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July 30, 2009

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

Attn: OTS-2009-0010

I am writing from Woodstock Institute in support of the proposed changes to the rules implementing the Community Reinvestment Act as it applies to assessing an institution's record of providing low-cost education loans. I would also like to comment on the proposed rule change that would allow financial institutions to receive favorable consideration under the Community Reinvestment Act for investments in women- and minority-owned financial institutions or low-income credit unions outside of the communities in which the financial institutions does business, which Woodstock Institute opposes.

Woodstock Institute is a fair lending, wealth creation, and regulatory reform organization working to advance economic security and community prosperity through applied research, policy development, and coalition building. Since the passage of the Community Reinvestment Act, Woodstock Institute has researched how financial institutions deliver products and services to low-wealth communities and communities of color and suggested changes to the CRA for the purpose of expanding access to credit and basic banking services, and increasing investments in communities and community development financial institutions.

The agencies should adopt the definition of "low-cost educational loans" as proposed

Woodstock Institute supports the agencies proposal to define "low-cost educational loans" as educational loans that are originated by financial institutions through a program of the U.S. Department of Education or any private education loans with interest rates or fees no greater than those of comparable education loans offered by the U.S. Department of Education.

In the case of private education loans, the Agencies should use the following criteria to determine if a private education loan is comparable to a loan offered by the U.S. Department of Education:

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1. **Fixed interest rate** - The U.S. Department of Education no longer offers variable interest rate loans. For a private loan to qualify for favorable consideration under the Community Reinvestment Act, it should have a fixed interest rate. In addition, the rate of interest charged annually should not exceed the maximum rate permission for U.S. Department of Education loans as calculated according to statutory formulas.
2. **Loan fees/origination fees** - For a private loan to qualify for favorable consideration under the CRA, the loan fees or origination fees must not exceed the maximum permissible fee for a U.S. Department of Education Loan as published.
3. **Prepayment penalties** - For a private loan to qualify for favorable consideration under the CRA, the loan should not include a prepayment penalty.

Where different rates of interest or different loan fees or origination fees are permissible for different types of loans offered by the U.S. Department of Education, the higher rate should serve as the maximum permissible rate for private loans qualifying for favorable consideration under the CRA.

The definition of "low-income borrower" for the purpose of the proposed rule, should be consistent with the definition used for CRA

The Agencies' proposal to define "low-income borrower" to mean a household with an income of 50 percent of the area median income should be adopted. In cases where the student is the borrower but is claimed as a dependent, the household income of the taxpayer claiming the student should be used to determine if the loan qualifies for CRA credit. While other agencies continue to use conflicting definitions for "low-income" for the purposes of identifying specific financial needs, the proposed rule applies only to the eligibility of "low-cost education loans" for favorable consideration under the CRA, and should apply the definition of "low-income" used by the CRA to ensure consistency for all products and services receiving consideration.

Defining "Institution of higher education" as broadly as possible

The definition of "institution of higher education" should be expanded to include accredited public and private colleges and universities, whether for-profit or nonprofit, as well as accredited vocational institutions that prepare students for gainful employment in a recognized occupation. This definition would expand consideration of education loans to vocational programs that prepare students to enter the workforce or change careers. However, the definition should not be expanded to include non-accredited post-secondary education.

The proposal to consider activities undertaken in cooperation with minority- and women-owned financial institutions and low-income credit unions but outside of an institution's assessment area should not be adopted.

The purpose of the Community Reinvestment Act is to ensure that financial institutions meet the credit and financial services' needs of the communities in which they do business. Woodstock Institute opposes

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the proposed rule that would give financial institutions favorable consideration under the CRA for loan participations, investments or other activities made outside the communities in which they do business. While expanding access to secondary capital for women- and minority-owned financial institutions and low-income credit unions is critical to their sustainability, we believe the proposed rule would provide a disincentive to seeking out catalytic lending and investment opportunities in the local communities served by CRA-covered financial institutions.

Rather than provide CRA credit for these types of loan participations or investments, the Agencies should modify the definition of an assessment area to include geographical areas in which a bank has issued a significant number of loans, conducts a certain number of financial transactions, or receives deposits, in addition to geographical areas that contain a bank's branches. The Agencies should use one or more of these criteria to adopt a threshold for determining an assessment area; for example, an assessment area could be a county or metropolitan area in which a bank has made one-half of one percent of all loans. If the Agencies established assessment areas in this manner, there would be less of a need to provide favorable consideration under the Community Reinvestment Act to activities outside of the assessment areas. The number of geographical areas constituting a financial institution's assessment areas would expand under this proposal, but would expand in a manner that directs an institution's support of low-income credit unions and minority- or women-owned financial institutions to areas in which the financial institution has a significant business presence.

I appreciate the opportunity to comment on the Agencies' proposals. Please contact me at 312/368-0310 or tfeltner@woodstockinst.org for more information about Woodstock Institute or our work on these issues.

Best wishes,



Tom Feltner
Policy and Communications Director

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