



October 16, 2001

169

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G St. NW
Washington, DC 20552

Attention: Docket No. 2001-49

The Community Reinvestment Act (CRA) has been instrumental in increasing access to loans and investments for under resourced communities across the country. The regulatory changes to CRA in 1995 strengthened the law by emphasizing a bank's performance in making loans and investments. Now, in order to preserve the gains in lending to low-and-moderate income communities, the Southern Rural Development Initiative (SRDI) believes that the federal banking agencies must now update the CRA regulations.

SRDI is a bottom-up intermediary located in Raleigh, NC. With 34 member organizations, SRDI and its members seek to dramatically increase the flow of philanthropic and development capital to the South's poorest communities. Generally, the work includes serving as grantmaker to new and emerging community based organizations, advocacy, providing technical assistance and support.

The results of the positive changes to the CRA regulation in 1995 have been significant. The Department of Treasury's study on CRA found that lending to low- and moderate-income communities is higher in communities in which banks have their CRA assessment areas than in communities in which banks are not examined under CRA

To preserve the progress in community reinvestment, federal banking regulators must update CRA to take into account the revolutionary changes in the financial industry. The Gramm-Leach-Bliley Act of 1999 allowed mergers among banks, insurance companies, and securities firms. Banks and thrifts with insurance company affiliates are now aggressively training insurance brokers to make loans. Mortgage company affiliates of banks continue to make a significant portion of the total loans, often issuing more than half of the loans of the bank.

Southern Rural Development Initiative
128 E. Hargett St., Suite 202
Raleigh, NC 27601
phone: 919.829.5900
fax: 919.829.0504
email: srdi@srdi.org

SRDI MEMBER ORGANIZATIONS

Rural Land Based Institutions
Arkansas Land & Farm Development Corporation
Brinkley, Arkansas

Boggs Rural Life Center
Koyville, Georgia

Federation of Southern Cooperatives
Epic, Alabama

Franklinton Center at Bricks
Whitehairs, North Carolina

North Carolina Indian Cultural Center
Pamphob, North Carolina

Penn Center
St. Helena Island, South Carolina

Community Development Financial Institutions
AppalBanc/HEAD
Berea, Kentucky

Arkansas Enterprise Group
Arkadelphia, Arkansas

Center for Community Self-Help
Durham, North Carolina

Enterprise Corporation of the Delta
Jackson, Mississippi

North Carolina Community Development Initiative
Raleigh, North Carolina

North Carolina Minority Support Center
Durham, North Carolina

Statewide Support and Advocacy Organizations
Arkansas Association of CDC's
Little Rock, Arkansas

Georgia Community Development Association
Atlanta, Georgia

Louisiana Association of Community Economic Development (LaCED)
Baton Rouge, Louisiana

North Carolina Association of CDC's
Raleigh, North Carolina

South Carolina Association of CDC's
Charleston, South Carolina

TNCED (Tennessee Network for Community Economic Development)
Nashville, Tennessee

Community Based Philanthropies
Appalachian Community Fund
Knoxville, Tennessee

Black United Fund of Memphis
Memphis, Tennessee

Community Shares of NC
Durham, North Carolina

Community Shares of Tennessee
Knoxville, Tennessee

CORA (Commission of Religion in Appalachia)
Knoxville, Tennessee

Foundation for the Mid-South
Jackson, Mississippi

Fund for Southern Communities
Atlanta, Georgia

Georgia Black United Fund
Atlanta, Georgia

Georgia Shares
Atlanta, Georgia

Comprehensive Community Development Organizations
Center for Economic Options
Charleston, West Virginia

Delta CDC
Fayette City, Arkansas

Delta Foundation
Greenville, Mississippi

MACE
Greenville, Mississippi

MACED(Mountain Assoc. for Community Economic Development)
Berea, Kentucky

NC Coalition of Farm and Rural Families
Fayetteville, North Carolina

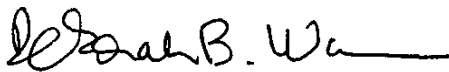
Quitman CDC
Marks, Mississippi

Following this letter are our compiled comments for SRDI, derived from the experiences of our 34 members' organizations and their affiliates. We believe that our suggestions for updating the CRA regulation will produce CRA exams that are rigorous, performance-based, more consistent, and that are able to better capture the lending, investment, and service activity of rapidly changing banks. We truly appreciate every effort you will make to review them in its entirety.

This review of the CRA regulations is so vital that we urge the regulatory agencies to hold hearings around the country when they propose specific changes to the CRA regulation. It is vital that the federal banking agencies hear the diverse voices of America's communities as they consider a regulation that ensures that community credit needs are being met.

Thank you very much for time and attention to this matter. It is greatly appreciated.

Sincerely,



Deborah B. Warren
Executive Director



Karen Foster
Predatory Lending Project Coordinator

CRA COMMENTS

Assessment Area Procedures

SRDI supports redefining the assessment area to include both a broader geographical area that captures the lending activity of nontraditional lenders such as insurance agents, loan production officers, brokers and the Internet. It is equally important that bank performance not only include areas where they have a physical presence, but areas in which they have a strong customer base. We suggest that assessment areas should be geographical areas (metro and rural) in which a lending institution has more than .5% of the market in loans.

