

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington DC 20551
E-mail: regs.comments@federalreserve.gov
RE: Docket No. R-1225

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

Office of the Comptroller of the Currency
250 E St. SW, Mail Stop 1-5
Washington 20219
E-mail: regs.comments@occ.treas.gov
RE: Docket Number 05-04

April 18, 2005

To Whom It May Concern:

The Coalition of Community Development Financial Institutions (CDFI) is a national organization representing the concerns and interests of CDFIs. The newly proposed regulations published in the Federal Register on March 10, 2005 concerning the Community Reinvestment Act (CRA) will impact the ability of CDFIs to achieve their mission to deliver credit, capital, and financial services to underserved markets. The CDFI Coalition appreciates the thoughtfulness with which the newly proposed regulations have been crafted. The CDFI Coalition strongly favors the newly proposed regulations of your agencies over the recently enacted Office of Thrift Supervision CRA regulation for large banks.

Nevertheless, the CDFI Coalition believes that the newly proposed CRA regulations must be improved to more constructively meet the goal of expanding credit and financial services to all low and moderate-income areas. **In particular, the CDFI Coalition is concerned with the loss of a required investment test for a significant number of financial institutions regulated by your agencies.**

Suggested Improvements to the Proposed Regulations

The CDFI Coalition believes the community development test for “intermediate small banks” and the elimination of lending reporting for “intermediate small banks” could be more constructively crafted to ensure that progress of community development is not adversely impacted in the service areas of “intermediate small banks.” **The loss of a required investment test is of particular concern to the CDFI Coalition and our member organizations.**

Community Development Test

In the event the newly proposed exam structure is adopted, the community development test should be more well-defined in a number of key areas. As stated in the proposed regulations, “In providing this flexibility for intermediate small banks, it is not the intention of the federal banking agencies to permit a bank to simply ignore one or more categories of community development.” It is critical that a new community development test be designed so all three activities are continued in a manner which is transparent and measurable. The CDFI Coalition supports the following improvements to the proposed community development test:

- To receive a “satisfactory” score on the community development test, an “intermediate small bank” must engage in all three components of the community development test. A passing score will not be received if one or more activities in the community development test are not undertaken.
- The compliance of “Intermediate small banks” with the community development test should be evaluated based on a combination of measuring need and a baseline comparison to prior levels of a financial institution’s activity for each of the three areas in the community development test. Increases in each of the three activity areas are to be expected according to a financial institution’s growth in asset size from the previous examination period to the current examination period unless a demonstrated decline in need in a financial institution’s service area can be demonstrated. For financial institutions with unsatisfactory performances on any of the required service, lending, or investment tests prior to the new community development test, the increase from baseline activities will be held to a level greater than growth in asset size, sufficient to demonstrate the need of the service area has been met.
- In addition to the community development test, additional credit may be awarded for innovative CRA activities such as creating a type of loan, investment, or service where no such practice existed previously.
- If an “intermediate small bank” claims that it is unable to meet standards under the investment, services or lending tests, it should be required to provide justification. For example, if a financial institution does not meet minimum requirements under the investment test, the bank should be required to indicate which investment opportunities were considered and why it was unable to invest in them. The information provided by this requirement detailing the infeasibility of certain opportunities to meet the community development test will increase a database of

knowledge vital to understanding the limitations and barriers to expanding financial services and access to capital to all communities—a key to the success of future community development activities.

Notwithstanding the modifications to the current test structure or adoption of the proposed community development test, the CDFI Coalition continues to support a required investment test to be included in the CRA examination for mid-sized banks. The current required community development investment component for mid-sized banks directly benefits low and moderate-income communities by empowering local community actors with the unique knowledge of local market and economic conditions to make the most effective use of banks' CRA investments. Over the last 30 years, CRA has fostered partnerships between CDFIs and mainstream financial institutions to meet need and develop capacity where none existed previously. Any alteration of the current investment test structure must ensure the continuation of the important catalytic partnerships between mainstream financial institutions and local community actors. The ramifications of reducing the importance of such partnerships could lead to a dramatic reduction in the building of affordable housing, community health clinics, community centers, and economic development projects, all critical to community development.

The removal of a required service test could severely retard the growth of access to financial services for low and moderate-income consumers. Low and moderate-income Americans are already at a great disadvantage compared to higher income consumers when accessing financial services; the removal of a required service test for “intermediate small banks” will only exacerbate the disparity.

Expand Targeting to Low-Income Individuals

The regulations should be modified to provide CRA credit to investments and loans that benefit “targeted populations.” Both the CDFI Fund and the New Markets Tax Credit include similar provisions that allow applicants to target certain populations, in addition to certain geographies. The CDFI Fund applies the following definition to “targeted population” under 12 CFR §1805.201(b)(3)(iii)(A): “Targeted Population shall mean individuals, or an identifiable group of individuals, who are Low-Income persons or lack adequate access to Financial Products or Financial Services in the Applicant’s service area.” In addition, the New Markets Tax Credit (NMTC) legislation authorizes the Treasury Secretary to designate “targeted populations” as low-income communities for the purposes of the NMTC. “Targeted population” is defined by reference to section 103(20) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4702(20)), which states that “the term ‘targeted population’ means individuals, or an identifiable group of individuals, including an Indian tribe, who--

- (A) are low-income persons; or
- (B) otherwise lack adequate access to loans or equity investments.”

Loan Reporting Requirements

From the CDFI Coalition’s standpoint, the requirement that “intermediate small banks” report originations of purchases of community development loans should not be eliminated. Community development lending data collection and reporting holds financial institutions

accountable and supports the continued growth and expansion of the community development field. Community development lending data is critical to determining best practices of community development activities in financial institutions' service areas. Reporting community development lending by "intermediate small banks" does not appear to be an added regulatory burden considering such activity is already included under the proposed community development test.

