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January 24, 2005

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

Attention: No. 2004-53

Re: Community Reinvestment Act – Community Development, Assigned Ratings
69 FR 68257 (November 24, 2004)

To Whom It May Concern:

The National Association of Housing and Redevelopment Officials (NAHRO) would like to take this opportunity to comment on the Office of Thrift Supervision's November 24, 2004 notice of proposed rulemaking concerning Community Reinvestment Act (CRA) regulations. NAHRO strongly opposes the proposal because of its potential to reduce housing- and community development-related investments in low- and moderate-income communities. NAHRO is also concerned that the proposal, if implemented, would allow federally chartered thrifts to design their own watered-down CRA exams and invest in affluent areas at the expense of low- and moderate-income communities, with no CRA penalty. NAHRO strongly objects to this proposal and urges you to withdraw it.

CRA was intended to spur the provision of lending, investment, and banking services to lower income areas, both urban and rural. Current regulations assess thrifts via a three part examination that includes lending, investment, and services tests. Your proposal would allow large thrifts with over $1 billion in assets to effectively eliminate the investment and service tests and derive nearly their entire grade from the lending test. NAHRO understands that relaxing the regulations as you have proposed would affect 104 large thrifts with combined assets of approximately $1.1 trillion, which represents about 87% of all thrift assets in the United States.

The agencies charged with regulating CRA have traditionally acted in concert, your recent unilateral proposal notwithstanding. NAHRO is concerned that the other federal agencies that assess CRA performance will follow your lead and promulgate similar changes if your proposal is implemented. Such a dramatic erosion of CRA would affect the 600 largest banks and thrifts which collectively represent 85.9% of all bank and thrift assets in the United States, 63.3% of all bank and thrift branches, and 82.5% of all bank- and thrift-held deposits, according to the National Community Reinvestment Coalition.

In addition to obliterating the CRA examination as it currently exists, your proposal seeks to change the definition of "community development" under CRA. Specifically, you propose that community development activities under CRA include community services targeted to individuals in rural areas and activities that revitalize or stabilize rural areas. You justify this new definition, which could lead to the construction of golf courses and luxury resorts as easily as the production of affordable housing, by arguing there is a need to combat CRA's "largely urban focus," yet there is nothing in your proposal to ensure that any newly undertaken rural community development activities would serve low- and moderate-income persons and communities. Indeed, your proposal explicitly states that "community development activities in rural areas would be covered even if the individuals or areas served are not low- or

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moderate-income." This proposed broadening of the community development definition clearly runs contrary to the spirit of CRA and is deeply disturbing. Under the guise of combating this alleged and debatable "urban focus," your proposal would cause CRA to drift from what is and should always be one of its primary areas of focus: to help meet the credit needs of low- and moderate-income neighborhoods, wherever they happen to be located.

If the investment test is eliminated or marginalized as you have proposed, then it is likely that thrifts will have a substantially reduced incentive to finance the development of affordable rental housing through the use of Low Income Housing Tax Credit (LIHTC) program. CRA-motivated buyers dominate LIHTC demand with more than 90% of the market, according to the Citizens Housing and Planning Association. Falling demand will reduce tax credit prices and therefore reduce investment in affordable housing. Currently, the LIHTC is the major federal program for production of affordable housing, involved in 50-70% or more of all new affordable housing nationwide. Each year the program creates around 130,000 new affordable units using equity provided by tax credit investors. Disincentivizing LIHTC investment will have a devastating effect on American communities' efforts to provide affordable housing for their low-income residents.

Abolishing the services test would similarly eliminate an incentive for thrifts to place or maintain branches in low- and moderate-income communities. With no service test, large thrifts could ignore underserved communities' needs for remittances and other low-cost banking services. If thrifts can pull branches and services from low- and moderate-income communities without facing a CRA penalty, these communities are likely to see an increase in the incidence of abusive payday loans, check cashing, and other high cost and predatory services. Payday loans, for example, typically have exorbitant annual percentage rates that start at around 400% for the initial loan and can grow to nearly 2000% as borrowers roll over their loan and pay renewal fees.

Although your proposal would leave the lending component of the CRA examination in place, eliminating the services test could also jeopardize the Administration's stated policy goal of increasing minority homeownership. It is vitally important that minorities and low- and moderate-income Americans continue to enjoy expanded access to conventional mortgage products. Access to non-predatory loans depends in part on the ability of low- and moderate-income persons to obtain banking services within their own communities.

Time and again, NAHRO's members tell us that CRA mandates have laid the groundwork for promising partnerships between the public and private sectors. In communities across the nation, local lending institutions have taken the first steps in partnering with local agencies to provide important and needed opportunities for low and moderate income individuals and families. We believe that your proposal endangers these important partnerships.

NAHRO concludes that your proposal will have an adverse impact on the very communities and populations CRA was intended to protect. CRA has been the driving force behind the expansion of lending, investment, and banking services within America's underserved communities. NAHRO urges you not to turn back the clock on the important protections CRA provides.

Thank you for providing the opportunity to comment on this notice of proposed rulemaking. Please contact Jeff Falcusan, NAHRO's Housing and Community Development Policy Analyst, at (202) 289-3500, ext 234, or at jfalcusan@nahro.org if you have any questions.

Sincerely,

Saul N. Ramirez, Jr.
Executive Director

The National Association of Housing and Redevelopment Officials (NAHRO) is the leading housing and community development advocate for the provision of adequate and affordable housing and strong, viable communities for all Americans, particularly those with low- and moderate-incomes.