From: Carol Wayman [mailto:carol@CFED.org]
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To: Comments
Subject: RIN 3064-AC89

May 6, 2005

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW 20429

Dear Secretary Feldman:

I am writing on behalf of CFED to comment on the proposed changes to the regulations of the Community Reinvestment Act (CRA) (P.L. 95-128). While this proposal is an improvement over the proposal issued in early 2004, it still erodes CRA's basic mission of encouraging lending, investments, and services to low- and moderate-income people and to underserved communities.

As you know, the proposal would create a new category of "intermediate small banks" that have between $250 million and $1 billion in assets. The proposal would subject those banks to a two-part CRA examination that includes a lending test and a new "community development" test—which is a consolidation of the current investment and services tests. Nationwide, more than 1,500 banks would be affected by the changes presented in your proposal. We urge you to withdraw this proposal and maintain the current three-part test for all financial institutions with more than $250 million in assets. Lending, investment, and services tests are all critical components of a financial institution's CRA-compliance strategy. The maximum number of banks possible should be subject to those obligations.

Furthermore, we urge you to continue to collect small business data and amend the definition of rural underserved areas to ensure that low-income, disadvantaged communities are the beneficiaries of CRA investments, services, and lending.

CFED has a vested interest in protecting CRA. As a leader in economic development, our organization works at the national, regional, state and local levels to help people acquire assets, build businesses, and create healthy communities. The proposed changes to CRA regulations would limit the availability of Individual Development Accounts; hinder entrepreneurship in urban and rural areas; and limit the infusion of capital and financial services to underserved communities.

Individual Development Accounts

Individual Development Accounts (IDAs) are matched savings accounts that allow low-income families to save, build assets, and enter the financial mainstream. IDAs reward the savings of working-poor families who are building towards purchasing an asset—most commonly buying their first home, paying for post-secondary education, or starting a small business.

Currently, financial institutions participate in IDA programs by providing retail banking services to IDA accountholders, providing matching dollars or operating funds to an IDA program, designing or implementing IDA programs, and providing consumer financial education to IDA accountholders or prospective accountholders.

Under the proposal, bank services that are intended to primarily benefit low- and moderate-income people, such as IDA programs, will be evaluated as a part the new community development test for mid-sized banks. We fear that deleting a separate test for services will result in a loss of incentive for financial institutions to participate IDA programs.

Entrepreneurship

Inequitable access to credit continues to limit the growth and prosperity of lower-income, small cities, medium-sized cities and rural areas. For example, despite recent gains in the number of Native businesses both on and off the reservation, rural Native entrepreneurs face resource barriers that include a severe lack of access to reasonable debt and equity financing. Financial institutions that would fall under the new definition of intermediate small banks are vital to lending in these communities.

Under the current CRA rules, financial institutions must report data on small business, small farm, and community development lending activity. This data allows financial regulators to ascertain lending patterns and unmet credit needs.

As you know, the proposal would eliminate the requirement for mid-sized banks to report CRA small business and community development lending data. And while community groups and researchers will be able to track small business credit flows into low- and moderate-income neighborhoods, they will not be able to determine if these lenders are meeting the credit needs of all small businesses and whether the actual loans are received by small, locally-owned enterprises or franchises of corporate chains.

We urge you to not only continue to require current data collection, but also to strengthen this provision by requiring inclusion of not just the census tract in which the small business loan was made, but also the gender, racial, and income (or sales) characteristics of the borrower.

Access to Capital Markets

There is a growing gap between the financial services available to the economic mainstream and those offered to low-income people and communities. Currently, partnerships with and investments in community development financial institutions (CDFIs) are an important way that many banks meet their commitment to serve their markets and bring capital and financial services to underserved people and communities.

Financial institutions are also the single largest provider of private capital to the community development venture capital industry—accounting for more than 40 percent of all private equity investments. The current investment test has helped to spur banks' interest in community development venture capital funds and would likely create additional interest in the future if it were to remain mandatory for all banks. For example, the main corporate partners for federal incentive programs such as the Low Income Housing Tax Credit and the New Market Tax Credit are financial institutions.

Because the proposed community development test would no longer explicitly include investment as a mandatory part of the CRA structure, CFED is concerned that low-income communities will experience a dramatic reduction in these investments. We therefore support continuing a separate, required investment test in the CRA test structure for mid-sized banks.

Rural Areas Definition

We appreciate the specific request for a definition of "underserved" rural areas. Rural areas have not received the same benefits from CRA as have cities . Since poverty in rural areas tends to be less concentrated, census tract criteria is not an adequate or consistent definition of low- income areas. Due to the way the statute is written, and to some of the barriers to lending that are inherent in rural areas, rural community organizations have had difficulty using the law to improve mortgage and small business lending in their communities.

For those reasons, CFED supports the inclusion of "underserved rural areas" as qualifying for community development activities under CRA. We support the continuation of the three low-income individual criteria provisions. However, it would be detrimental to community development activities in rural areas to amend the definition to include activities that benefit individuals who reside in rural areas regardless of other factors. This change would allow institutions to get CRA credit for "community development" activities that benefit wealthy rural consumers and communities.

We support expanding the Census tracts definition to areas below 90 percent of Area Median Income (AMI). We support the CDFI Fund's definition of rural areas as an alternate criteria, but not the standard, as it is much too restrictive. The CDFI place-based criteria is hard for rural areas to meet. However, in cases where the census tract data is outdated, other data, such as the CDFI Fund data could be used, to define a CRA-qualifying area.

We do not support adding "designated disaster areas" as CRA eligible investments regardless of other criteria. The standard CRA designations should qualify.

Conclusion

Once again, CFED urges you to withdraw this proposal, maintain the current three-part CRA test, expand the rural area criteria to 90 percent AMI, and consider ways to strengthen CRA to hold financial institutions accountable and benefit low- and moderate-income people and underserved communities across the country. Thank you for the opportunity to comment.

Sincerely,

Andrea Levere
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