

March 3, 2008

Steven L. Antonakes
Commissioner
Massachusetts Division of Banks
One South Station,
Boston, MA 02110

Dear Commissioner Antonakes,

Thank you for the opportunity to provide comments on the Division of Bank's intention to develop regulations for the Community Reinvestment Act provisions of Chapter 206 of the Acts of 2007.

It is our opinion that the Division of Banks should construct three tests for mortgage companies similar, but not identical, to the lending, service, and investment tests that the Division uses with banks and state-chartered credit unions. We believe that the Division of Banks should also create two types of examinations based on the volume of lending done by the licensed mortgage lender. We suggest that licensed mortgage lenders making between 50 and 499 loans (87 lenders in 2006) be given a streamlined exam and that licensed mortgage lenders making 500 or more loans (53 lenders in 2006) be given a full CRA examination.

Lending test – We urge the Division of Banks to consider all types of mortgage lending in its analysis of mortgage companies, including home purchase, refinance, and home improvement/home equity loans. We do not believe that other consumer lending (i.e., credit cards, auto loans, etc.) should be considered by the Division. In its analysis, the Division of Banks should compare mortgage companies to banks, credit unions, and other mortgage companies in how well they are serving low-and moderate-income households and communities. It is important that the Division of Banks focus considerable attention on whether or not mortgage companies are offering mortgage loans that are 1) the best available products; 2) products with special affordability features such as low interest rates, no or reduced mortgage insurance premiums, public subsidies that result in lower borrower payments, etc.; 3) products offered by mortgage lending competitors; 4) products with a history of low delinquency rates and 5) products with substantial involvement from the public and non-profit sectors.

We believe strongly that lenders should not automatically receive credit for any loan to a low-to-moderate income (LMI) borrower or neighborhood regardless of its terms and conditions. Subprime and other non-conventional loans should be carefully scrutinized by the Division of Banks to determine if the loan was the best available product for the borrower based on an analysis of credit score, debt-to-income ratio, and loan-to-value. In addition, the DoB should carefully look at the marketing tactics of subprime lenders and look at whether those practices are resulting in a community being unfairly targeted for

subprime lending. We also think that mortgage companies should be subject to the same review that banks and credit unions receive with regards to gentrification and displacement.

Investment test – We believe that the Division of Banks could reasonably award a mortgage company credit for grants to non-profit organizations in low-and moderate income-neighborhoods that educate and counsel homebuyers and homeowners, help achieve long-term sustainable homeownership opportunities, promote fair housing and equal housing opportunity, and work to improve LMI communities in ways that enhance the housing opportunities of LMI households.

Service test –We fully support the Division of Banks aggressively conducting matched-pair testing of mortgage companies to assess any possible differential customer service based on race or other illegal considerations. We also strongly support efforts by the Division of Banks to monitor the loan servicing operations of mortgage lenders and to determine if these lenders are cooperating with community-based foreclosure prevention counseling efforts and with efforts to sell real estate-owned property to responsible owners/investors including non-profit community development organizations.

Delineating an Assessment Area - We support earlier regulations that allow institutions without a bricks and mortar presence in the community (i.e., internet banks and non-geographically based credit unions) to self-determine an assessment area that reasonably includes low-and moderate-income areas and populations and is subject to specific approval by the Division of Banks. The assessment area should be large enough to comprise at least 67% of the company's loans in Massachusetts.

Frequency of examinations

We suggest that all licensed mortgage companies making more than 500 or more loans be given an initial CRA exam within two years of finalizing this regulation and those lenders making between 50 and 499 loans be examined within three years. After the initial exam, we suggest that lenders be examined based on the results of the previous CRA rating. For example, lenders that receive an “outstanding” grade would be examined once every four years; lenders with a “high-satisfactory” or “satisfactory” would be examined every three years; lenders with a “needs to improve” rating would receive an exam every two years; and lenders with a “substantial non-compliance” rating would not be eligible for a license renewal.

Examination Process

We believe that the process should include ample opportunity for the public to provide input during the review process. This should include, but not be limited to, advance public notice of scheduled exams, as is currently the case for CRA examinations of banks and credit unions.

In conclusion, we believe strongly that the regulations should be tilted heavily towards results – the number of “good” loans made to LMI borrowers throughout the Commonwealth. Community based organizations stand ready to work with lenders and

the Division of Banks to ensure results that will promote affordable and sustainable homeownership opportunities across the Commonwealth. We look forward to jointly developing these “good” loan products with enhanced long-term affordability features and public sector supports.

We thank the Division of Banks for this opportunity to comment and we look forward to commenting further on the draft regulations once those are available.

Sincerely,

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Joseph Kriesberg
President & CEO
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Maureen Fitzgerald
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