REGULATORY HEARINGS ON THE COMMUNITY REINVESTMENT ACT

TESTIMONY OF ALAN L. JENNINGS, EXECUTIVE DIRECTOR COMMUNITY ACTION COMMITTEE OF THE LEHIGH VALLEY BETHLEHEM, PENNSYLVANIA

LOS ANGELES, CALIFORNIA 17 AUGUST 2010

With so little time to offer comments based on decades of experience in community development, anti-poverty work and CRA advocacy, I would like to offer a summary of key points and hope that the attachments suffice for details as well as background on our work and the credentials we have earned in the commission of that work.

First, I want to make the most important point: in an era when capital is increasingly a consolidated, centralized and global commodity, with decisions more standardized as well as distant from the community where it is needed, the Community Reinvestment Act is the antidote, localizing credit and fueling a community's economic vitality and, therefore, its quality of life.

Second, this is the most dysfunctional credit market in decades. Regulators have contributed to the credit crunch by contributing to the idea that lending in lower-income communities is not safe and sound. The frustration of community development professionals is that community development lending is safe and sound and none of us intend it any other way. An effective Community Reinvestment Act would be a hedge against the tight credit market for small business loans.

Third, regulators need to be more consistent in their examinations, both among the agencies as well as within each agency. For just one, current example, our community development financial institution is raising capital to increase our maximum loan amount to $75,000 in order to make the kinds of loans banks are not making. The confusion among our best partners in attempting to determine whether it is an investment or a loan has been almost comical and certainly has stifled access to credit.

Fourth, there are many ways in which public disclosure and public participation need to be improved. Public comment periods are not publicized (in our region the only branch in one of our moderate-income boroughs closed and nobody knew until the bank informed their customers, long after the regulator approved; the low-income elderly folks who don't drive never knew what hit them.) Large bank mergers occur, affecting hundreds of communities and hundreds of thousands of people, and no public hearings are held. Not only should hearings be held, but large mergers should only occur when the surviving bank offers a community reinvestment plan that includes public input. And data collection on small business lending needs to improve.

Fifth, when a bank is examined, more effort should be made to seek community input, especially from community-based organizations, community development corporations and CDFI's. Moreover, CRA "agreements" or "commitments" should have some degree of standing during examinations.

Sixth, branches remain the most visible icon of banking, for everything from deposits to mortgages to small business lending. It amazes me that banks are receiving satisfactory CRA ratings despite having not a single branch in a low- or even moderate-income census tract; in some cases, they don't have a branch in an entire city but still get away with it.

Seventh, since the lifting of the Glass-Steagall firewall, the use of branches to determine assessment areas is obsolete. Given technological advances such as computerized geocoding, the regulators should consider any community in which banking activity is occurring, whether it be taking deposits, making loans, wealth management, ensuring properties or any other of the various financial services.

Finally, I agree with the National Community Reinvestment Coalition (NCRC) that CRA exams must examine lending and service to communities of color and that CRA evaluations include assessments of lending to minority-owned and women-owned small businesses since those businesses have been starved for credit in my community and others.

Banks' funds don't come from the government or fall like manna from heaven – they come from depositors, depositors whose income and savings should rightly be invested in the communities from which those deposits are generated. We could be doing a much better job of making sure those investments create a return in their own neighborhoods.

Thanks for this opportunity.

REGULATORY HEARINGS ON THE COMMUNITY REINVESTMENT ACT

ANSWERS TO QUESTIONS

LOS ANGELES, CALIFORNIA
17 AUGUST 2010

Geographic coverage

Should geographic scope differ for institutions that are traditional branch-based retail institutions compared to institutions with limited or no physical deposit-taking facilities?

Since the lifting of the Glass-Steagall firewall, the use of branches to determine assessment areas is obsolete. Given technological advances such as computerized geocoding, the regulators should consider any community in which banking activity is occurring, whether it be taking deposits, making loans, wealth management, ensuring properties or any other of the various financial services.

CRA performance tests, asset thresholds and designation

Should the agencies revise the criteria used to assess performance under the current CRA tests: Small institution; intermediate small institution; large institution; wholesale and limited purpose institution or strategic plan? Are the current asset thresholds that apply to institutions and tests appropriate?

