Ysleta del Sur Pueblo
Tribal Council
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September 28, 2004

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, DC 20429

FAX: 202-898-8788

RE: RIN 3064-AC50

Dear Mr. Feldman:

The Ysleta del Sur Pueblo urges you to withdraw your proposed changes to the Community Reinvestment Act (CRA) regulations. CRA has been instrumental in increasing homeownership, boosting economic development, and expanding small businesses in the nation's minority, immigrant, and low- and moderate-income communities. Your proposed changes are contrary to the CRA statute and Congress' intent because they will slow down, if not halt, the progress made in community reinvestment, including Indian country. The changes proposed for rural communities will disproportionately affect tribes and Native Americans living in tribal areas.

To this point, Native Americans living on reservations are the most unbanked population in the United States. The Navajo Nation, for example, has 5 bank branches in total for a population of 250,000 people living in an area the size of West Virginia. You can see the same or greater number of branches in a single block in our Nation's capital.

The proposed changes would only serve to worsen banking services to tribes. These changes, which would make smaller banks less accountable for their community reinvestment activity, alarm us, as banks are finally waking up to the investment opportunities in Indian country. Indian country has made strides with the help of banks in the mortgage arena and, we believe, that the strength of the current law has been instrumental to this development. For example, we saw conventional mortgage activity increase from 2001 through 2003. In addition, the recent strides in economic development in Indian country will be lost if banks aren't required to invest. The following data point up the severe continuing needs in Indian country that requires a strong CRA.

According to the GAO, the rate of homeownership for Native Americans living on reservations is just 33 percent, or half that of the general population and substantially lower than that of other minority groups. In addition, Native Americans are four times more likely than the average American family to live in substandard housing. (Fannie Mae data, Testimony, Pattye Greene, May 3, 2004, House Financial Services Committee) Overcrowding has been documented in the NAIHC study "Too Few Rooms..." (2001) reporting as many as 25 or even 30 people living in deplorable conditions under one roof in a 2- or 3-bedroom house.

It is well known that smaller banks, those primarily regulated by the FDIC, are more likely to serve rural populations, so these provisions are disturbing to populations such as ours who are entirely rural. With the current Administration seeking to expand minority homeownership, these measures will certainly not help and very likely halt the recent gains in homeownership that we have seen taking place on tribal lands.

We believe the proposed changes will thwart the Administration's goal of creating 5.5 million new minority homeowners by the end of the decade. Since FDIC Chairman Powell, a Bush Administration appointee, is proposing the changes, the sincerity of the Administration's commitment to expanding homeownership and economic development is called into question. How can an administration hope to promote community revitalization and wealth building when it proposes to dramatically diminish banks' obligation to reinvest in their communities?

Under the current CRA regulations, banks with assets of at least $250 million are rated by performance evaluations that scrutinize their level of lending, investing, and services to low- and moderate-income communities. The proposed changes will eliminate the investment and service parts of the CRA exam for state-charted banks with assets between $250 million and $1 billion. In place of the investment and service parts of the CRA exam, the FDIC proposes to add a community development criterion. The community development criterion would require banks to offer community development loans, investments or services.

The community development criterion would be seriously deficient as a replacement for the investment and service tests. Mid-size banks with assets between $250 million and $1 billion would only have to engage in one of three activities: community development lending, investing or services. Currently, mid-size banks must engage in all three activities. Under your proposal, a mid-size bank can now choose a community development activity that is easiest for the bank instead of providing an array of comprehensive community development activities needed by low- and moderate-income communities.

The proposed community development criterion will result in significantly fewer loans and investments in affordable rental housing, Low-Income Housing Tax Credits, community service facilities such as health clinics, and economic development projects. It will be too easy for a mid-size bank to demonstrate compliance with a community development criterion by spreading around a few grants or sponsoring a few homeownership fairs rather than engaging in a comprehensive effort to provide community development loans, investments, and services.

Your proposal would make 879 state-chartered banks with over $392 billion in assets eligible for the streamlined and cursory exam. In total, 95.7 percent or more than 5,000 of the state-charted banks your agency regulates have less than $1 billion in assets. These 5,000 banks have combined assets of more than $754 billion. The combined assets of these banks rival that of the largest banks in the United States, including Bank of America and JP Morgan Chase. Your proposal will drastically reduce, by hundreds of billions of dollars, the bank assets available for community development lending, investing, and services.

The elimination of the service test will also have harmful consequences for low- and moderate-income communities. **Ysleta del Sur Pueblo-Housing Department presently has a waiting list**

of 197 tribal members waiting for low-and-moderate income housing. CRA examiners will no longer expect mid-size banks to maintain and/or build bank branches in low- and moderate-income communities. Mid-size banks will no longer make sustained efforts to provide affordable banking services, and checking and savings accounts to consumers with modest incomes. Banks eligible for the FDIC proposal with assets between $250 million and $1 billion have 7,860 branches. All banks regulated by the FDIC with assets under $1 billion have 18,811 branches. Your proposal leaves banks with thousands of branches "off the hook" for placing any branches in low- and moderate-income communities.

Another destructive element in your proposal is the elimination of the small business lending data reporting requirement for mid-size banks. Mid-size banks with assets between $250 million and $1 billion will no longer be required to report small business lending by census tracts or revenue size of the small business borrowers. Without data on lending to small businesses, it is impossible for the public at large to hold the mid-size banks accountable for responding to the credit needs of minority-owned, women-owned, and other small businesses. Data disclosure has been responsible for increasing access to credit precisely because disclosure holds banks accountable. Your proposal will decrease access to credit for small businesses, which is directly contrary to CRA's goals.

Lastly, and perhaps most devastating to Native Americans living in tribal areas, you propose that community development activities in rural areas can benefit any group of individuals instead of only low- and moderate-income individuals. Since banks will be able to focus on affluent residents of rural areas, your proposal threatens to divert community development activities away from the low- and moderate-income communities and consumers that CRA targets. Your proposal for rural America merely exacerbates the harm of your proposed streamlined exam for mid-size banks. Your streamlined exam will result in much less community development activity. In rural America, that reduced amount of community development activity would earn CRA points even if it benefits affluent consumers and communities. What's left over for low- and moderate-income rural residents are the crumbs of a shrinking CRA pie of community development activity.

In sum, your proposal is directly opposite CRA's statutory mandate of imposing a continuing and affirmative obligation to meet community needs. Your proposal will dramatically reduce community development lending, investing, and services. You compound the damage of your proposal in rural areas, which are least able to afford reductions in credit and capital. You also eliminate critical data on small business lending. Two other regulatory agencies, the Federal Reserve Board and the Office of the Comptroller of the Currency, did not embark upon the path you are taking because they recognized the harm it would cause.

If your agency is serious about CRA's continuing affirmative obligation to meet credit needs, you would propose additional community development and data reporting requirements for more banks instead of reducing existing obligations. A mandate of affirmative continuing obligations implies expanding and enlarging community reinvestment, not significantly reducing the level of community reinvestment.

CRA is too vital to be gutted by regulatory fiat and neglect. **We hope that the FDIC, which earlier this year had the vision to hold a conference on the "unbanked," will not now introduce changes detrimental to the most "unbanked" population of all.**

Sincerely,

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