The Community Reinvestment Act

By Torey Hollingsworth & Jesse Van Tol, National Community Reinvestment Coalition

The Community Reinvestment Act (CRA) of 1977 established continuing and affirmative responsibilities for banks to meet the credit needs of low- and moderate-income 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 some recent revisions to the CRA regulations, and continue to consider others.

HISTORY AND PURPOSE

Congress passed 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, 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 CRA regulations: the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC). 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 the bank, during which the bank is given a grade for their performance.

Under CRA, large banks with assets over $1 billion are evaluated with three tests that measure performance in low- and moderate-income 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 occur every two to five years, depending on the bank's asset size and previous performance.

CRA exams give 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. While 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, CRA has been effective in increasing access to credit and capital for traditionally underserved communities.

For example, BBVA Compass recently became the largest bank to receive a "Needs to Improve" rating, following numerous community groups commenting on the exam. As a result, BBVA Compass has made a commitment to invest $11 billion in low- and moderate-income (LMI) communities, which will include $2.1 billion in mortgage lending in LMI communities, $6.2 billion in loans to small businesses, and $1.8 billion in community development lending.

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 CRA. Studies found that only 6% of all high-cost loans were issued by banks and were considered on bank CRA exams. 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 September 2014, the three federal regulatory agencies released a joint set of proposed updates to the CRA Questions and Answer document, known as the "Q&A." The document provides guidance to banks and their regulators on the real-world applications of CRA. The proposed updates, which were open to public comment, proposed a number of changes, most notably:

- Weakening the emphasis on bank branches as the primary way of providing service to low- and moderate-income communities and placing additional weight on the role of online banking and other alternative service delivery methods. The proposal also encourages banks to provide consumer usage data to the regulatory agencies on these alternative delivery methods.
- Encouraging the use of alternative credit histories, such as rental or utility payments, for borrowers with thin credit files.

While portions of the updates, such as encouraging usage of alternative credit histories, are positive, the de-emphasis on branch banking lowers the incentive for banks to operate branches in low- and moderate-income neighborhoods, where technology may be less accessible. Additionally, the updated Q&A did not address the pressing issue of reforming assessment areas, which determine the geographies where banks are evaluated on their CRA performance, to ensure that banks are being held accountable for all areas where they do business.

Additionally, recent regulatory guidance has failed to address the issue of grade inflation. Roughly 99% of banks receive a passing grade under CRA. While even passing grades can motivate investments in low- and moderate-income areas, a more plausible distribution of grades would resemble a typical bell curve. Here is a chart of grades by regulator from 2012-2014: [INSERT TABLES IF SPACE OR ELSE CUT THIS SENTENCE]

On the legislative front, the most recent action to strengthen CRA occurred during the 111th Congress, Representatives Gutierrez, Maxine Waters (D-CA), Al Green (D-TX), and Eddie Bernice Johnson introduced H.R. 6334, the American Community Investment Reform Act of 2010. H.R. 6334 would also 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 CRA penalizes.

TIPS FOR LOCAL SUCCESS

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.

In addition, community organizations and members of the general public can comment on bank merger applications being reviewed by the federal regulatory agencies. These comments should describe the local credit and banking service needs and whether banks are meeting those needs. 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.

On a local level, the National Community Reinvestment Coalition (NCRC) has worked with community organizations to propose and pass responsible banking ordinances (RBOs). In return for receiving city deposits, banks are required to demonstrate commendable CRA and fair lending performance. NCRC has a model bill and other supporting documents available at http://www.ncrc.org/get-involved/hot-issues-take-action.

WHAT TO SAY TO LEGISLATORS

Legislative efforts to weaken CRA may come during the 114th Congress. Your member should:

- Oppose bills that would weaken or repeal CRA. Representative Jeb Hensarling (R-TX), Chairman of the House Financial Services Committee, introduced a bill in the 111th Congress that would repeal CRA. Expect similar bills in the remainder of the 113th Congress from opponents of CRA;
- Support any proposed bills that update and strengthen CRA, especially expanding it to apply to mortgage companies, investment banks and insurance companies.

