City of New York
DEPARTMENT OF
HOUSING PRESERVATION AND DEVELOPMENT
100 GOLD STREET, NEW YORK, N.Y. 10038

SHAUN DONOVAN
Commissioner

May 10, 2005

Office of the Comptroller of the Currency
250 E Street, SW.
Mailstop 1–5
Washington, DC 20219

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW.
Washington, DC 20429

Subject: Joint Notice of Proposed Rulemaking -
Community Reinvestment Act Regulations
[OCC Docket No. 05–04 / RIN 1557–AB98]
[Board Regulation BB / Docket No. R–1225]
[FDIC RIN 3064–AC89]

To Whom It May Concern:

On behalf of the City of New York, the New York City Department of Housing Preservation and Development (HPD) wishes to comment on the above-referenced Joint Notice of Proposed Rulemaking regarding the Community Reinvestment Act, issued by the Office of the Comptroller of the Currency, the Federal Reserve Board and the Federal Deposit Insurance Corporation. HPD has a strong interest in the rules changes that have been taken in the past year relating to the CRA. Our success in revitalizing the housing and communities of New York City depends in large part on innovative partnerships, which involve the use of leveraged private funds that are often covered by the Community Reinvestment Act.

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In the proposed rule, published in the Federal Register on March 11, 2005, the joint agencies propose changes to their Community Reinvestment Act (CRA) regulations in a key area of compliance: banks would be divided into three categories: small banks, with assets less than $250 million; large banks, with assets exceeding $1 billion; and a new category of "small intermediate" banks, with assets between $250 million and $1 billion. Under the proposed rule, "small intermediate" banks would no longer be subject to the traditional three-part compliance examination procedure required of large banks. They would instead undergo a streamlined lending test for purposes of evaluating performance and compliance with the Community Reinvestment Act. The City of New York finds the proposed changes to be markedly more favorable for needy communities than are the rules recently issued by the Office of Thrift Supervision last March.

Under the proposed rule, the joint agencies would add a community development activity criterion for those banks with assets between $250 million and $1 billion, which are now defined as "small intermediate" banks. The criterion, part of a revised examination of banks' compliance, would take into account: affordable housing for low- or moderate-income individuals in rural areas; community services targeted to low- or moderate-income geographies or individuals in rural areas; and activities that revitalize or stabilize low-or moderate-income geographies or rural areas. Further, rather than focusing separately on each of the three traditional rated activities — community development lending, qualified investments, or community development services — the banks will be allowed to "balance" the lending, investment, and service activities "based on the opportunities in the market and the banks' own strategic strengths."

For the "small intermediate" banks, the proposed rule would evaluate each bank's record of community development through its community development lending, qualified investments, or community development services, including: the number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services; the use of innovative or complex qualified investments, community development loans, or community development services, and the extent to which the investments are not routinely provided by private investors; and the bank's responsiveness to credit and community development needs.

As stated earlier, the City of New York believes that this latest proposed rule is a positive step in preserving the benefits of CRA, although some concerns remain about adverse consequences that the proposed changes could have for investments in and services provided to low- and moderate-income communities. As part of the evaluation process, to ensure that significant declines of community development financing and branch banking

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do not occur, we recommend that the joint agencies compare past levels of such financing and branch banking to levels in upcoming examinations. It would then be possible to identify "small intermediate" banks that significantly decrease their level of community development activities. The joint agencies may then choose to revert to the "large bank" evaluation process for such banks.

HPD is the nation's largest municipal housing agency, and is the administrative grantee of HUD's HOME Investment Partnership grant to New York City, which in 2005 is over $124 million. HPD is also the fourth-largest Public Housing Agency administering Housing Choice Vouchers. In addition, HPD is the primary user of federal Community Development Block Grant (CDBG) funding for New York City. The City of New York has a long and productive history of using its federal-source funding, combined with state, local and private funds, to assure that affordable housing opportunities are made available to the neediest New Yorkers. Mayor Michael R. Bloomberg's plan, "*The New Housing Marketplace: Creating Housing for the Next Generation,*" commits to funding the new construction or rehabilitation of 65,000 homes and apartments from fiscal years 2004 through 2008. The City's challenges can be met by fostering mixed-income communities, transforming derelict former industrial areas, and encouraging the development of new housing and investment in our existing housing stock. The City's population has grown by 700,000 in the last decade -- for perspective's sake, this growth is the same size as the current population of Boston or Seattle -- and we need more housing for New Yorkers of all income brackets.

We appreciate your attention to this important matter. Please contact Harold M. Shultz at (212) 863-6070 if you have any questions. We look forward to your response.

Sincerely,

Shaun Donovan

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