

The Community Reinvestment Act

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The Community Reinvestment Act (CRA) of 1977 established continuing and affirmative responsibilities for banks to meet the credit needs of low and moderate-income (LMI) neighborhoods in a manner consistent with safety and soundness. Congress has considered updating this critical law to strengthen CRA as applied to banks, and expand CRA to non-bank financial institutions. The federal bank regulatory agencies have made revisions to the CRA regulations in the last few years. The Trump Administration's Treasury Department is currently reviewing the CRA and will issue recommendations to the regulatory agencies.

HISTORY AND PURPOSE

Congress passed the CRA in 1977 at a time when many banks and other financial institutions would routinely “redline” low income or minority communities, refusing to invest in them or to extend credit to their residents. Since its enactment, the CRA has expanded access to banking services and increased the flow of private capital into marginalized communities.

PROGRAM AND ADMINISTRATION SUMMARY

Three bank regulatory agencies ensure that banks comply with the CRA: the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. These three agencies are charged with evaluating the extent to which banks are meeting local credit needs. This takes the form of a periodic CRA examination of a bank, during which the bank is given a rating for their performance.

Under CRA, large banks with assets exceeding \$1 billion are evaluated with three tests that measure performance in LMI communities:

- **The lending test** evaluates a bank's record of meeting credit needs of its assessment area(s) through home mortgage, small business, and small farm lending, as well as financing of community development projects such as the construction of rental units.
- **The investment test** evaluates the number and responsiveness of investments, including Low Income Housing Tax Credits and equity investments in small businesses.
- **The service test** evaluates the availability of bank branches, basic banking services, and community development services in low- and moderate-income communities.

Banks with less than \$1 billion in assets are evaluated primarily on lending, with mid-sized banks also receiving an examination of their community development performance. Exams for smaller institutions below \$250 million in assets occur every four to five years, depending on the bank's asset size and previous performance. Banks with assets exceeding \$250 million are examined once every two to three years.

CRA exams issue one of four ratings: outstanding, satisfactory, needs-to-improve, or substantial noncompliance. The last two ratings are considered failing ratings. In a particular assessment area, a bank can also receive a low or high satisfactory rating. Even a passing rating, such as satisfactory or low satisfactory, can motivate a bank to do better since ratings influence banks' public relations and business strategies.

The federal agencies also consider banks' CRA records when ruling on merger applications. A weak CRA record may be grounds for denying a merger application. Although denials are rare, federal agencies occasionally approve a merger application subject to specific conditions around improving CRA and fair lending performance.

RESULTS

Because it holds lenders publicly accountable and empowers citizens and communities to engage in the regulatory process, the CRA has been effective in increasing access to credit and capital for traditionally underserved communities.

For example, Fifth Third Bank recently received a needs-to-improve rating, which motivated it to work with NCRC and its members to agree to a \$30 billion, 5-year community benefits agreement. Key provisions include \$11 billion in mortgage lending to low and moderate-income (LMI) borrowers, \$10

billion in small business lending, and \$9 billion in community development financing including affordable rental housing. In 2016, NCRC and its members also worked with KeyBank and Huntington to negotiate agreements of similar size. In 2017, NCRC and its members negotiated agreements with Iberiabank, First Financial Bank, and Santander. The agreements made during 2016 and 2017 totaled more than \$80 billion in loans and investments for low and moderate-income communities.

A recent HUD publication reviewed the CRA's accomplishments over its 40 year history. Studies in the publication conclude that lending is higher in low and moderate-income census tracts than in tracts with median incomes just above CRA-income thresholds. In addition, a recent report published by the Federal Reserve Bank of Philadelphia concludes that home purchase lending in low and moderate-income tracts would have declined by about 20 percent had the CRA not existed.

The Federal Reserve has demonstrated that CRA-covered banks are less likely to issue high-cost and risky loans than independent mortgage companies not covered by the CRA. Studies found that only 6 percent of all high-cost loans were issued by banks during the years leading up to the Great Recession and financial crisis. CRA exams encourage safe and sound lending by penalizing banks for illegal and abusive loans, and awarding banks for counseling and foreclosure prevention.

RECENT REGULATORY AND LEGISLATIVE ACTIVITY

In the summer of 2016, the regulatory agencies updated an interagency Question and Answer (Q&A) document that is an important guide helping CRA examiners and the public implement the CRA. The new Q&As:

- Retained the emphasis on bank branches as the primary way of providing service to LMI communities.
- Encouraged the use of alternative credit histories, such as rental or utility payments, for borrowers with thin credit files in programs to help them qualify for loans.
- Specified that renewable energy or energy savings in affordable housing will be viewed favorably on CRA reviews.

- Clarified that banks can earn favorable consideration for Historic Tax Credit projects that finance affordable housing, provide space for small businesses, and fund community development projects benefiting low- and moderate-income people and communities.

On the legislative front, the most recent action to strengthen the CRA occurred during the 111th Congress: Representatives Roland Gutierrez (D-TX), Maxine Waters (D-CA), Al Green (D-TX), and Eddie Bernice Johnson (D-TX) introduced H.R. 6334, the “American Community Investment Reform Act of 2010.” H.R. 6334 would have applied CRA to a variety of non-bank institutions including independent mortgage companies, mortgage company affiliates of banks, and securities firms. Applying CRA to a large segment of the financial industry would increase responsible lending and investing in communities by hundreds of billions of dollars, while discouraging unsafe and unsound lending, which the CRA penalizes.

The Treasury Department is currently reviewing the CRA and is concerned about delays in CRA examinations and the merger application process. The Trump Administration is also reviewing examination procedures regarding geographical coverage on exams and how community development investments receive CRA consideration. It is hoped that the administration proceeds carefully and develops recommendations to the regulatory agencies that represent a consensus among stakeholders for improving CRA's effectiveness.

TIPS FOR LOCAL SUCCESS

The CRA is vital to promoting safe and sound lending and investing in communities. Community organizations are encouraged to comment on CRA exams and merger applications. The federal agencies post lists on their websites every quarter of upcoming CRA exams. Additionally, organizations should establish and expand upon dialogues with CRA officers at banks in their service areas to see how banks can increase their support of affordable housing.

WHAT TO SAY TO LEGISLATORS

Legislative efforts to weaken the CRA may arise at any time. Your member should:

- Oppose bills that would weaken or repeal the

CRA. Representative Jeb Hensarling (R-TX), chairman of the House Financial Services Committee, introduced a bill in the 111th Congress that would repeal the CRA. Expect similar bills in the future from opponents of the CRA.

- Support any proposed bills that update and strengthen the CRA, especially expanding it to apply to mortgage companies, investment banks, and insurance companies.

WHAT TO SAY TO REGULATORS

An important means to preserving and strengthening the CRA is to use it. Comment on CRA exams and merger applications. Engage with the regulatory agencies and insist that their CRA exams and merger reviews are rigorous.

FOR MORE INFORMATION

National Community Reinvestment Coalition,
202-628-8866, www.ncrc.org

For CRA exam results, www.ffiec.gov