GREATER ROCHESTER
COMMUNITY REINVESTMENT COALITION
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July 30, 2009

Office of the Comptroller of the Currency
250 E. St. SW, Mail Stop 2-3
Washington DC 20219
Docket Number OCC-2009-0010
Via email: regs.comments@occ.treas.gov

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington DC 20551
Docket Number R-1360
Via email: regs.comments@federalreserve.gov

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW
Washington DC 20429
RIN number 3064-AD45
Via email: Comments@FDIC.gov

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G. Street NW
Washington DC 20552
Attention: OTS-2009-0010
Via email: regs.comments@ots.treas.gov

To Whom It May Concern:

On behalf of the Greater Rochester Community Reinvestment Coalition (GRCRC), we are pleased to see the proposal by federal regulators, in response to a statutory requirement, to provide favorable CRA consideration for loans financing higher education. GRCRC urges you to retain the proposed targeting for low-cost loans for low-income students seeking higher education. GRCRC, however, has significant concerns regarding the proposal to provide favorable consideration outside of assessment areas for banks' financing low-income credit unions, and minority- and women-owned financial institutions. Instead of providing more CRA consideration outside of assessment areas, GRCRC urges you to undertake meaningful reform of assessment area procedures. GRCRC recommends that federal regulators study the impact of the existing Question and Answer (Q&A) offering CRA consideration for bank financing of low-income credit unions and minority- and women-owned financial institutions to determine whether bank financing of this kind is effectively targeting these communities.

The Greater Rochester Community Reinvestment Coalition (GRCRC) was formed in 1993 to generate and continue discussions about lending patterns in Rochester, NY. The coalition has a current membership of over 30 locally based not-for-profits and individuals. GRCRC monitors the community reinvestment lending of the Rochester area's top banks: Bank of America, Canandaigua National Bank, Citizens Bank, HSBC, JP Morgan Chase and M&T Bank.

Over the past 16 years, GRCRC, or its convener Empire Justice Center, has released ten analyses of home mortgage, small business and subprime lending data. We use these analyses to identify strengths and weaknesses in lending patterns and to generate ongoing discussion with the banks in question.[1] GRCRC and Empire Justice Center also submit comments during CRA exams and mergers, based on the data, to the appropriate state and federal regulators who have oversight of the banks.

GRCRC is a member of the National Community Reinvestment Coalition (NCRC). We support NCRC's comments of July 28, 2009 on the proposed regulatory changes. Therefore, we offer many of the same comments on each of the proposed changes to the CRA regulation stated in the NCRC letter.

Activities in Cooperation with Minority- or Women-Owned Financial Institutions and Low-Income Credit Unions

The agencies propose to add to the CRA regulation that banks will receive favorable CRA consideration for investments, loan participations, and other ventures undertaken with minority- and women-owned institutions and low-income credit unions. This proposed addition to the regulation codifies Q&A.12(g)-4, which states that examiners will favorably consider bank investments in minority- and women-owned financial institutions and low-income credit unions even if these institutions are located outside of the bank's assessment area.

GRCRC believes that the agencies must ensure that banks are serving needs in their assessment areas. It would be counterproductive for a bank not to pursue investment opportunities in its assessment area, and instead pass its investment test or community development test through investments in a low-income credit union or a minority- or women-owned institution outside of its assessment area (including areas in different parts of the country where the institution does not make loans or have a business presence). If CRA is to encourage banks to engage in holistic community development, CRA must direct banks to finance community development in areas where banks make loans and offer bank services. Allowing favorable CRA consideration outside of assessment areas for investments in other lending institutions undermines the prospects of holistic community development that benefits from synergies between bank lending and investment activity.

GRCRC encourages the agencies, at the very least, to modify their proposal to state that investments in these institutions will receive positive CRA consideration only if the bank or thrift has met needs in its assessment area first. This proposed modification would also attain more consistency with the interagency Q&A document, whereas your proposal would create unnecessary inconsistencies in how investments are treated (other Q&As such as §_.12(h)-6 and _.12(h)-7, which state that needs must first be met in a bank's assessment area before a bank can receive CRA points for activities outside of assessment areas).

