

HILLARY RODHAM CLINTON
NEW YORK
SENATOR
RUBEN S. BROWN OFFICE BUILDING
1000 PENNSYLVANIA AVENUE
WASHINGTON, D.C. 20540
202-541-2000

United States Senate

WASHINGTON, DC 20510-3204

January 21, 2005

211

The Honorable James E. Gilleran
Director
The Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552

Dear Mr. Gilleran:

I am writing to you with serious concerns over the Office of Thrift Supervision's (OTS) proposal regarding the treatment of large thrifts under the Community Reinvestment Act (CRA) evaluations.

As you know, 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 the OTS proposal, a large thrift can choose to eliminate its investment and service tests, and thus only have to pass a lending test. It can choose to have nominal investment and service tests, meaning that the lending test counts for most of the total grade.

In New York State, thrifts with assets over \$1 billion control over 84% of all thrift assets in the state. According to your proposal, these thrifts, with the great majority of the assets in the state, would be allowed to design their own CRA exams.

The unacceptable risk the OTS proposal presents is that large thrifts would be permitted to neglect pressing community needs. If a thrift chooses to eliminate the investment test, it will not be required to finance affordable housing by means of the Low Income Housing Tax Credit or finance small business through equity investments or investments in New Markets Tax Credits. Likewise, a thrift could choose to eliminate the service test and not be subject to the requirement of placing or maintaining branches in low- and moderate- income communities. Similarly, with no service test, a thrift could ignore the needs for remittances and other low-cost banking services. Ultimately, thrifts will likely reduce their provision of basic banking services. I fear that this situation could lead to an increase in the amount of abusive payday lending, check cashing, and other high cost services in low- and moderate- income communities.

I am also concerned about the proposal's treatment of rural areas and areas affected by natural disasters. Congress enacted CRA in order to stop redlining and disinvestment from low- and moderate-income communities. Under the OTS proposal, large thrifts will suffer no CRA penalty if they provide community development financing to affluent communities, while

avoiding low- and moderate-income communities in rural areas and areas affected by natural disasters.


I am particularly concerned with the impact your proposal will have on rural communities where private financial institutions are the main source of capital for domestic economic development, housing, and community revitalization. New York's upstate communities and low-wealth urban neighborhoods have a deep need for investment capital. The OTS proposal virtually guarantees less capital will flow to these areas.

Finally, your proposal would reduce opportunities for community groups and thrifts to meet with your agency to discuss CRA and anti-predatory lending matters when thrifts merge. As you know, under current regulations, the OTS is required to hold two meetings to try to ensure that the consequences of proposed mergers are fully, fairly and thoroughly evaluated. The current proposal would allow the OTS, at its own discretion, to hold only one meeting or decline to hold a meeting at all. The minimization of community input would effectively shut out the voices of New Yorkers, whereas in fact the OTS should make every effort to ensure that local community members' voices are heard.

In short, by permitting large thrifts to design watered-down CRA exams, the proposal would undermine the purpose of the CRA. It would likely reduce significantly the amount of community development financing and thrift services in low- and moderate-income communities and would likely allow savings and loans to serve affluent neighborhoods, and neglect low- and moderate-income neighborhoods in rural areas and areas affected by natural disasters. Given the deleterious effect your proposal would have on low income communities throughout New York State, I believe it is important that OTS withdraw this proposal and give all due consideration to the comments submitted on this issue.

Thank you for your attention to this matter. Please contact Michael Szymanski of my staff at 202-224-4451 should you need any information.

Sincerely yours,


Hillary Rodham Clinton