia
Citibank, FSB	Reston	Virginia
E*Trade Bank	Arlington	Virginia
Sterling Savings Bank	Spokane	Washington
Washington Federal Savings	Seattle	Washington
Yakima Federal Savings and Loan Association	Yakima	Washington
AnchorBank FSB	Madison	Wisconsin
First Federal Savings Bank La Crosse	La Crosse	Wisconsin
FPC Financial, F.S.B.	Madison	Wisconsin
Guaranty Bank	Milwaukee	Wisconsin
Mutual Savings Bank	Brown Deer	Wisconsin
North Shore Bank, FSB	Brookfield	Wisconsin

NCRC Survey of CRA Exams of Large Thrifts
Table 5 - Investment Test Results

Ratings on Investment Test	Number	Percent
Outstanding	26	28.0%
High Satisfactory	31	33.3%
Low Satisfactory	34	36.6%
Needs to Improve	2	2.2%
Total	93	

Ratings on Investment Test	Median Asset Level	Median Invest Level	Median Invest to Asset Ratio
Outstanding	$3,100,000	$12,537	0.43%
High Satisfactory	$2,950,000	$6,122	0.17%
Low Satisfactory	$1,445,220	$645	0.04%
Needs to Improve	$10,688,716	$8,208	0.04%

Table 6 - Service Test Results

Ratings on Service Test	Number	Percent
Outstanding	34	36.6%
High Satisfactory	43	46.2%
Low Satisfactory	16	17.2%
Total	93	

Ratings on Service Test	Median Asset Level	Median #LMI branch	Median #total branch	Median % LMI branch
Outstanding	$3,737,000	7	40	14.31%
High Satisfactory	$1,800,000	3	20	17.39%
Low Satisfactory	$1,250,000	1	8	13.82%

Table 7 - Lending Test Results

Ratings on Lending Test	Number	Percent
Outstanding	30	32.3%
High Satisfactory	48	51.6%
Low Satisfactory	15	16.1%
Total	93	

Ratings on Lending Test	Median Asset Level	Median CD Lend Level	Median CD Lend to Asset Level
Outstanding	$2,525,000	$14,342	0.91%
High Satisfactory	$1,750,000	$6,133	0.35%
Low Satisfactory	$1,800,000	$1,575	0.09%