GRCRC urges the federal regulators to revise their definition of assessment areas to include geographical areas in which a bank has issued a significant number of loans, in addition to geographical areas that contain a bank's branches. The agencies could adopt a threshold for determining an assessment area; for example, an assessment area could be a county or metropolitan

[1] Our most recent analysis, "Paying More for the American Dream III: Promoting Responsible Lending to Lower-Income Communities and Communities of Color" is of the 2007 HMDA data and can be found at: http://www.empirejustice.org/publications/reports/paying-more-for-the-american.html.

area in which a bank has made one-half of one percent of all loans (as specified in HR.1479, The CRA Modernization Act of 2009). If the agencies established assessment areas in the manner suggested, the agencies would find that there would be less of a need to provide CRA points to activities outside of the assessment areas. The number of geographical areas constituting a bank's assessment areas would expand under our proposal, but would expand in a manner that sensibly directs an institution's support of low-income credit unions and minority- or women-owned financial institutions to areas in which the bank has a significant business presence.

At the least, GRCRC requests that agencies conduct an analysis of the impacts of the new Q&A regarding low-income credit unions and minority- and women-owned financial institutions before codifying this Q&A in the CRA regulation. The agencies should evaluate what types of investments, loans, and services have been leveraged through low-income credit unions and minority- and women-owned financial institutions. Specifically, the agencies should determine whether these investments, loans, and services have benefited minority and/or low- and moderate-income borrowers and communities, and whether these loans, investments, and services have disproportionately benefited predominantly white middle- and upper-income communities.

GRCRC supports expanding CRA exams so that they include an analysis of bank lending, investments and service to minorities and communities of color (again, as specified in HR.1479). As such, GRCRC recommends that the agencies ascertain whether bank financing of low-income credit unions and women- and minority-owned financial institutions have also benefited minorities and communities of color.

Should research reveal that the beneficiaries of these investments, loans, and services have been disproportionately white middle- and upper-income communities, the proposed language should be edited to focus on minority and low- and moderate-income borrowers and communities. In addition to informing the final regulatory language, this recommended agency analysis would contribute to a best-practices publication of how bank financing has enabled low-income credit unions and minority- and women-owned financial institutions to offer loans, investments, and services to low- and moderate-income communities.

Low-Cost Education Loans Provided to Low-Income Borrowers

As required by the Higher Education Opportunity Act, the agencies are proposing to revise the CRA regulation to specify that low-cost loans provided to low-income borrowers in a bank's assessment area would receive favorable CRA consideration. GRCRC agrees with the proposal that private sector loans receiving CRA consideration should have interest rates and fees no greater than comparable loans offered though programs of the Department of Education. As highlighted by actions of the New York State Attorney General, there has been recent controversy over the high-cost nature of some education loans. CRA should not provide an additional incentive for such loans. Moreover, it is contrary to CRA's mandate to meet credit needs in a safe and sound manner for CRA examiners to provide CRA credit to private sector loans that have high interest rates and/or abusive terms and conditions. Requiring that the loans be low-cost is also consistent with the purpose of the Higher Education Opportunity Act "to make college more affordable and accessible."

The agencies ask if the lowest or highest rate and fees available under the comparable Department of Education program should be used to determine a low-cost private sector loan. In order to maintain consistency with the purpose of the Higher Education Opportunity Act to make college affordable, the lowest rates and fees should be used. In addition, regulators must not extend CRA points to private sector loans that contain loan terms and conditions including interest payment features that are less favorable than loans offered through programs of the Department of Education. Further, only-closed end, unsecured loans should be considered education loans. The current foreclosure crisis has exposed multiple abuses associated with home equity lending and second lien loans; therefore, it is appropriate not to encourage education loans that use a person's home, particularly a low-income family's home, as collateral.

In addition, GRCRC asks that the agencies define "low-income" consistent with the CRA definition of less than 50 percent of area median income. Further, loans that receive CRA consideration should only be for higher education and only for loans to attend accredited institutions of higher learning. While it is not appropriate to embroil CRA in the controversy over public versus private schools by offering CRA points for private-sector loans that finance elementary or secondary education, we are concerned about CRA credit for student loans to finance the often inadequate training programs offered by non-accredited post-secondary institutions. Finally, purchases of education loans should not receive favorable CRA consideration; only originations should receive favorable consideration. CRA exams already provide too much consideration for purchased loans particularly when purchasing loans does not significantly expand the capacity of financial institutions to offer additional loans.

GRCRC urges you to adopt the above suggestions so that these proposed changes contribute to a CRA regulation that is robust and effective in stimulating lending, investing, and services in formerly redlined communities. If you have any questions, please feel free to contact Ruhi Maker at 585-295-5808 or Barbara van Kerkhove at 585-295-5815.

Yours truly,

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