In fact, Federal Reserve Board Chairman Alan Greenspan recently noted, "Because it is critical that low- and moderate-income lending be, and be perceived as, an extension of regular business practice, we have been building a substantial database on low-income credit experience and business opportunities. This information has been critical to the successes in low-income lending. But information collection and analysis must reach further."¹

Rural Definition

The CDFI industry has found the Department of Treasury's CDFI Fund definition of "underserved rural areas" to be a helpful one and recommends it be adopted in the proposed rule. The CDFI Fund defines qualifying rural areas under **§1805.201(b)(3)(ii)(D)** as meeting one of the following criteria:

- (1) The percentage of the population living in poverty is at least 20 percent;
- (ii)(2) The unemployment rate is at least 1.5 times the national average;
- (ii)(4) In counties located outside of a Metropolitan Area, the county population loss during the period between the most recent decennial census and the previous decennial census is at least 10 percent; or
- (ii)(5) In counties located outside of a Metropolitan Area, the county net migration loss during the five-year period preceding the most recent decennial census is at least five percent.

The CDFI Coalition recommends that the regulators use the CDFI Fund criteria for defining "rural underserved area." In the case of the CDFI Fund grant programs, the rural definition has helped community development and other CDFIs serve high-need rural areas. Using the same definition for mainstream banks will increase the likelihood that they will provide the necessary community development lending, investment, and services to improve quality of life in the most underserved rural communities.

Anti-Predatory Language

The CDFI Coalition also welcomes the explicit inclusion of discriminatory and predatory credit practices in determining a financial institution's CRA rating. While violations of discriminatory and anti-predatory credit laws were previously included in CRA guidelines, this explicit inclusion of the guidelines in the CRA regulations will further emphasize the adverse impact a financial institution's discriminatory and predatory credit practices will have on its CRA rating.

¹ Chairman Greenspan's remarks to the National Community Reinvestment Coalition (3/17/05).

Introduction of the Intermediate Small Bank Category

The creation of a new category of an “intermediate small bank” (banks with assets between \$250 million and \$1 billion) appears to be the trend for all four regulators charged with administering CRA regulations. The CDFI Coalition accepts the creation of this new category; however, we oppose tying the definition to inflation increases of the Consumer Price Index (CPI). The CPI will, in time, significantly decrease the number of financial institutions subject to the large bank required three-part CRA examination.

The CDFI Coalition hopes further careful consideration will be given to the proposed regulations by the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to ensure the future effectiveness of the Community Reinvestment Act’s objective of expanding access to capital and financial services to all communities throughout the United States.

Sincerely,



Jennifer A. Vasiloff
Executive Director

Attached: Member Organizations of the CDFI Coalition



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CDFI Coalition Member Organizations and Board of Directors

Association for Enterprise Opportunity *Michelle Levy-Benitez, Research and Policy Manager* ▪
Arlington, VA

The national trade association representing microenterprise development programs.

Coastal Enterprises, Inc. *Ronald L. Phillips, President/CEO* ▪ *Wiscasset, ME*

A Maine-based, rural community development corporation and certified CDFI that provides financing and technical assistance in development of natural resource-based industries; innovative, job-generating manufacturers; small, medium, and micro enterprises; women in business; family and center-based child care providers; and affordable rental, homeownership and supported housing.

Community Capital Bank *Gina Bolden Rivera, Senior Vice President* ▪ *Brooklyn, NY*

A New York City-wide community development bank.

Community Development Venture Capital Alliance *Kerwin Tesdell, President* ▪ *New York, NY*

A certified CDFI intermediary that serves community development venture capital funds through training, financing, consulting, research, and advocacy.

First Nations Oweesta Corporation *Elsie Meeks, Executive Director* ▪ *Kyle, SD*

A certified national Native CDFI intermediary that brings together CDFIs serving Native (Native American, Alaskan Native and Native Hawaiian) communities and reservations through research, training, technical assistance and investments.

National Community Capital Association *Mark Pinsky, President and CEO ▪ Philadelphia, PA*
A national membership network that finances, trains, consults with, and advocates for CDFIs.

National Community Investment Fund *Lisa Richter, Fund Advisor ▪ Chicago, IL*
A certified CDFI channeling equity, debt and information to locally-owned banks, thrifts and selected credit unions with a primary purpose of community development.

National Congress for Community Economic Development *Carol Wayman, Policy Director ▪ Washington, DC*
A national group representing community development corporation-based lenders and investors.

National Federation of Community Development Credit Unions *Cliff Rosenthal, Executive Director ▪ New York, NY*
A certified CDFI intermediary that serves more than 200 low-income credit unions across the USA

Self-Help *David Beck, Policy Director ▪ Durham, NC*
A North Carolina-based CDFI accepting deposits and providing loans to small businesses, non-profits, and homeowners nationwide.

Shorebank Corporation *Fran Grossman, Executive Vice President ▪ Chicago, IL*
The holding company for community development finance interventions in Chicago, Cleveland, Detroit, Upper Peninsula Michigan, and the Pacific Northwest which provides, on a domestic and international basis, advisory relationships.

Southern Development Bancorporation *Joe Black, Vice President ▪ Arkadelphia, AR*
A community development bank holding company servicing rural Arkansas and the Mississippi Delta.

Woodstock Institute *Malcolm Bush, President ▪ Chicago, IL*
A policy, research, and technical assistance organization specializing in community development lending, community reinvestment and economic development.