WHAT TO SAY TO REGULATORS

In 2014 the federal bank regulatory agencies proposed modest changes to CRA exams, but failed to enhance the consideration of rural areas and small metropolitan areas. Regulators should act immediately to address grade inflation, to better reflect what is happening in low- and moderate-income communities. Additional changes to regulatory guidance are possible in 2015, and NCRC will keep community organizations informed of any developments and will prepare sample comments if the agencies request any comments on proposed changes to examination procedures or guidance. ■

FOR MORE INFORMATION

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

For CRA exam results, www.ffiec.gov

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Grades on Federal Reserve CRA Performance Evaluations (PE), 2012-2014

Regulator	# of PE	# of PE "Outstanding"	% of PE "Outstanding"	# of PE "Satisfactory"	% of PE "Satisfactory"	# of PE "Needs to Improve"	% of PE "Needs to Improve"	# of PE "Substantial Noncompliance"	% of PE "Substantial Noncompliance"
FRB	720	89	12	625	87	5	0.69	1	0.14

Grades on CRA Performance Evaluations (PE) by Regulator, 2012

Regulator	# of PE	# of PE "Outstanding"	% of PE "Outstanding"	# of PE "Satisfactory"	% of PE "Satisfactory"	# of PE "Needs to Improve"	% of PE "Needs to Improve"	# of PE "Substantial Noncompliance"	% of PE "Substantial Noncompliance"
OCC	339	39	11.5	290	85.55	10	2.95	1	0.29
FDIC	994	48	4.83	923	92.86	20	2.01	3	0.3
FRB	**252**	**31**	**12.3**	**221**	**87.7**	**0**	**0**	**0**	**0**
Total	1585	118	7.44	1434	90.47	30	1.89	4	0.25
	Total # of Passing Ratings 2012	**1552**	**Total % of Passing Ratings**	**97.92%**	**Total # of Not Passing Ratings**	**34**	**Total % of Not Passing Ratings**	**2.19%**	

Grades on CRA Performance Evaluations (PE) by Regulator, 2013

Regulator	# of PE	# of PE "Outstanding"	% of PE "Outstanding"	# of PE "Satisfactory"	% of PE "Satisfactory"	# of PE "Needs to Improve"	% of PE "Needs to Improve"	# of PE "Substantial Noncompliance"	% of PE "Substantial Noncompliance"
OCC	351	59	16.81	288	82.05	4	1.14	0	0
FDIC	1157	41	3.54	1082	93.52	31	2.67	3	0.03
FRB	**243**	**36**	**14.81**	**203**	**83.54**	**4**	**1.65**	**0**	**0**
Total	1751	136	7.77	1573	89.83	39	2.22	3	0.17
	Total # of Passing Ratings 2013	**1709**	**% of Passing Ratings**	**97.60%**	**Total # of Not Passing Ratings**	**42**	**% of Not Passing Ratings**	**2.39%**	

Grades on CRA Performance Evaluations (PE) by Regulator, 2014

Regulator	# of PE	# of PE "Outstanding"	% of PE "Outstanding"	# of PE "Satisfactory"	% of PE "Satisfactory"	# of PE "Needs to Improve"	% of PE "Needs to Improve"	# of PE "Substantial Noncompliance"	% of PE "Substantial Noncompliance"
OCC	392	55	14.03	334	85.2	3	0.77	0	0
FDIC	1111	69	6.21	1017	91.54	23	2.07	2	1.8
FRB	**225**	**22**	**9.78**	**201**	**89.33**	**1**	**0.44**	**1**	**0.44**
Total	1728	146	8.45	1552	89.81	27	1.56	3	0.17
	Total # of Passing Ratings 2014	**1698**	**Total % of Passing Ratings**	**98.26%**	**Total # of Not Passing Ratings**	**30**	**Total % of Not Passing Ratings**	**1.74%**	