

**Statement
Of
Vickie Tassan
Ally Bank CRA Executive
Federal Reserve Bank of Chicago
August 12, 2010
Joint Agencies' Hearings on CRA**

Overview

Good afternoon. I want to thank the members of the FFIEC, and in particular the Federal Reserve Bank of Chicago, for organizing and convening today's CRA Hearing. I also want to take this opportunity to commend the regulators for all the work done on CRA to date and the current thoroughness of the exam process.

I am Vickie Tassan, the CRA Executive of Ally Bank. Ally Bank is headquartered in Midvale, Utah and is chartered in the State of Utah by the Utah Department of Financial Institutions. The UDFI regulates 29 banks, 51 credit unions, 25 industrial banks and two trust companies. There are also nine national banks, six out-of-state banks, 49 federal credit unions and seven federal savings and loans operating within the state. As a result, we have 51 institutions subject to CRA in a state with approximately 2.8 million people.

In 2009, we re-launched our on-line bank with a new brand, Ally Bank, and a consumer promise for high-service and low-hassle banking that is resonating with our customers. Ally Bank has more than 470,000 customers with deposits coming from all 50 states. We provide competitive interest rates for deposit products with 24/7 live customer service and in 2010 launched a low-cost checking account with no minimum balance, unlimited check writing, no monthly maintenance fee, free online bill pay and free ATM use at any bank in the United States.

Our lines of business include retail and wholesale auto financing and home mortgage products. As of June 30, 2010 bank assets were \$61.7 billion and deposits were \$31.9 billion.

During my presentation today, I am going to focus primarily on two issues: Geographic Coverage and Access to Banking Services. And, I would like to note that my comments today are based on a 25-year career as a CRA or community development leader at several large and regional financial institutions prior to joining Ally Bank.

The Community Reinvestment Act (“CRA”) is now more than 30 years old. Some modest enhancements to administering the Act took place primarily through the regulatory and Q&A processes but there remains room for improvement. Today, CRA is in the culture of financial institutions and is responsible for the revitalization or creation of millions of units of affordable housing, the support and establishment of small businesses, and job creation through economic development opportunities.

When I was first assigned to support CRA in 1986, two things come to mind: 1) the exam management process was handled only by the Legal Department and consisted primarily of a review of the public file and the CRA notice and not much else and, 2) we did not have any personal computers in the department/bank.

Typewriters were the most advanced office technology we had. I got my first computer thanks to Fannie Mae. My manager visited with them and came back saying “maybe we should get some of those computer things.” For some of you here, you know that the computer had a green screen and a bright green cursor. The monitor was HUGE. But, what an improvement! I say that because both technology and the way in which consumers conduct their banking activities have greatly changed.

So, on to some of the questions from the agencies.

Question 1: Geographic coverage

What are the best approaches to evaluating the geographic scope of depository institution lending, investment and/or deposit-taking activities under CRA? Should geographic scope differ for institutions that are traditional branch-based retail institutions compared to institutions with limited or no physical deposit-taking facilities? Should it differ for small local institutions compared to institutions with a nationwide customer base? If so, how? As the financial services industry continues to evolve and use new technologies to serve customers, how should the agencies adapt their CRA evaluations of urban and rural communities?

So, for the first issue of Geographic Coverage, here are my thoughts. Ally Bank has no brick and mortar banking centers but we are strongly committed to CRA. I personally would not have joined this bank a year ago if this were not true.

Ally Bank takes deposits from all over the country. But we have only one “office” by definition in Midvale, Utah, located in the Salt Lake City MSA. We have no physical deposit-taking facilities. We are not a traditional branch-based retail institution and we are considered a large bank with our current deposit base.

CRA needs to reflect the many new ways a customer can do business with a financial institution---by telephone, by mobile phone and via the Internet. The lack of a brick and mortar branch does not eliminate nor decrease the CRA responsibilities of the less traditional banks. At the same time, the banking regulators must consider how less traditional financial institutions serve the low- and moderate income populations and geographies.

