NATIONAL LOW INCOME HOUSING COALITION/LIHIS

Dedicated solely to ending America's affordable housing crisis

May 9, 2005

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219

Re: RIN 1557-AB98

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 Street, NW, Washington, DC 20429

Re: RIN 3064-AC89

To Whom It May Concern:

NLIHC is a membership organization whose members include non-profit housing providers, homeless service providers, fair housing organizations, state and local housing coalitions, public housing agencies, private developers and property owners, housing researchers, local and state government agencies, faith-based organizations, residents of public and assisted housing and their organizations, and concerned citizens. While our members include the wide spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we focus exclusively on what is in the best interests of people who receive and those who are in need of federal housing assistance.

We appreciate the opportunity to submit comments on RIN 1557-AB98, as the Community Reinvestment Act (CRA) is integral to the production and preservation of affordable low income housing.

We applaud the FDIC, OCC, and FRB for proposing a moderate, sensible, rule that supports investment in low and moderate income communities while making the CRA process more streamlined for mid-size banks.

Consumer Price Index
The National Low Income Housing Coalition supports the proposal to adjust the asset size for small and intermediate small banks on an ongoing basis, based on changes to the Consumer Price Index. We support the proposed two-part test and support any proposal that will require more banks, including larger banks, to engage in the two part exam.

The two part exam will encourage banks to engage in more affordable housing deals, including Section 8 and Housing Bond deals. NLIHC recognizes the need for additional investment in low income housing, especially low income rental housing. The market is not responding to the rental housing needs of the extremely low income and low income population. Only 20% of all new rental construction over the past decade has been targeted for low income and extremely low income people.[1] Therefore, NLIHC supports the proposal to define small and intermediate banks based on the Consumer Price Index.

Public Disclosure of Data
NLIHC is opposed to the proposal to allow banks with assets between $250 million and $1 billion to no longer be required to report data on small business, small farm, and community development lending. The original purpose of the CRA was to mandate banks to provide services in underserved rural areas.

Many community development professionals argue that community groups should be active in the CRA exam process. Community groups help to identify the local needs of the community and monitor if banks are meeting those needs. Communities have used the publicly disclosed data to support claims that banks are not meeting the CRA requirements. Public disclosure of data is integral to the monitoring of banking activity. According to the Housing Assistance Council, CRA "provides a tool for community organizations to assess their local lender's involvement in community development activity."[2] We urge you to retain the requirements that banks publicly disclose data.

CRA Activity in Rural Areas
The Housing Assistance Council estimates that approximately 7.8 million persons in the non-Metropolitan United States, including a disproportionate number of minorities, are poor, and all but 11 of the 200 counties with the highest poverty rates in the nation are in non-Metropolitan areas.[3] To that end, NLIHC appreciates the regulators' efforts to create a community development definition that will benefit rural areas.

NLIHC wants to ensure that regulators do not negate their efforts to expand activity in rural areas by significantly altering the definition of "low and moderate income individuals" in rural areas. According to the Housing Assistance Council, almost 15% of all non-Metropolitan residents live below the poverty line.

NLIHC supports the regulators' proposal to use the "underserved" definition used by the Community Development Financial Institutions Fund (CDFI) and other financial markets. We believe that the definition of "low income" in rural areas should be consistent with the proposed CDFI language defining underserved; therefore, low income in rural areas should be defined as "at or below 80 percent of the statewide non-Metropolitan Area median family income or the national non-Metropolitan Area median family income, whichever is greater."

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1 The State of the Nation's Housing 2004. Joint Center for Housing Studies of Harvard University.
2 "Community Reinvestment Act Information Sheet." Housing Assistance Council. www.ruralhome.org
3 "Rural Housing in the U.S." Housing Assistance Council. www.ruralhome.org

By using this definition, if regulators begin to see a decline in banking activity in impoverished rural areas, such as the Colonias, the regulators should reevaluate the definition of "underserved" in rural areas.

Proposed Two-Part Exam

As mentioned earlier, NLIHC supports the regulators for requiring a satisfactory rating on both the lending and community development test in order to receive an overall rating of satisfactory. We support the proposed two-part test, which will evaluate mid-size banks' performance in the areas of lending and community development. We understand the need for banks to have the flexibility to provide services, investment, and/or loans, in any combination, to meet the various needs of communities. However, we urge the regulators to include in the community development test a baseline for banks to maintain services in low and moderate income communities. For example, banks would have to maintain at least 95% of their current number of branches. If more than 5% of branches are lost to a community, then that should be reflected in a lowering of the bank's community development score. With the increase of payday loan outlets in low income communities, we are concerned that any reforms to CRA not allow banks to reduce the number of branches in a community. Closing of legitimate banking branches exposes communities to increased unscrupulous payday lending practices.

NLIHC believes that the proposed two-part exam will encourage mid-size banks to do more affordable housing investing. At a time when the federal government is investing less federal resources in affordable housing, it is imperative that the private market is encouraged to invest in affordable housing. According to the Joint Center for Housing Studies, government programs such as the Low Income Housing Tax Credit (LIHTC) and Housing Bonds are integral to the production of the affordable housing stock.[4] Investment by midsize banks is crucial to the success of the LIHTC program.

The Office of Thrift Supervision

The National Low Income Housing Coalition also urges the FDIC, OCC, and FRB to ask the Office of Thrift Supervision to rescind its final rule, which eliminated the requirement of all banks to invest in community development activities in low and moderate income communities. The OTS rule will adversely impact low and moderate income communities. If the OTS rule is not rescinded we will begin to see an extensive decline in the investment of affordable housing.

At a time when 94.2 million people are experiencing housing problems, including affordability and substandard housing(5), federal regulators should be doing more to require the investment in affordable housing, not less.

NLIHC appreciates the opportunity to comment on the CRA proposed rule.

Sincerely,

Sheila Crowley
President

4 The State of the Nation's Housing 2004. Joint Center for Housing Studies of Harvard University.
5 NLIHC Research Note #05-01