ncfhc
north carolina fair housing center

114. W. Parrish Street,
Durham, NC 27702

Stella J. Adams
Executive Director

Thursday, May 26, 2005

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
RE: Docket No. R-1225

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW 20429
RE: RIN 3064-AC89

Office of the Comptroller of the Currency
250 E St. SW, Mail Stop 1-5
Washington 20219
RE: Docket Number 05-04

To Whom it May Concern:

The North Carolina Fair Housing Center (the Center) is a statewide non profit organization that seeks to provide North Carolina with economically and socially viable communities that are open to all and free of artificial impediments to housing choice and economic opportunity. The Center urges you to enhance your proposed changes to the Community Reinvestment Act (CRA) regulations so those banks do not reduce their levels of branches, and community development loans and investments to low- and moderate-income communities. Your proposal is an improvement from the one you issued in the fall, but serious issues remain.

The Center is pleased that you have dropped your proposal to allow mid-size banks with assets between $250 million to $1 billion to offer either community development loans, investments or services. Banks must be expected to engage in all three of these essential community development activities in order to pass their CRA exams as your current proposal requires. The Center still believes that the current exam structure of separate lending, investment, and service tests is the most effective structure for maximizing the level of community development financing. If you move to a new exam format, you must ensure that significant declines of community development financing do not occur. Federal bank agencies have a duty to enforce CRA's statutory requirement that banks have a continuing and affirmative obligation to serve credit and deposit needs of the communities they serve. Investments in affordable housing and economic development build wealth for families and communities and thus open up new markets for bank lending and services..You must compare past levels of community development financing to future levels after any changes to the CRA exam structure so that banks are penalized if they significantly decrease their level of community development activities.

The Center appreciates that the FDIC, FRB, and OCC have abandoned the proposal that community development lending and investment activity in all rural areas would count for CRA points.

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You have properly recognized that this overly broad definition would "benefit primarily higher-income individuals in underserved rural areas." The Center also appreciates that the Federal Reserve Board staff have conducted data analysis of the impacts of various definitions of low- and moderate-income (LMI) census tracts and presented this data analysis for consideration.

In the preamble for the proposed rulemaking, you describe four definitions for replacing the current definitions of LMI census tracts. You then suggest that affordable housing and community development activities would count on CRA exams if they are located in census tracts fitting any expanded definition of low- and moderate-income.

If you change the definition of LMI census tracts, you must carefully develop the definition so that it targets distressed and lower income communities. The Center is supportive of a LMI definition for rural communities that is 90% of the non-metropolitan median income. This would increase the portion of rural tracts that are LMI from 14.6 percent of all rural tracts to 31.6 percent of all rural tracts. Adopting a definition of 90 percent of non-metropolitan median income would also result in the same proportion of rural and urban tracts qualifying as LMI; about 31 percent of urban tracts under current CRA definitions are LMI. This proposed definition would bring rural and urban areas on parity for CRA consideration and would be much more consistent with low- and moderate-income targeting than the 100 percent of area median income proposal. A similar result would occur if you adopt 80 percent of statewide area median income (instead of 80 percent of non-metropolitan area median income).

The Center also urges you to consider strongly adopting a separate distressed community funding criteria that would include MSA's and counties with high unemployment, high foreclosure rates, significant population loss, underemployment due to outsourcing, foreign competition or other economic and natural disasters.

It is possible to combine the best features of the CDFI fund approach with the 90 percent of area median income or 80 percent of statewide median income approach. The CDFI approach concentrates development in particularly distressed counties while the 80 or 90 percent of median income definition ensures LMI census tracts in more regions of the country. The agencies should test the proportion of census tracts as LMI and their distribution across the country under some combination of CDFI Fund criteria and 80 percent statewide or 90 percent non-metropolitan median definitions.[2] The final result should be a proportion of rural census tracts as LMI that is comparable to proportion of urban LMI tracts, reasonable distribution across the country, and ensuring that counties with extreme distress are targeted.

The Center supports qualifying designated disaster areas as areas in which banks can earn CRA credit for community development activities. While disasters do not affect all equally they do have a long term impact on a communities economic viability. Low- and moderate-income families are more likely to lack insurance or other means for dealing with devastating losses than their affluent counterparts. It is important to design examination criteria for disaster areas that will not dilute the bank financing that low- and moderate-income people need for long-term recovery. For example, the regulatory agencies should not weigh investments in a resort beach area the same as a poor community that has experienced a natural disaster. The poor community will have less means for dealing with the disaster than the well-endowed hotel chains and tourist industry in the beach resort area. Investments in the more affluent areas should be tied to their impact on low and moderate income persons working or living in those communities.

The Center also supports providing CRA credit to lenders who write down loans in neighborhoods and communities hit hard by predatory practices. For example, the North Carolina Fair Housing Center has over 300 clients in rural Vance County who were the victims of a predatory lending scheme that over inflated the value of their homes by as much as 3 times the value. The lenders have no incentive for re-writing these loans because there is no assignee liability for the fraud caused by the broker, dealer and

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appraiser. The Center has available a number of rescue funds that would allow the victims to refinance their homes at affordable interest rates but they can not write these loans for more than the true value of the property. If the lenders who hold the predatory notes could receive CRA credit for working with our rescue funds to recalibrate the housing market in Vance Counties and other counties across the country. The communities would be assisted by reducing the impact of massive foreclosures on the tax base and housing market. The lenders would receive CRA credit for investing in the stabilization of the local housing markets negatively impacted by the predatory practices of brokers, dealers and appraisers. The lenders would

The Center is also concerned that deleting a separate test for services will result in CRA exams no longer holding mid-size banks accountable for the provision of bank branches and low-cost accounts in low- and moderate-income communities. Payday lending and other high cost credit have increased in North Carolina over the last several years. The last thing we need are CRA exams that no longer look at the number of bank branches in traditionally underserved communities. Please add the provision of bank branches as a clear factor on your proposed CRA exams for mid-size banks.

The Center urges you to drop your proposed elimination of public data disclosure requirements regarding community development, and small business and small farm lending. Mid-size banks are vital in many communities, particularly in medium-sized cities and rural communities. The Center has used this data in developing its Analysis of Impediment Studies for the State of North Carolina. The Community Reinvestment Association of North Carolina has used this data to stimulate lending in rural North Carolina. The only way to hold them accountable for providing credit to small firms and for affordable housing and community development is if the CRA data remains publicly available. The public as well as regulatory agencies will have no way to systematically measure the responsiveness of these banks to critical credit needs if you eliminate this data.

The Center recommends that you do not change the requirement that community development in rural areas must benefit low- and moderate-income areas and distressed communities. I also urge you to apply your revised test to only banks with assets between $250 million to $1 billion. If you use an inflation factor each year to increase the number of banks subject to the new and abbreviated CRA exam, you will reduce the range of bank financing and services flowing to communities that need them the most. Thank you for your consideration of my comments.

Sincerely,

Stella J. Adams
NC Fair Housing Center