

January 21, 2005

Regulation Comments  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, DC 20552

Attention: No. 2004-53 & 2004-54  
RIN 1550 AB48  
Department of the Treasury

To Whom It May Concern:

The undersigned organizations representing local and state housing and community development practitioners and elected officials strongly oppose the Office of Thrift Supervision's (OTS) proposed rule; "Community reinvestment Act – Community Development, Assigned Ratings. This proposed rule is contrary to the Community Reinvestment Act's (CRA) purpose and will significantly reduce the level of community development financing and thrift services in low- and moderate income communities. This proposal would allow large savings and loans to opt out of complying with investment and banking services examinations under CRA. In addition, this proposed rule would allow all savings and loans to serve affluent neighborhoods, and neglect low- and moderate income neighborhoods, in rural areas and those impacted by natural disasters.

Currently, large thrifts with assets of \$1 billion or more are required to undergo a "three-part" CRA exam that consists of a lending test, an investment test, and a service test. Under this proposed rule, 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 take low level, less rigorous investment and service tests, meaning that the lending test virtually counts as the whole grade.

The danger with this proposal is that large thrifts would not be required to address community needs through investing and services. If the proposed rule eliminates investment tests, these institutions would not be required to finance affordable rental housing via the Low Income Housing Tax Credit program or finance small businesses via equity investments. At the same time, thrifts can abolish their service tests, and not be required to locate or maintain branches in low- and moderate-income communities. With no service test, thrifts can ignore the needs for remittances and other low-cost banking services. The "design your own CRA exam" option will increase the amount of abusive payday loans, check cashing, and other high-cost services in low- and moderate-income communities. Inevitably, it will significantly reduce providing even the most basic of banking services in these communities...

Under CRA, banks and thrifts have an affirmative and continual obligation to service low- and moderate income communities. Under this proposed rule, large thrifts can arbitrarily 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, adopting this rule will undermine President Bush's goal of increasing homeownership for lower income and minority families. Without the availability of banking services such a home mortgages, rehabilitation loans, and re-financing

products, these groups may be denied their American Dream of homeownership

In addition, the language in the proposed rule regarding rural areas and natural disasters lacks any justification. Congress enacted CRA to stop redlining and disinvestment in low- and moderate-income communities. Under this proposal, large thrifts will suffer no CRA penalty if they provide development financing to affluent communities, while overlooking low- and moderate-income communities, in rural and areas impacted by natural disasters.

Finally, this proposed rule would reduce vital opportunities for public agencies, nonprofit groups and thrifts to meet with the Office of Thrift Supervision to discuss CRA and anti-predatory lending matters when thrifts are merging. Under current regulations, the OTS is required to hold two meetings to ensure that all facts and impacts of proposed mergers are thoroughly vetted. This proposal would allow the OTS, at its own discretion, to hold only one meeting or to decline to hold a meeting altogether. This is inadequate, as merging institutions often withhold important data and information regarding CRA and fair lending compliance.

Throughout its history, CRA has been effective because the banking agencies have promulgated regulations in a careful and uniform manner. This proposal threatens the gains in community revitalization made possible by CRA. We strongly urge you to withdraw this latest proposal.

Respectfully,

United States Conference of Mayors  
National Association of Counties  
The National Community Development Association  
The Council of State Community Development Agencies  
The National Council for County Community and Economic Development  
The National Association of Local Housing Finance Agencies