



Neighborhood Economic Development Advocacy Project

73 Spring Street, Suite 506, New York, NY 10012
Tel: (212) 680-5100 Fax: (212) 680-5104
www.nedap.org

BY EMAIL & REGULAR MAIL

May 10, 2005

Board of Governors of the Federal Reserve System

Jennifer J. Johnson
Secretary
20th Street and Constitution Avenue, NW
Washington DC 20551
E-mail: regs.comments@federalreserve.gov
RE: Docket No. R-1225

Federal Deposit Insurance Corporation

Robert E. Feldman
Executive Secretary
Attention: Comments
550 17th St., NW
Washington, DC 20429
E-mail: Comments@FDIC.gov
RE: RIN 3064-AC89

Office of the Comptroller of the Currency

250 E St. SW, Mail Stop 1-5
Washington, DC 20219
E-mail: regs.comments@occ.treas.gov
RE: Docket Number 05-04

Dear Regulators:

I write on behalf of the Neighborhood Economic Development Advocacy Project (NEDAP), a not-for-profit organization based in New York City that works with community groups to promote access to community reinvestment and fair and affordable financial services in low income neighborhoods and communities of color.

NEDAP has almost a decade of experience working with the CRA. We have worked with dozens of community groups to press mainstream financial institutions for access to affordable loans, services and investments in New York City's low income neighborhoods and communities of color.

The current proposal is an improvement over the February 2004 proposal, among other changes, to increase the asset size for defining “small institutions” to \$500 million. We appreciated that the Federal Reserve Board withdrew its proposal to double the small bank asset definition and that the OCC declined to adopt it. That said, we remain concerned about many aspects of the new proposal, and urge the Federal Reserve, OCC and FDIC to refrain from adopting new rules that ultimately would do more harm than good.

1. Creation of intermediate small banks

NEDAP does not oppose creation of the “intermediate small banks” category for regulating banks under CRA. We oppose, however, the following four aspects of the proposal:

a. Designation without regard to holding company assets

NEDAP opposes the proposal to determine a bank’s asset size without regard to the assets of the holding company. The regulators’ explanation for many of the proposed changes is to alleviate the “undue burden” that CRA allegedly places on banks. This argument loses all plausibility for banks with assets between \$250 million and \$1 billion that are also part of large bank holding companies. The asset size calculation should include the bank holding company’s assets.

b. Elimination of retail banking services from service test

NEDAP strongly opposes the proposed removal of retail banking services from the test for intermediate small banks. Instead, the regulators would consider, as part of the community development test, bank services for low and moderate income people. This proposed change would essentially remove incentives for banks with assets between \$250 million and \$1 billion to provide retail services in low and moderate income communities, where such services tend already to be woefully lacking.

Consideration of banks’ branch network locations, as well as their record of branch openings and closings, is vital to ensuring a meaningful CRA. In New York, as throughout the country, neighborhoods lacking adequate access to bank retail services are plagued by a proliferating array of fringe and predatory financial services. Our organization has documented the correlation between lack of branches in a community and prevalence of check-cashing outlets. The proposal, if adopted, would exacerbate already severe inequities in access to sound, mainstream retail banking services in low and moderate income neighborhoods. We consider removal of retail banking criteria from assessment of banks’ delivery of services unacceptable.

c. Elimination of small business lending reporting requirement

Intermediate small banks should have to report small business lending and purchases of small business and community development loans. Our organization, like many of our colleagues across the country, examines banks’ small business lending data to ascertain banks’ performance in meeting community credit needs and to determine areas where there are small business lending gaps. Without question, the small business lending data, as reported, can be a challenge to analyze. But this challenge is caused by deficiencies in the reporting requirements, which should be corrected through regulatory action. Small business lending data are vital to evaluating banks’ performance in meeting community credit needs in low income neighborhoods. The reporting requirement should not be eliminated, but improved.

d. Adjustment of Small Bank Definition Using the Consumer Price Index

NEDAP opposes linking the small bank definition to the Consumer Price Index (CPI). This mechanism, whereby the threshold for defining small banks would be adjusted annually based on the CPI, would over time lead to further erosion of the CRA, as more and more banks could avail themselves of the significantly weaker CRA criteria applied to small banks. We recommend leaving the numbers at \$250 million and \$1 billion, without CPI or other adjustment.

2. Expanded definition of “community development”

a. Definition of “underserved rural areas”

Regarding the proposed expansion of “community development” to include activities that revitalize or stabilize underserved rural areas, NEDAP strongly recommends that any final amendments incorporate the Community Development Financial Institutions (CDFI) Fund’s criteria for defining underserved rural communities.

b. Inclusion of designated disaster relief areas

As New Yorkers, we experienced on September 11, 2001 one the worst disasters imaginable. The events were unspeakably horrific and the relief effort monumental. But there is simply no sound policy rationale for expanding the definition of community development in the CRA regulations to include “[a]ctivities that revitalize or stabilize...designated disaster areas.” Proposed 12 CFR § 228.12. The CRA is not about disaster relief. Rather, the law’s stated, unambiguous purpose is to ensure that depository institutions meet community credit needs of low and moderate income communities. The legislative history makes CRA’s intentions clear. The whole point of the CRA is to ensure equal credit access for *low and moderate income communities*, notwithstanding reference in the statute to serving “all communities.” (See discussion accompanying proposal, Federal Register, Vol. 70, No. 47, at 12151, which argues that disaster relief in non-low and moderate income communities is “consistent with the goals and objectives of the CRA.”)

Banks have for years claimed that the CRA is unduly burdensome on them. This argument is not in itself a valid reason for amending the CRA and lowering CRA standards. The CRA reflects a policy decision to require banks – which receive a public charter, people’s deposits, and deposit insurance, not to mention their crucial public function in our economy – to demonstrate they are serving all communities fairly and not engaging in redlining. NEDAP urges you to place the public interest first, and consider the burdens that unequal access to banking services and credit places on individuals, neighborhoods, and our society at large.

Thank you for the opportunity to comment on the Federal Reserve, FDIC, and OCC’s proposed changes to the Community Reinvestment Act.

Sincerely,

Sarah Ludwig
Executive Director