®
ACORN

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

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th St. NW 20429
RE: RIN 3064-AC89

Office of the Comptroller of the Currency
250 E St. SW, Mail Stop 1-5
Washington 20219
RE: Docket Number 05-04

To Whom it May Concern:

On behalf of the more than 200,000 low- and moderate-income member families of ACORN, I urge you to withdraw your proposed changes to the Community Reinvestment Act (CRA) regulations. While your proposal is an improvement from the one you issued in the fall, it will still provide an incentive for banks to reduce their levels of branches, community development loans, and investments in low- and moderate-income communities.

I am pleased that you have dropped your proposal to allow mid-size banks with assets between $250 million to $1 billion to offer either community development loans, investments or services. Banks must be expected to engage in all three of these essential community development activities in order to pass their CRA exams as your current proposal requires. I still believe that the current exam structure of separate lending, investment, and service tests is the most effective structure for maximizing the level of community development financing. A change to this format would be a step backwards in the fight to increase wealth in our communities.

Association of Community Organizations for Reform Now
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I am also concerned that deleting a separate test for services will result in CRA exams no longer holding mid-size banks accountable for the provision of bank branches and low-cost accounts in low- and moderate-income communities. One of the main reasons predatory lending is so prevalent in our communities is the absence of mainstream banking institutions that can provide good loans. Instead, residents of our communities are forced to turn to subprime lenders—many owned by the very same banks that refuse to locate branches in our community—and are often given predatory loans. The last thing we need are CRA exams that no longer look at the number of bank branches in traditionally underserved communities.

Instead of weakening the current CRA, as your current proposal would do, ACORN urges you to improve CRA to defend our communities against new forms of financial exploitation. I want to highlight the issue of Refund Anticipation Loans (RALs), a particularly damaging product we are facing.

RALs are a high-priced loan, which are offered to low-income taxpayers who anticipate receiving a tax refund from the government. The majority of these people are recipients of the Earned Income Tax Credit. In

Tax preparation companies such as Liberty Tax offer RALs, saying it is the fastest way for people to get their money back. What is often not revealed—and certainly not highlighted—is that these products have a very high cost, leading to APRs in the hundreds of percent. Many taxpayers do not realize that if they are willing to wait about ten days, and receive a direct deposit, they can get their tax refund for free from the IRS.

ACORN and consumer organizations like the National Consumer Law Center and the Consumer Federation of America have taken aim at this product. We have forced some of the leading tax preparation companies, like H&R Block, to change the way they market their product. Yet other companies, as well as innumerable small operators, continue to offer this product in a deceptive manner. And all of these operators have found willing accomplices in the banking industry.

Tax preparation outfits partner with banks like HSBC, First Bank of Delaware, Cross County Bank, also from Delaware, Republic Bank & Trust of Kentucky, and Santa Barbara Bank & Trust to offer their loans. By using banks chartered in states without interest rate caps (or, in the case of HSBC, partnering with a nationally-chartered bank) they escape state laws on interest rates, just as is prevalent in the payday lending industry.

The banks involved make millions off of RALs. HSBC, the main partner of H&R Block, originated almost 8 million RALs and made $185.4 million off the product in 2003. In 2002, they made a staggering $240 million off of RALs. First Bank of Delaware, the main bank partner of Liberty Tax, is a much smaller bank, with $58 million in assets. Still, it made $2.2 million off of refund products in 2004, up from $1.6 million in 2003. Fully 22% of their profits came from these products. (Almost all of the rest of their profits came from payday lending.)

Because tax preparers rely on out-of-state banks to originate their RALs, the vast majority of RALs are made far from banks' assessment areas. This points to the need to expand assessment areas. They should no longer be limited to areas in which banks have deposit-taking branches or ATMs. They need to include all areas in which a bank is making a substantial share of the loans in the market. A good standard would be 0.5% of the total loans made in a metropolitan standard area or non-metro county.

We need to look at the activities of banks in the entire area in which they do business. This will allow us to shine a strong light on their unscrupulous activities pushing RALs. No longer should banks be able to offer these products and claim ignorance about the way they are marketed.

Similarly, it should no longer be voluntary to include the activities of banks' affiliates in their CRA evaluations. This is a holdover from an era when a vast majority of loans were made by depository institutions. With bank affiliates now making large numbers of loans, these affiliates must be included in CRA evaluations.

Many abusive loans we have seen have been made by Wells Fargo Home Mortgage, a non-depository affiliate of a bank. Banks cannot be allowed to behave one way with their depository institutions and another with their nondepository affiliates. "Cherry picking" among affiliates, only including those that improve a bank's CRA performance, must end.

We are pleased you have improved your CRA proposal from the last one that was offered for public comment. Yet we still believe no change is better than the type of changes you are proposing. The ideas we have suggested are a first step towards proposals that would actually strengthen the CRA, and we look forward to working with you in the future on ideas that will build wealth in our communities.

Sincerely,

Maude Hurd
ACORN National President