Keep “Community” in the Community Reinvestment Act

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SPEAKERS

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WHAT’S HAPPENING & WHY IT MATTERS

• An anti-redlining law with Chicago roots is under threat!

• In 2018, the Office of the Comptroller of the Currency (OCC) signaled its desire to loosen bank regulations.

• Now, two of the three federal banking regulators (FDIC and OCC) issued a proposal that would dramatically change the way banks are evaluated.

• We do need to modernize and strengthen the CRA. But this plan is not the way forward.

HISTORY OF THE COMMUNITY REINVESTMENT ACT
After the Depression, the federal government issued lending guidelines that promoted suburbanization and prevented racial/ethnic change. Excerpts from Federal Housing Administration Underwriting Manual (1935):

“...properties shall continue to be occupied by the same social and racial classes
“...prevention of the infiltration of...lower class occupancy, and inharmonious racial groups”

Mortgage lenders did not lend to racially changing neighborhoods

This practice, a product of systemic racism, was termed “redlining”

From late 1960s through the 1980s, Chicago led the fight to change public policy to eliminate racial discrimination in mortgage lending.

Home Mortgage Disclosure Act (HMDA)

Requires all banks to disclose the racial composition of their mortgage lending by census tracts.

What did data do? Lending disclosure provided the hard evidence of racial disparities in mortgage lending that was needed to convince policy makers that a legal remedy to redlining was needed.

Community Reinvestment Act (CRA)

Created a continuing and affirmative responsibility for all banks to make loans and investments in low- and moderate-income (LMI) communities.

First major CRA Challenge (in Chicago)
The first major CRA challenge was organized by Woodstock Institute in 1984 when First Chicago bought American National Bank. This CRA agreement became a template for all future Community Benefit Agreements, which now number in the thousands with lending commitments of almost $1 trillion.

**CRA KEY TERMS**

- **Low- or Moderate-Income (LMI) means**
  - < 80% Area Median Income (AMI)

- **Community Development (CD) includes**
  - Affordable housing for LMI individuals
  - Community services for LMI individuals
  - Economic Development = job creation for LMI individuals

- **CDFIs = Community Development Financial Institutions**
  - CDFIs make loans and invest in projects that communities need using predominantly money from banks.
  - Illinois examples include Acción Chicago, the Chicago Community Loan Fund, and IFF.
HOW DOES CRA WORK NOW?

WHO ENFORCES CRA?

All three federal banking regulators.

Office of the Comptroller of the Currency
regulates national banks

Federal Deposit Insurance Corp.
regulates non-federal reserve member state banks

Federal Reserve Board
regulates member banks and holding companies
HOW CRA REGULATES BANKS

- Banks have an obligation to make loans in, invest in, and serve LMI communities. They are regularly examined and graded:
  1. Outstanding
  2. Satisfactory
  3. Needs to improve
  4. Substantial noncompliance

- Responsiveness to local community needs is a core component of the CRA grading process.

- An additional impact of CRA is banks must request for permission for a merger or acquisition.
  - Only granted permission if “satisfactory” or “outstanding”

- CRA gives communities the right to challenge requests based on a bank’s CRA performance.

CURRENT FRAME
CRA EXAM FOR LARGE BANKS

Lending Test (50%)
- # and $ of
  - Home mortgages
  - Small business & small farm loans
  - Made in its community
  - Income level areas where those loans were made
  - Income levels of borrowers
  - Flexible and innovative lending practices

Investment Test (25%)
- # and $ of investments with a community development purpose
- Innovative, complex, responsive and availability otherwise

Service Test (25%)
- Retail services provided to people and areas of different income levels
- Community development services
WHAT COUNTS UNDER CRA NOW?

For a bank to receive CRA credit for an activity, the activity must primarily benefit low- and moderate-income people or areas.

Current CRA activities include:

- Bank Branches
- Mortgages
- Small Business Lending
- Grants and Investments
- Affordable Bank Products

ADDING UP CRA’S IMPACT

- Mortgages
- Loans
- Community Development

TRILLIONS have flowed into LMI communities across the U.S. each year since 1977.
The OCC and the FDIC have proposed a drastic overhaul of the CRA that would practically eliminate the role of communities in the CRA.
A bank’s CRA grade will be based on a single ratio:

$$\frac{\text{total dollar value of qualified CRA activities}}{\text{total dollar value of deposits}}$$

Q: If you’re only adding up dollars, do you need communities?
A: You don’t!
COMMUNITY CONTACT

Example: a 2019 CRA exam

Community Contact

Recent community contact interviews with non-profit housing and community service agencies were conducted to assist examiners in identifying and understanding the credit and community development needs of the AA. The information helps examiners determine area needs and whether local financial institutions are responsive to these needs. The contacts stated needs exist for increased access to affordable home mortgage loans (including rehabilitation loans), financing for start-up businesses, as well as small business lending for enterprises in low- and moderate-income areas. The contacts also stated additional needs include financial literacy, low-cost checking accounts, secured credit cards and tools to build a credit history, and increased bank branches within smaller communities.

NEW CRA SCORING SYSTEM

11% & up = Outstanding
6% - 11% = Satisfactory
3% - 6% = Needs to Improve
Less than 3% = Substantial Noncompliance

This is a quantity over quality system. A small number of big deals is more cost effective for the bank than a large number of small deals.
THE LIST

✓ A non-exhaustive list of qualifying CRA activities would be published under the proposed new regulations.

✓ This list would provide clarity about what counts.

✓ Investments in CDFIs would get double credit.

AFFORDABLE HOUSING? NAH. JUMBOTRON? YEAH, BABY!

While a list adds clarity, the proposed list includes projects like improvements to stadiums that LMI communities may not want or need.

