

N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

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National Equity Fund
National Housing Development
Corporation
Ohio Capital Corporation for Housing
Prudential Mortgage Capital Company
RED CAPITAL GROUP
ShoreBank*

President & CEO

Judith A. Kennedy

May 10, 2005

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: RIN 3064-AC89

Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Re: Docket No. R-1225

Office of the Comptroller of the Currency
250 E Street, SW
Mail Stop 1-5
Washington, DC 20219
Re: Docket No. 05-04

Gentlemen:

The National Association of Affordable Housing Lenders (NAAHL) represents America's leaders in moving private capital to those in need – 200 member organizations committed to increasing private capital lending and investing in low- and moderate-income (LMI) communities. Members are the “who’s who” of private sector lenders and investors in affordable housing and community and economic development: banks, thrifts, local and national nonprofit providers, mortgage companies, loan consortia, financial intermediaries, pension funds, foundations, and public agencies.

We appreciate the opportunity to comment on the joint interagency proposal by the FDIC, OCC and Federal Reserve Board to update the CRA rules with a new 2-part test for insured depository institutions between \$250 million and \$1 billion in assets, consisting of two separately weighted tests of equal weight: the Small Bank Lending Test and a new Community Development Test.

As you well know, CRA is one of the least known but perhaps most remarkable success stories of domestic policy. CRA has fostered hundreds of partnerships among lenders, non-profit providers, and local governments that have been instrumental in increasing homeownership, affordable rental housing, economic development, and expanding small businesses. These partnerships contribute to more vibrant communities. As government subsidies for affordable housing and

community and economic development have diminished, the private capital provided by insured depository institutions has been critical to non-profit providers and local governments that try to leverage limited subsidy dollars.

Our practitioners' experience is that mid-course corrections to the 1995 regulations are critical to the long-run effectiveness of CRA. Current regulations discourage banks from providing really innovative, responsive, complex, community development loans and investments. NAAHL has been a leader in identifying what rules do need updating to provide a better balance between the quantitative and qualitative measures. For just one example, pioneering efforts to provide conventional mortgages on tribal lands have value over and above the actual number of LMI families housed as a result of the prototype deal.

We very much support your proposal, which actually encourages banks to do complex, subsidized housing affordable to LMI families and communities. The proposed rules emphasize "Community Development" benefits for LMI communities with a new 2-part test: the Small Bank Lending Test and a new Community Development Test. We believe a flexible new Community Development Test will help overcome problems with the current Large Bank exam by providing insured depository institutions actual CRA credit for all community development activities, including loans as well as investments and services, thereby encouraging banks to undertake the complex, resource-intensive affordable housing and other community development loans that are critical in many LMI communities.

We encourage you to invite the OTS to modify its recent CRA rule changes, and to join you in your balanced interagency proposal.

Finally, the principles underlying the Community Development Test would also increase the regulatory incentives for institutions above \$1 billion in assets to undertake community development loans. We encourage you to update the rules for larger institutions as well.

The following responds to some of the questions you pose in the preamble to the NPR:

This proposal provides more flexibility in how an intermediate small bank may apply its community development resources, as does the proposal to permit examiners to use performance context to give consideration in a current-period rating to prior-period outstanding investments.

The CD test should be meaningful, as you have proposed here, and separately rated. We also believe that an institution should have to receive a Satisfactory in both the lending and CD test to achieve an overall Satisfactory CRA rating. We understand that the regulators intended that a bank's record of locating branches in low- and moderate-income areas and otherwise serving low- and moderate-income people would be a central factor in assessing the bank's community development services, and urge the regulators to make that explicit in the final regulations. We recommend that you consider allowing institutions to determine the weighting between the Small Bank Lending and Community Development Tests within a reasonable range.

You have requested comment on whether the existing definition of "community

development" provides sufficient recognition for community services to individuals residing in underserved rural areas and designated disaster areas, and if not, how to encourage the provision of such services to persons in those areas that have the greatest need.

Our member institutions have had little difficulty in helping to meet the credit needs of individuals residing in underserved rural areas, as well as supporting revitalization in rural assessment areas. However, for purposes of area revitalization, we recognize that income is not the only measure of distress.

Nonetheless, rural conditions vary widely across the country, so no one size definition appears to fit all. In addition, recent research by the Federal Reserve Board research suggests that all of the alternative measures considered have their own limitations of one type or another.

If the agencies are trying to increase the incentives for insured institutions to address rural needs, we recommend that you offer an institution the option of using a broader definition of community development to address unique local conditions in rural communities. In addition, if an institution chooses to use a broader definition of community development in rural communities, we recommend that you give the institution the option of providing community services in rural communities that are recognized as underserved as a result of the institution's use of a broader definition of community development. Providing institutions more options within their performance context obviates the need to change definitions, yet provides flexibility, transparency and consistency within the existing rules.

We commend the three bank regulatory agencies for persistence and hard work in continuing to solicit and consider public comment, and for issuing a balanced, interagency proposal that constructively updates and modernizes the CRA regulations. We have long supported updating the rules for all institutions to reflect the importance of community development lending. We look forward to continuing to work with you on making the CRA regulations as effective as possible for strengthening America's communities.

Sincerely,

Judith A. Kennedy
President



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