It is clear to any community development practitioner that "small institutions" are far less sophisticated at community reinvestment and far less aggressive as well. While declaring themselves "community banks," it often appears that they flaunt the regulators' more limited CRA requirements.

Affiliate activities

Currently, the agencies consider affiliate activities only at the request of the related depository institution. Should the agencies revise the regulation and, instead, require that examiners routinely consider activities by affiliates?

Absolutely.

If so, what affiliates or activities should be reviewed?

Any activity generally perceived as "financial services" should be reviewed.

How should consideration of affiliates affect the geographic coverage of CRA assessments?

Please see "Geographic coverage," above.

Small business and consumer lending evaluations and data

Should the agencies revise the evaluation of and/or data requirements for small business and small farm lending activities or for consumer lending activities, including activities or products designed to meet the needs of low- and moderate-income consumers? If so, what changes are needed?

We support the position of the National Community Reinvestment Coalition, of which CACLV is a member, on the issue of data collection.

Access to banking services

How should access to financial services be considered under CRA? What changes would encourage financial institutions to expand access to un-banked and under-banked consumers in a safe and sound manner and to promote affordable, safe transaction and savings accounts? Should the agencies revise CRA to include additional regulatory incentives to provide access to services for historically underserved and distressed areas?

Besides much tougher statutory restrictions on high-cost, predatory financial services, the primary antidote to these services is access to branches. Such branches need to reflect the culture of their markets and employ people who look like those they serve, speak similar languages, and, preferably live in the same neighborhood. Banks, like most other commercial enterprises, know how to compete for the customers they want.

Community development

What are the opportunities to better encourage community development loans, investments and services to support projects that have a significant impact on a neighborhood? Should the agencies consider revisions to the Community Development Test or to the definition of community development? How could the rules most effectively balance support for community development organizations of different sizes, varying geographic scope, and in diverse rural and urban

communities? How might they balance incentives for meeting local needs as well as the needs of very distressed areas or those with emergency conditions?

It is our impression that banks, large and small, and even within the same institution, are confused by the investment test. Our federally-certified community development financial institution has had great difficulty raising capital to make the kinds of loans banks appear unwilling or unable to make. Our CDFI has written off just 5 of 80 loans, totaling less than $55,000 out of $1.5 million making loans only to borrowers who have been rejected by commercial banks. While this performance is competitive with commercial bank portfolios, we have had great difficulty raising new capital to create a new product with a maximum loan amount of $75,000. While some institutions in our market simply do not have a commitment to CRA, those that do often have great difficulty navigating the complexity of community development investments. Both within the institution, among regulators or even between examiners within single regulatory agencies, one is unlikely to get anything resembling a consistent answer.

Ratings and incentives

Is there an opportunity to improve the rules governing CRA ratings to differentiate strong, mediocre, and inadequate CRA performance more consistently and effectively? Are there more effective measures to assess the qualitative elements of an institution's performance? Are there regulatory incentives that could be considered to encourage and recognize those institutions with superior CRA performance?

On this single topic, CACLV differs with NCRC. We believe those institutions with outstanding ratings should be given some degree of protection against challenge; otherwise, why would a bank pursue excellence in community reinvestment? However, under such a regulatory regime, an outstanding rating should reflect actual, uninflated, outstanding performance.

A wide range of incentives are available and should be explored, including more time between evaluations, discounts on deposit insurance premiums, and extra points on proposals for various tax credits and Federal Home Loan Bank applications.

Effect of evidence of discriminatory or other illegal credit practices on CRA Performance Evaluations

Currently, the agencies' evaluations of CRA performance are adversely affected by evidence of discriminatory or other illegal credit practices as outlined in the CRA rules. Are the existing standards adequate? Should the regulations require the agencies to consider violations of additional consumer laws, such as the Truth in Savings Act, the Electronic Fund Transfer Act, and the Fair Credit Reporting Act?

Should the regulations be revised to more specifically address how evidence of unsafe and unsound lending practices adversely affects CRA ratings?

Regulators should publicly disclose (see below) any and all violations of consumer protection and anti-discrimination laws.

CRA disclosures and Performance Evaluations

Should the agencies consider changes to data collection, reporting, and disclosure requirements, for example, on community development loans and investments? What changes to public Performance Evaluations would streamline the reports, simplify compliance, improve consistency and enhance clarity? Should the agencies consider changes to how Performance Evaluations incorporate information from community contacts or public comments?

