

THE FINANCIAL SERVICES ROUNDTABLE



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Communications Division
Public Information Room, Mailstop 1-5
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, D.C. 20219
Attention: Docket No. 05-04

RICHARD M. WHITING
EXECUTIVE DIRECTOR AND
GENERAL COUNSEL

Ms. Jennifer J. Johnson
Secretary
1-5
Board of Governors of the
Federal Reserve System
20th Street and Constitution Ave., N.W.
Washington, D.C. 20551
Docket No. R-1225

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance
Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Amendments to the Community Reinvestment Act Regulations

Dear Sir or Madam:

The Financial Services Roundtable (the “Roundtable”)¹ appreciates the opportunity to comment on the proposed amendments to the Community Reinvestment Act of 1977 (“CRA”) issued by Office of the Comptroller of the Currency (“OCC”), Board of Governors of the Federal Reserve System (the “Board”), and the Federal Deposit Insurance Corporation (“FDIC”) (collectively, the “Agencies”).

Proposal to Consider Evidence of Specified Discriminatory, Illegal, or Abusive Practices by an Institution or Affiliate in CRA Evaluations

The proposals that the Agencies have put forward include the amendment of the regulations to provide explicitly that an institution’s CRA evaluation will be adversely affected by evidence of specified discriminatory, illegal, or abusive practices by the institution or by an affiliate whose loans were considered in the evaluation as part of the institution’s own CRA record.

¹ The Financial Services Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Roundtable member companies provide fuel for America's economic engine accounting directly for \$18.3 trillion in managed assets, \$678 billion in revenue, and 2.1 million jobs.

Roundtable Comments

The member companies of the Roundtable support the goal of CRA, which is meeting the credit needs of all communities. However, we oppose the inclusion of predatory lending issues in CRA examinations. Our member companies believe this information is repetitive and unnecessary and that the issues raised by this proposal are already taken into account in fair lending examinations and other contexts.

We appreciate that the Agencies are concerned about consumers, particularly low- and moderate-income consumers, and their ability to access credit that is free from illegal or abusive loan terms or characteristics, which could be considered predatory. We share these concerns and have consistently supported efforts to enforce existing laws that protect consumers. We also strongly oppose predatory lending. However, Roundtable member companies oppose the predatory lending portion of the proposal because we strongly believe that there are other examination processes designed to measure compliance with the Equal Credit Opportunity Act, Real Estate Settlement Procedures Act and other regulations that touch upon these issues. We do not believe that the CRA regulations are the place to enforce this type of compliance.

The Roundtable believes that it is very difficult, and counterproductive, to define subjective terms that could vary with the situation, such as “abusive” practices. The existing interagency Questions and Answers, which provide that evidence of discriminatory or other illegal credit practices will adversely affect the evaluation of an institution’s performance, already ensure that illegal credit practices will be considered in determining an institution’s CRA rating.

We also oppose extending this provision to affiliate lending. The CRA was enacted to ensure that depository institutions provide adequate levels of lending, services and investments to the communities from which they take deposits. Affiliates of depository institutions are regulated by the Board, the states, and/or other federal regulators. Compliance with federal and state consumer protections constitutes a well-defined responsibility of safety and soundness and/or compliance examinations. Within these examination regimens, there are specific and substantial penalties for failure to comply with anti-discriminatory consumer protection laws. These existing regulations work, and as a result, the Roundtable’s first choice would be to make no changes to the regulation. We are concerned that additional regulation of these affiliates may result in the unintended consequence of curtailing the availability of credit to consumers.

If the Agencies determine that it is necessary to amend the regulation to address evidence of specified discriminatory, illegal, or abusive practices by affiliates, adverse consequences should only occur if abusive or predatory loans were originated in the assessment area of the regulated institution, during the examination period, and in a category for which the institution received credit for affiliate lending. Limiting the scope of the affiliate provision would better focus the regulation on those activities at the affiliate that were arguably relevant to the CRA evaluation of the depository institution.

Conclusion

The Roundtable will continue to work with the Agencies to update the CRA regulations. While we appreciate the opportunity to comment on this proposal, we believe several aspects of the proposed amendments are repetitive and unnecessary. The issues raised by this proposal are already taken into account in fair lending examinations and other contexts.

If you have any further questions or comments on this matter, please do not hesitate to contact me or John Beccia at (202) 289-4322.

Sincerely,

Richard M. Whiting

Richard M. Whiting
Executive Director and General Counsel