It is important to maintain the focus of CRA on LMI borrowers and neighborhoods in local markets where the financial institution has a physical presence---in our case six counties in Utah.

But, in the case of Ally Bank and similar institutions, is that enough? We have other corporate centers with large concentrations of employees and substantial CRA opportunities. We also want to serve LMI markets in these communities and receive CRA credit at the same time.

To this end, we submitted a CRA Strategic Plan to the FDIC for approval expanding our CRA Assessment Areas. The Strategic Plan provides us the opportunity to do more CRA lending and investments beyond our one office in Utah within safe and sound business practices. The Strategic Plan also will establish a \$25 million Program Related Investment Fund to provide investments to CDFIs that will leverage our dollars and expand our reach into LMI markets.

Changes in the industry over time meant there are many other financial institutions with little or no face-to face interaction with deposit customers. Unless operating under a CRA Strategic Plan, I believe these institutions should be examined under the Community Development test with a focus on community development loans, investments and services that occur across the country. This provides additional opportunities to extend debt and equity into even more under-served communities where some locally-chartered banks have closed or left. Also, this approach supports investment in regional and national community development funds, a proven method to increase capital in LMI markets.

As noted in the first question, how can financial institutions leverage new technologies to serve these customers and how should the banking agencies evaluate CRA in these communities? It is easy to assume that LMI consumers do not or cannot access technology. That is an incorrect assumption.

In early July, the Pew Research Center said in a recent survey of nearly 2,500 adults the low-income segment is the fastest adopter of mobile web devices. The survey found that 46% of households earning less than \$30,000 a year are wireless Internet users.

Recently, The One Economy Corporation, a global nonprofit that leverages the power of technology to improve the lives of low-income people, and the Broadband Technology Opportunities Program (BTOP) launched a \$51.5 million initiative to bring affordable high-speed internet access, digital literacy training, local online content and more to low-income families across the country. The BTOP is an historic alliance of civil rights organizations including the National Urban League, the NAACP, the National Council of La Raza, the Asian-American Justice Center and the League of United Latin American Citizens.

The headline is that the geographic scope or coverage for traditional branch-based retail institutions differs from that of institutions with little or no physical deposit taking facilities. However, the CRA obligation remains and CRA should include how technology can help meet community credit needs.

Question 5: Access to Banking Services

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

This is an area needing more focus in a CRA exam. Of course, identifying a certain activity as counting under the CRA is only a first step. As we all know, what matters is how much “weight” is given i.e. how much does the activity impact the CRA rating for the Services Test.

For most financial institutions, the Services Test rating is primarily based on the distribution of branches in LMI census tracts regardless of whether the area is under-banked and in need of additional physical banking locations. Instead, the regulatory agencies should consider the community needs, including business activity, balanced against the cost to serve and consider the use of a small scale branch or stand-alone ATMs for these communities. With the current level of banking technology, consumers can do most transactions on-line or at the ATM. This approach allows for institutions to build business and the expansion into a full-service branch if the business activity supports it.

At Ally Bank, with no brick-and-mortar-branches, the Services Test is driven by volunteer hours for CRA-qualified activities to community-based organizations. In Midvale, Utah, we have just a few more than 50 employees with the responsibility to deliver service hours for the entire Bank. We have other corporate and Bank employees located outside Utah under-taking CRA-qualified activities, as well.

Our CRA rating is driven by service hours but deposit and savings products for LMI customers factor in as well. We provide free interest checking and affordable savings products to support the goal of providing access to banking services.

Question 7: 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 institutions' performance? Are there regulatory incentives that should be considered to encourage and recognize those institutions with superior CRA performance?

In this area, CRA needs to be simplified. After the original regulation, the lists and lengths of the Q&As have grown over time to include TMI (too much information) to the degree that costs to analyze, understand, and use the rules and regs are overwhelming.

The emphasis should be on community impact and community needs ---debt and equity—while assessing business opportunity and risk. Currently, the bank’s performance context documentation is not used to adjust quantitative scoring. And yet, at the FFIEC CRA Conference in New Orleans in March, the headline was “performance context” and how important it is to receiving the best possible rating for a bank.

