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dcrac
Your Fair Lending Advocate in Delaware!

DELAWARE COMMUNITY REINVESTMENT ACTION COUNCIL, INC.

Our mission is "to ensure equal access to credit and capital for the under-served populations and communities throughout Delaware through Education, Outreach, Advocacy, and Legislation."

May 6, 2005

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

Dear Mr. Feldman:

On behalf of the Delaware Community Reinvestment Action Council, Inc., I am writing to thank you for this opportunity to comment on the proposed regulations. DCRAC is a fair lending organization in Delaware. Our mission is to ensure equal access to credit and capital through Delaware.

I urge you to ensure that the proposed Community Reinvestment Act (CRA) regulations enhance (not reduce) a bank's level of services, community development loans and investments in low- and moderate-income communities. While an improvement from the proposal issued in the fall, serious issues remain.

Banks must engage in all three essential components of community development. We are pleased that you have dropped your proposal to allow mid-size banks with assets between $250 million to $1 billion to offer one of the three community development areas; namely loans, investments, or services. Banks must engage in all three of these essential community development activities in order to pass their CRA exams as your current proposal requires.

Community development investments are very important and must be factored in developing any proposals regarding the CRA exam structure. The current exam structure is the most effective for maximizing the level of community development financing. If you move to a new exam format, you must ensure that community development financing does not suffer. Your proposed exam could be structured such as banks are penalized for a reduction in the level of community development activities. This would require a review of historic performance. Investments in affordable housing and economic development build wealth for families and communities and thus open up new markets for bank lending and services.

Deleting a separate test for services will harm our communities. Payday lending and other high cost credit has increased in Delaware. A CRA exam that no longer looks at the number of bank branches in traditionally underserved communities and the provision of low-cost accounts to low- and moderate-income communities is a very bad idea. Please add these service test provisions as a clear factor on your proposed CRA exams for mid-size banks. Community wealth building is directly correlated to the level of services that a bank offers in the community. As is clearly evident, as bank branches move out, loan sharks move in. Loan sharks strip the wealth and play no role in community wealth building process.

It is a bad proposal to eliminate public data disclosure of community development, and small business and small farm lending. CRA data must remain publicly available. You must not change the requirement that community development in rural areas must benefit low- and moderate-income areas and distressed communities.

Let me take the opportunity to share other concerns that are crucial to your evaluation.

Marketing of high interest rate loans to a vulnerable market (students not yet employed), seniors (on fixed incomes and in the context of the real cost of medicines), and the working poor (in the context of downsizing and outsourcing) is both a CRA issue and a safety and soundness issue. It is a CRA issue because this community' credit needs are different and the banks are obligated to meet this need affirmatively (not negatively through toxic products). The impact of this high cost lending is long-term: it is diverting resources from wealth building opportunities and has the potential of driving the most vulnerable into bankruptcy. It is a safety and soundness issue because although currently profitable, they are profitable because of the very high risk associated with them.

We have a dual banking system one that serves the wealthy and one that preys on the vulnerable. Unfortunately, the main stream banking system has learned to forge alliances with the shadowy world of fringe finances. Two of our Delaware Banks (County Bank and First Bank of Delaware) rent their charters to unscrupulous predators. In every sphere of lending, we see such operators. The very fact that such financial abusers are proliferating in credit starved communities is reflective of the fact that main stream banks have not affirmatively met the credit needs of their community. Yet, they receive outstanding CRA ratings! Regulators cannot ignore the growth of fringe banking in the context of a CRA exam. This growth suggests a community credit need.

And, therefore, it suggests that the insured depositories must find creative ways (in a positive and beneficial manner) to meet this need.

CRA performance evaluation outside the context of consumer (and bank) safety and soundness is an incomplete exam. Financial institutions are shifting to high cost non-installment credit cards and home equity loans. Even in the mortgage market we find products that make no sense in these economic times. All these products are riskier and as such, lenders offer them at high cost. But, if there is such markedly high shift to high risk market, isn't there a genuine concern about the safety and soundness of our financial system as well? So, when we raise issues about products that harm the consumer, we are also suggesting that they are harmful to the institution as well.

Because the CRA performance evaluation allows a bank to take credit for its lending, service and investment credits outside the assessment; it should also penalize banks for their predatory practices outside the assessment area and through any affiliate or subsidiary.

During mergers, banks have promised that cost savings will be transferred to the customer. We have yet to see any such transfers. If the regulators granted a merger application in part because of promises made, should not these promises be evaluated during a CRA performance review?

In the credit card industry there are many trends that are troubling. The universal default clauses, refusal to work out a payment plan with the creditors, refusal to abide by the terms of the contract between a bank and its customer once the bank has been gobbled up after the merger, the shorter gap between bills received and payment due, ever rising fees, and so forth. While a bank's cost of borrowing has dropped steadily, the consumer's cost of borrowing has shown little change. That means the banks have reaped higher profits. We have seen no transfer of any benefits to the consumer. Credit card banks in particular must be required to take on the lion's share of the cost of credit education and assistance. On that note, giving millions to one national organization with only one staff in the assessment area should not result in brownie points for the bank!

The use of credit cards to start up small businesses is an even greater threat both to the consumer (who can not benefit from the technical assistance that comes with a traditional small business loan application) and to the lender (who relied solely on a person's credit score in the decision making process). Because credits cards finance a larger number of business start-ups, they must be required to support small business counseling.

The sole reliance on credit scores (particularly in today's age of identity theft and in light of the credit bureaus' cursory investigations) has always been problematic. It becomes more problematic today. In the wake of credit repair organizations notoriety and the real harm they have caused to consumers nationwide, the burden of looking beyond the credit score falls on banks.

Regulators simply cannot let a bank get away with statements such as there is so much competition for community reinvestment activities. Frankly, that is not the case. Delaware needs a credit builder program, support of reputable financial education service providers, housing and small business counselors, increased pool of IDA, affordable low cost loans to the working poor, the list goes on. In Delaware we are facing an affordable housing crisis. Service and investment opportunities abound.

We face severe economic times ahead. The regulators have an obligation to ensure that the vulnerable are fully protected. Regulators must delve deeper into data. We have said time and time that lenders discriminate and offer high cost products on the basis of the color of one's skin. The new HMDA data supports our position. Your fair lending exam needs to be re-evaluated because apparently, it has missed all red flags in the past.

Once again, thank you for this opportunity. Please do not hesitate to contact me if you have any questions.

Sincerely,

Rashmi Rangan

Cc: National Community Reinvestment Coalition