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December 23, 2004

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:

The Office of Thrift Supervision's (OTS) proposed changes to the Community Reinvestment Act (CRA) will significantly reduce the amount of community development financing and thrift services in low- and moderate-income communities. Thrifts are the nation's savings and loans, which have traditionally focused on home lending. Given that many of these institutions have billions of dollars in assets, they have the capacity to fulfill their CRA obligations.

Your proposal allows large thrifts to design their own watered-down CRA exams. 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.

Throughout the United States there are 100 "large" thrifts. Most states do not have thrifts headquartered in their states. In California, however, there are 35 thrifts in which the OTS regulates. 18 of these 35 thrifts have assets over \$1 billion and therefore under your proposal would be able to eliminate their investment and service tests.

The danger with the OTS's proposal is that the federal regulators will be allowing large thrifts to neglect community needs. If the large thrifts eliminate their investment tests, they will no longer have a regulatory incentive to finance affordable rental housing via Low Income Housing Tax Credits or finance small businesses via equity investments. In California, a review of the 7 largest thrifts' CRA Performance Evaluations shows combined investments and contributions totaling almost \$60 million.¹ Banks such as IndyMac rated a "Low Satisfactory" in their investment test due to a low level of qualified community development investments and grants. CRA currently holds institutions like IndyMac accountable to making investments and contributions which benefit and low- and moderate-income communities. Without the investment test, IndyMac would

¹ The institutions reviewed from 2000 - 2003 include the following: Washington Mutual Bank, World Savings Bank, IndyMac, Downey Savings and Loan, Western Financial Bank, First Federal Bank, and PFF Bank & Trust

have no incentive to do investments in the communities in which they collect deposits.

Under your proposal, thrifts will also be allowed to 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 and products. The "design your own easy CRA exam" option will increase the amount of abusive payday loans, check cashing, and other high cost fringe financial services in low- and moderate-income communities as banks and savings and loans abandon these neighborhoods.

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 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.

If you have any questions, I can be reached at 415-864-3980.

Sincerely,

Rhea L. Serna
California Reinvestment Coalition

cc: National Community Reinvestment Coalition