

**New York Law School
Justice Action Center–Economic Justice Project
Professor Richard Marsico, Director
47 Worth St.
New York, NY 10013
(212) 431-2180
rmarsico@nyls.edu**

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Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2006-44

Dear Chief Counsel:

Thank you for this opportunity to comment on the Office of Thrift Supervision's notice of proposed rulemaking. For the reasons stated below, I support the OTS' proposal to eliminate alternative weights to the lending, investment, and service tests; to apply a "community development test" to intermediate small banks with assets more than \$250 billion and less than \$1 billion; and to adopt language about the effect of illegal or discriminatory credit practices on a savings association's CRA performance evaluation.

Alternative Weights: I support the OTS' proposal to eliminate the alternative weights to the lending, investment, and service tests because eliminating alternative weights will result in community development loans and investments and branches and services in low-income neighborhoods. Research conducted by the National Community Reinvestment Coalition (NCRC) and the Economic Justice Project, and documented more fully in the NCRC's comment letter, shows that community development investment and lending levels dropped for savings associations that elected to reduce the weight of the investment test. Similarly, savings associations that elected to reduce the weight of the service test did not perform as well in providing branches in low- and moderate-income (LMI) neighborhoods as other savings associations. According to the research, a savings associations with a relatively weak lending, investment, or service records generally opts to give less weight to the test on which it has a relatively poor record rather than improving its record. If the OTS restores the weights to the levels prior to the OTS' introduction of alternative weights.

Community Development Test: I also support the OTS' proposal to apply a community development test to intermediate small banks. When the OTS changed the definition of small banks to a bank having assets of less than \$1 billion, it excused banks with assets from between more than \$250 million and less than \$1 billion from making community development loans and investments and placing branches and providing other services in LMI neighborhoods. The other

three federal banking regulatory agencies, who were also sensitive to the difficulties smaller banks had in competing with large banks for community development loans and investments, nevertheless applied a community development test to these “intermediate small banks.” This test ensures a certain level of community development lending, investment, and services by intermediate small banks, and applying the community development test to intermediate small savings associations should have the same effect.

Discriminatory and Other Illegal Credit Practices: Finally, I support the OTS’ proposal to include language in its CRA regulation that evidence of discriminatory or other illegal credit practices will have an adverse effect on a savings association’s CRA evaluation. With the growth of predatory and other abusive lending practices, it is important that all four federal banking regulatory agencies protect potential victims. Adopting the proposed language is an important first step in this direction.

Thank you once again for this opportunity to comment.

Yours truly,

Richard Marsico