The regulators need to do a much better job of publicly disclosing changes in banking activity. For example, depositors are informed that the only branch in their community is closing long after any public comment period has ended and regulatory approval granted. Depositors should be informed by the bank that approval to close the branch is being sought and that depositors can offer comments to the regulator.

Also, few consumers are aware that community reinvestment performance is even examined, much less rated; fewer still are aware that the rating is public information.

When large banks merge, it should be standard operating procedure for the regulators to facilitate public scrutiny of the merger. This should include public hearings and require the new and/or surviving institution to develop a community reinvestment plan to which regulators hold the institution accountable.

MICROENTERPRISE DEVELOPMENT PROGRAMS

COMMUNITY ACTION COMMITTEE OF THE LEHIGH VALLEY

As the parent corporation of three subsidiary organizations dedicated to small business development, CACLV's community planning and advocacy initiatives often focus on community and economic development emphasizing microenterprise development as an anti-poverty strategy.

- Establishment of a peer review process for rejected small business loans, with 11 financial institutions participating monthly.

- Expanded lending capacity through negotiated CRA agreements with several banks resulting in, among other things, $5 million in lending through the Lehigh Valley Loan Pool.

- In 2010, CACLV's Small Business Intervention Specialist provided in-depth technical assistance to over 100 businesses and mini-grant funding (totaling $120,770) to 50 microenterprises to help them survive the current recession.

- Planning for the establishment of a green business district in Easton's West Ward.

- Creation of the Microenterprise Marketing Council, where experts share professional insight into marketing efforts of microenterprises.

- Active participation in the Pennsylvania Microenterprise Coalition, providing advocacy, education, and leadership on behalf of microenterprise development organizations.

COMMUNITY ACTION DEVELOPMENT CORPORATION OF ALLENTOWN

CADCA offers entrepreneurial training and technical assistance and a range of community development initiatives including the Main Street Program, a Neighborhood Partnership Program called the Allentown Neighborhood Development Alliance generating $1.5 million in seed funding over six years, and the implementation of a 5-year Jordan Heights revitalization project, which received $630,000 in seed funding from the Wachovia Regional Foundation.

- 396 entrepreneurs have completed CADCA's Start Your Business class and 732 individuals received business technical assistance.

- At least 250 businesses have been created with an average 4-year survival rate of 62.5% (compared to the national average of 44%); more than 200 additional businesses were improved or expanded.

- Decrease in the commercial vacancy rate on Seventh Street (ie, "Main Street") from 20% to 2% in just 4 years.

- Recognition as the best Main Street commercial façade renovation program statewide, with 10 façades completed, 5 in progress, and 11 completing the application phase; additionally, our Main Street manager was named tops in Pennsylvania in 2008.

COMMUNITY ACTION DEVELOPMENT CORPORATION OF BETHLEHEM

CADCB offers entrepreneurial training and technical assistance and a range of community development initiatives including a Neighborhood Partnership known as Southside Vision 2014 with $1.9 million in seed funding from private businesses.

- 133 entrepreneurs have completed CADCB's Start Your Business class, 107 have received technical assistance, and 52 have opened businesses.

- Development of the Lehigh Valley Microenterprise Expo, attracting hundreds of attendees and 50 microenterprises each year.

- Credit counseling to 80 entrepreneurs on specific steps to make concrete improvements in their credit scores.

- Arranging certification for 20 women- and/or minority-owned enterprises.

THE RISING TIDE COMMUNITY LOAN FUND

The Rising Tide provides loans of up to $35,000 to microenterprises that are unable to qualify for conventional loans, as well as entrepreneurial education, loan packaging, and technical assistance to emerging and existing business-owners.

- 79 loans totaling over $1.5 million were awarded to 70 businesses. Of these, 34 have been paid in full, while only 4 loans (totaling $30,218) have been charged off, a ratio of only 1.99%.

- Created at least 128 jobs and retained 98 jobs for an average of 3.2 jobs for every business assisted.

- 66% of loans have been made to woman-owned businesses, 42% were made to minority-owned businesses, and 66% were made to low-income individuals or businesses located within low-income census tracts.

- Currently raising capital to create the Small Business Opportunity Fund to meet market demand for loans of up to $75,000.