Small Bank Exams

SRDI strongly opposes increasing the asset level by which banks are categorized for testing to \$250 million. Particularly in the many rural areas that SRDI members serve, consumers will lose out, as many of their financial institutions will no longer be required to provide detailed accounts of how they serve their communities. A creative financial institution, no matter how small, can figure out how to meet its service, lending and investment tests.

CRA Rating Scheme and Public Improvement Plans

The Community Reinvestment Act is built around building and sustaining wealth in communities. Imposing a requirement for poorly performing banks and thrifts to implement and develop "Public Improvement Plans" is definitely a means by which banks can be held accountable for their own actions by the communities they serve. Building on the community piece, we would also suggest that the bank preparing the plan be required to:

- Include representation from low wealth and minority communities under-served by the bank in the development of the Public Improvement Plan; and
- Provide a public comment period from the under-served community in addition to the broader "professional" comment requirement. This definitely increases the need for community-based organizations to become better informed and motivated to act around community reinvestment.

Large Bank Exams Test Weight

Test weights should remain at 50 percent lending, 25 percent service and 25 percent investment. Community revitalization hinges on the ability of local residents to access quality loan products for homeownership or entrepreneurial development. Discrimination and predatory lending have an adverse affect on growth and development.

Lending Test

Lending institutions must be encouraged to make more prime loans to low- and moderate-income communities rather than subprime. Prime lending must receive more weight on CRA exams, particularly for banks that engage in both prime and subprime lending, and should be evaluated separately and apart from subprime lending. Again, the intent is to encourage quality-lending services to all creditworthy individuals regardless of race and/or place of residence.

A regulatory requirement should stipulate that CRA exams occur concurrently with fair lending and safety and soundness exams. The intent is to ensure that lending is conducted in a non-discriminatory and non-abusive manner that is safe for the institution as well as the borrower. We applaud the recent change to the "Interagency Question and Answer" document that gives notice to lenders that they will be penalized for making predatory loans. We suggest that the "Interagency Question and Answer" become a part of the CRA examination.

Subprime Lending

Banks that show a higher rate of prime lending should gain more points on the CRA exam than banks who continue to make most of their loans through their subprime products. It is important that subprime lending be measured independently of prime lending. Subprime lenders are more likely to have predatory conditions incorporated into their lending practices. To forge ahead with an agenda that levels the economic playing field for all races, it is imperative for advocates to know the level of subprime lending taking place in banking institutions. In addition to encouraging more prime lending, banks should also be penalized for predatory lending practices regardless of the vehicle utilized to make the loan. If the subprime lender is making predatory loans and is owned by a financial institution subject to CRA, the financial institution should be held liable for the injustice and should be penalized accordingly.

Loan Purchases versus Loan Origination

Loan origination must be examined separately and weighted more heavily on the CRA examination than loan purchases. Originating a loan demands far more of a financial institution than purchasing them. We want to encourage banks to increase their prime lending, thus possibly reducing the possibility of engaging in predatory practices.

Investment Test versus Community Development Test

It is extremely important that the investment test remains a portion of the CRA examination and is not replaced by a community development test. The investment test serves as a motivator for banks to invest in community development organizations. This type of investment is key to true community revitalization because it encourages lending for revitalization efforts. The manner for which the reporting is done should be set forth in the language of the CRA regulations. Allowing flexibility in relation to the way community investments are reported will open the way for inconsistent and self-serving reporting.

We also encourage the use of a quantitative benchmark to further measure the investment vehicles utilized in the banking industry. We strongly suggest scoring investments by considering the ratio of community development investments to bank assets. It is understandable that investment opportunities are more limited in some geographical areas than others and that smaller institutions find it hard to compete with the larger institutions for investment opportunities. Utilizing the ratio of investments to assets would enable regulators and the public to compare banks against each other in the same market and of similar size, thus leveling the financial playing field and allowing smaller financial institutions opportunities for investing in their respective communities.

Services Test

The quality of services available and accessible to the community is a sure indicator of a healthy community. Banks who offer services for the unbanked, such as check cashing services with fees lower than check cashing operations should receive points on the service test, especially if the bank is effective in bringing the unbanked into the banking system. However, partnerships with check cashing operations should not count on the service test. The intent should be to encourage banks to offer low-cost alternatives to the fringe banking system.

The service test must also be enhanced by data disclosure regarding the number of checking and savings accounts by income level of borrower and census tract.

Minorities

The Lending Test should include evaluating the distribution of loans to minority borrowers. LMI and census tract testing criteria, in most cases, will include minority consumers. However, it is not all-inclusive of the minority population. Specifically including the results of an institution's minority lending will ensure that minority customers whose incomes are above the low-moderate income level and are more likely to be the victim of steering practices are included.

Improving CRA Data/Small Business Data

We are encouraging the Federal Reserve Board to lift its Regulation B prohibition on the reporting of race and gender of the small business owner. We also ask that you strongly consider that instead of two categories, greater than and less than, that the actual revenue size of the borrower is included in the SBA small business data. Finally, small business data must include action categories that are similar to the action categories in the HMDA data.