Other activities that now count:

✓ Infrastructure
✓ Bridges in wealthy areas
✓ Mass transit
OTHER PERFORMANCE STANDARDS

• Retail Lending Test = Pass/Fail

• The CRA activities that count as “Community Development” must be greater than or equal to 2% of the total score.

• “Community Development” includes CRA-activities that are not “retail lending,” e.g., investing in affordable housing.

THE CLASS YOU (MAYBE) STUDIED FOR IF YOU HAD TIME

Currently retail lending is part of the overall assessment. Under the proposal if you meet or exceed certain levels, you pass. It does not otherwise impact your CRA grade.

You can fail in almost half of your assessment areas and still receive an OUTSTANDING grade!
WHAT HAPPENS TO BRANCHES?

Another Formula!
A fraction of a fraction is added to the score

A bank with 30% LMI branches
– which is HIGH –
would have 0.3 added to its score

WHAT ABOUT ONLINE BANKS?

• Online banks are now covered! (good!)

• For banks that collect 50% or more of their deposits outside their assessment areas, the proposal creates deposit-based assessment areas where 5% or more of banks’ depositors reside.

• This means online banks must comply with CRA in the areas where their depositors live.

• Concern: No one knows exactly where these areas are. Will it direct more CRA activities to CRA “hot spots”? 
SHOW ME THE DATA!

The proposal requires banks to collect new data, but they are not required to report the data, so the government is not required to disclose it.

PART OF LARGER EFFORT TO DISMANTLE CIVIL RIGHTS

fair housing, fair lending & equal access to credit
COORDINATED ATTACK ON FAIR HOUSING

Two recent proposed rule changes to the Fair Housing Act - coupled with the propose rule change to CRA - will make it virtually impossible to challenge systemic discrimination in housing, segregationist housing policies, and lack of investment in historically underserved low-income communities and communities of color.

FHA DISPARATE IMPACT RULE

Defines standards for a fair housing challenge against an otherwise neutral housing policy or practice that has an adverse discriminatory effect on a protected class.

Examples of cases include public housing location (Gautreaux v. CHA), fair lending cases, and insurance pricing.
AFFIRMATIVELY FURTHERING FAIR HOUSING

Rule requires that recipients of federal funds - including local and state governments and public housing authorities - “take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination.”

HUD can withhold funds if a recipient is in violation.

POTENTIAL RETURN OF REDLINING

If adopted, these fair housing rule changes – along with proposed changes to CRA – will make it virtually impossible to challenge systemic discrimination in housing, segregationist housing policies, and lack of investment in historically underserved low-income communities and communities of color.
WHAT CAN WE DO TO PROTECT CRA?

SUBMIT A COMMENT!

Submit unique comments – no later than April 8.

• Tell regulators how CRA has benefited your community
• Tell them how their proposal would hurt your community
• Using Woodstock’s sample letter as a guide, send the same letter to both the OCC and the FDIC.

[Organization] submits these comments in response to the OCC/FDIC’s Notice of Proposed Rulemaking (the “Proposal”) regarding the Community Reinvestment Act (CRA). [Organization] opposes the Proposal’s drastic shift from qualitative to quantitative evaluation measures. Dollar amounts matter, but not to the exclusion of a qualitative assessment of banks’ activities in meeting local community needs. The net impact of the Proposal would be to reduce bank investments and services in low- and moderate-income (LMI) communities. This runs counter to the spirit of the law itself.

[Organizations: Write here about your mission and history – and how CRA has impacted your work.]
HOW TO SUBMIT YOUR COMMENT

ORGANIZATIONS, INDIVIDUALS USING LETTERHEAD

1. Submit your letter to the OCC via Regulations.gov:
   Start at Regulations.gov/Docket?D=OCC-2018-0008. You can review the proposed changes and see prior comments. Then click on the "Comment Now" button.* Before you hit "submit," click the box to make your comment public.

2. Email the same letter to the FDIC:
   Email your letter to Comments@fdic.gov with "RIN 3064-AF22" in the subject line.
   …and copy your email to Woodstock Institute:
   BCC to Jenna Severson at jseverson@woodstockinst.org so we can track and read your comments!

Links are also available at woodstockinst.org/cra

HOW TO SUBMIT YOUR COMMENT

QUICK COMMENTS BY MANY INDIVIDUALS

Use Housing Illinois Action’s online tool:

housingactionil.salsalabs.org/akeactiononcra2020/index.html

Submit your comment below.

Comment*
I am strongly opposed to the proposed changes to the Community Reinvestment Act, which would result in significantly fewer loans, investments, and services to low- and moderate-income communities. This proposal would make redlining legal again, permitting banks to avoid investment in low-income and minority neighborhoods.

On behalf of the low- and moderate-income people and places my organization serves, I ask that you please discard this proposal and start again.

Email Address*

First Name*       Last Name*

City* State* Zip Code* Choose one:

Country* United States

Please keep me informed of the organization’s efforts

Submit Your Comment
SPREAD THE WORD

Inform your community:
• Host a virtual letter-writing event or presentation.
• Share this webinar (hosted at woodstockinst.org/cra and emailed to participants)
• Materials on woodstockinst.org/cra and at bit.ly/CRAtoolbox

Join Woodstock’s sign on letter:
• Email Brent at badams@woodstockinst.org to add your organization!

Share your stories:
• Have a story about the work your organization has done through CRA?
  • We’d love to hear it, and potentially share it with the media.
  • Contact Jenna at jseverson@woodstockinst.org to learn more.
• Post on social media! Social toolkit at bit.ly/CRAsocial

NEED HELP? HAVE AN IDEA?

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QUESTIONS?