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Regulation Comments  
Chief Counsels Office  
Office of Thrift Supervision  
1700 G. Street, NW  
Washington, DC 20552

Attention: Docket No. 2001-49  
Advance Notice of Proposed Rulemaking Regarding Community Reinvestment Act  
Regulations

Dear Ms. Johnson:

The Texas Bankers Association ("TBA") appreciates the opportunity to comment on the Advance Notice of Proposed Rulemaking Regarding Community Reinvestment Act ("CRA") Regulations. TBA represents the interests of approximately 600 financial institutions in the state of Texas.

1. We emphasize that Texas' insured financial institutions are dedicated to serving the credit needs of their entire communities and have a commendable track record of doing so. It is important to remember that the world of financial services has changed significantly since Congress passed CRA. In 1980, the banking industry's share of U.S. Consumer Financial Assets amounted to \$1.6 trillion of the total \$6.4 trillion. By 2000, that share had dwindled in a relative sense, constituting only \$4.6 trillion out of the total \$33.7 trillion. Thus, it no longer makes much sense to impose a disproportionately heavy regulatory CRA burden on insured financial institutions when many other financial institutions, such as brokerage houses, are not subject to CRA at all. In addition, CRA was aimed at preventing "redlining", a practice our banks do not engage in and do not condone. Again, many banks ask that the regulators and Congress take a serious look at whether the severe regulatory burden CRA imposes on banks is still justified as the best way to address the original purpose. We also ask the federal banking regulators to recognize that banks are often placed between a rock and a hard place with the competing requirements of CRA and prudent lending.

2. Raise the "Small Bank" threshold to \$1 Billion.

An overwhelming number of our members ask that Federal banking regulators raise the threshold for the streamlined "small institution" evaluation to \$1 billion. With consolidation in the banking industry, this is no longer a "big bank". Institutions of this size retain primarily a community orientation and deserve the opportunity to use the streamlined procedures.

3. Allow Holding Company banks to qualify for the "Small Bank" Evaluation as stand alone units.

Holding Company banks are separately chartered entities, with separate local boards, addressing the local credit needs of their individual communities and should be allowed to qualify for the "Small Bank" Evaluation on the basis of their asset size, without regard to the aggregate bank and thrift assets of the holding company.

4. Don't make an Outstanding rating so difficult for Small Banks.

Small community banks are the backbone of communities all across Texas and the United States. They admirably serve the credit needs of their entire communities – and should not be put to extraordinary effort and expense to get this recognition. In particular, small banks should be able to get an “Outstanding” rating on the basis of lending activities alone, but in highly competitive markets investments and services should be considered in the mix for an “Outstanding” rating.

5. For the Large Bank evaluation, eliminate the Investment Test.

The current regulations do not have an appropriate balance among the lending, investment, and service tests. The primary focus of CRA is to evaluate whether insured depository institutions meet the credit needs of their entire community. Therefore, we recommend eliminating a separate Investment Test and Service Test but allowing investments and community development to substitute for loans. We have had specific complaints from our bankers that examiners are telling banks what specific projects they must invest in to satisfy the Investment Test – even if the banker (who is certainly more familiar with the community and with the bankability of local projects) has previously made a prudent lending judgment that the project cannot meet normal, responsible criteria for loans or investments. In addition, in many locations, there simply are not enough suitable investments to meet this test.

6. Do not consider a negative CRA impact for “predatory lending” since this term is not adequately defined – and furthermore, prudent banks do not engage in or condone such a practice.

In many respects, “predatory lending” is an undefined “topic du jour”. Most “predatory lending” complaints are against the law already and should be stringently addressed in that way, rather than muddying the CRA water.

7. Do not differentiate between loan originations and loan purchases.

Both increase the flow of credit and attempting to differentiate would yield unnecessary complexity without commensurate benefit.

8. Allow positive credit for projects to stabilize rural communities.

Investments and loans for projects to stabilize rural communities should count as much as those in low to moderate income areas.

9. Retain the Strategic Plan option.

Even though this option is not widely used, we support the additional flexibility offered.

10. Provide more information to banks about the Performance Context.

Setting the Performance Context involves a high degree of subjectivity and uncertainty. Bankers would like to receive more information about how the performance context is established by examiners.

11. Continue to allow banks the option to request consideration of affiliate activities.

We support allowing financial institutions to request consideration of affiliate activities at their option. This provides flexibility and is preferable to either mandatory inclusion of affiliate lending or total exclusion of affiliate lending.

12. End current data collection requirements.

We ask that the federal banking agencies end the current data collection requirements as not permissible under the Community Reinvestment Act. We strongly oppose any additional data reporting requirements. Data collection is more than adequately addressed through the Home Mortgage Disclosure Act.

Thank you for the opportunity to provide comments about the content and operation of the CRA Regulations. These regulations are complex, burdensome, and costly. We hope that dialogue opened during this comment period will encourage you to simplify and streamline these regulations in recognition of the generally excellent performance of insured depository institutions.

Sincerely,



Rick Smith

CC:

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