**Comments for Hearing re Community Reinvestment Act**
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- My name is James Zahradka, and I'm Supervising Attorney at two programs of the Law Foundation of Silicon Valley—Fair Housing Law Project and Public Interest Law Firm
    - I'm also a member of the Board of Directors of the California Reinvestment Coalition
- At the Law Foundation, we serve thousands of Silicon Valley residents every year who are among the most disenfranchised members of our communities
    - Many of our clients are poor, immigrants, or limited English proficient
    - Others are abused and neglected youth and people with HIV, AIDS, diabetes, or mental health or developmental disabilities
    - Our clients are among those most in need of the job creation, affordable housing and vibrant communities that CRA seeks to create and promote
- Today I'm going to speak to a specific issue as a fair lending practitioner
    - Sine 2003, we've represented dozens of families—almost all LEP immigrants—who've been preyed upon by unscrupulous mortgage brokers and lenders
        - These families were induced to take out loans that have caused them to lose hundreds of thousands of dollars in equity, their creditworthiness, and even their homes
            - All too often it seems clear that these homeowners were targeted based on their race or national origin for these inferior loans
        - I don't have to tell you how disruptive this has been for not only these families, but their communities and our entire nation
- So in this context, and with an eye to preventing another such catastrophe, it's critical for regulators to **conduct more rigorous examinations regarding fair lending practices and act upon evidence of discrimination**
- As you know, the CRA provides that banks' CRA ratings can be downgraded if discrimination and illegal lending were widespread and the lender did not take action to end the practices
    - There is, however, no evidence that the fair lending reviews conducted concurrently with CRA exams are rigorously testing for abusive and discriminatory lending
    - In fact, quite the contrary; in most cases, even for the largest banks in the country, the fair lending section of the CRA exam reports in cursory fashion—sometimes as little as one sentence—that the regulatory agency tested for evidence of illegal and discriminatory lending and that no such lending was found
    - With such an apparently cursory, non-transparent process, how can the public have confidence that the regulatory agency performed a detailed

    anti-discrimination analysis, or that the bank is really adhering to fair lending standards?

- There are positive counter-examples, which regulators should seek to emulate going forward
    - Federal Reserve Bank of Richmond's CRA exam 1996 of Signet Bank in 1996
    - Conducted matched file reviews of more than 300 loan applications
    - Used regression analysis, seeking to determine if race was a factor in loan rejections
        - The analysis considered variables not available in the HMDA data such as credit histories, the stability of employment, and applicant debt obligations
    - This kind of rigorous review is what is required if the regulators are serious both about substantively rooting out lending discrimination and in generating public confidence that they are taking this issue seriously
        - Enhancements to HMDA mandated by Dodd-Frank and additional improvements being considered by the Fed should make this task easier
- The last time I was in this room was in 2008, when the Fed was holding hearings regarding Bank of America's proposed acquisition of Countrywide
    - At that time, profound problems had already been revealed with Countrywide's lending practices, as evidenced by the attorney generals' massive settlement which was entered a few months after the acquisition, and even more directly by the NY Attorney General's suit against them settled in 2006
    - As noted in the Fed's order approving the acquisition, many commenters—citing HMDA data—drew the Fed's attention to evidence of problematic lending by both CW and BofA
    - However, when ultimately approving the merger, the Fed basically threw up its hands and said, "HMDA data doesn't allow us to determine if fair lending violations are taking place"
        - It was an interesting conclusion since the NY AG found enough there re CW to file a lawsuit and secure a major settlement 2 years earlier
        - The Fed did not conduct a Signet Bank-style review which might have revealed such disparities
    - What might have happened had the Fed done a detailed analysis, found fair lending disparities in either or both institutions, and denied the application?
        - Might we have seen some real accountability for those who were responsible for the subprime crisis?