It takes substantial resources---human, technological and financial---to receive an Outstanding rating. The CRA regulations should provide clear incentives to an Outstanding CRA performance. Examples of incentives include: 1) a safe harbor for regulatory applications such as during mergers; 2) longer periods between CRA exams; and 3) streamlined subsequent examinations.

Question 8: 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 lending discrimination 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?

CRA is effective because of the clear focus on low- and moderate-income consumers and geographies. CRA needs to continue that same focus on extending capital into communities and providing banking services to the LMI target audience.

It is important to maintain the integrity of the separate laws including CRA and the others mentioned in the question. If the existing consumer protections and enforcements are found to be lacking, strengthen these instead of attaching them to CRA.

Again, thank you for this opportunity. I look forward to questions after the completion of the panel.



CAFHA Members

Access Living
 Chicago Lawyers' Committee for Civil Rights Under Law, Inc.
 Cook County Commission on Human Rights
 Community and Economic Development Corporation (CEDA)
 Diversity, Inc.
 Fair Housing Center of Lake County
 HOPE Fair Housing Center
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 The John Marshall Law School Fair Housing Legal Support Center
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 Woodstock Institute

Associate Members

Baird & Warner

August 9, 2010

Ms. Jennifer J. Johnson, Secretary
 Board of Governors of the Federal Reserve System
 20th Street and Constitution Avenue, NW
 Washington, DC 20551

RE: Docket No. R-1386

Dear Ms. Johnson:

The Chicago Area Fair Housing Alliance (CAFHA) is a consortium of over 20 organizations and government agencies in the Chicago region dedicated to the promotion of fair housing. CAFHA has been a vocal supporter of improved and strengthened fair lending and community reinvestment regulation to ensure that people of all races and incomes receive fair and sufficient access to credit and financial services, especially as this relates to the mortgage market.

CAFHA is contacting you to express its support for the recommendations made by the Woodstock Institute, which is a member of CAFHA. We concur with the recommendations of the Woodstock Institute and refer you to their letter regarding the Community Reinvestment Act (CRA) including:

- Expanding the scope of the CRA to include additional types of financial institutions beyond federal depositories;
- Expanding the current definitions of assessment areas to include any market in which an institution has a 0.5% market share or greater;
- Improving the service test;
- Improving the data disclosure requirements for small business lending; and
- Improving the existing ratings and incentive structure.

In addition, we would like to highlight the dire need to make race explicit in the CRA. Throughout the history of the CRA, race has served as an important factor in access to credit and financial services. Indeed, the impetus of the CRA was to address the lack of these services in low-income communities of color. Unfortunately, the CRA omitted an explicit mention of race in its language. Arguably, this was due to an assumption at the time of its enactment that low-income communities and minority communities were one in the same.



However, over time, the omission of an explicit racial assessment in the CRA has resulted in regulation that has allowed financial institutions to ignore the racial impact of their products and services except in cases where a fair lending or equal credit violation may occur. What has resulted is a dual credit and financial services market that has only difficult, expensive, and reactionary tools to hold large corporations accountable for their actions. Predictably, this has meant that minorities have fewer banking options and higher barriers to credit. This is especially true for African Americans and Latinos who suffer in a second-class status exacerbated by patterns of segregation.

Many studies have shown that regardless of income and wealth, African Americans and Latinos are often offered less-advantageous products and services. Frequently, studies show that low-income whites receive better products and have access to more services, including bank branches, than upper-income minorities. In particular, a study from May 2010¹ found that prime lending in minority communities was decreasing at more than twice the rate of prime lending in white communities during the period of 2006 through 2008. Refinancing in minority communities decreased at almost five times the rate of the decrease in white communities. Alarming, this trend was far worse for the nation's four largest banks where lending trends occurred in opposite directions with minority communities facing declines while white communities saw increases.

This failure in the market continues the failures that were established through government policies including racially motivated redlining of the Home Owners Loan Corporation and Federal Housing Administration². Adding race to the CRA will therefore address both the failures of the market to provide responsible products and services to communities of color and the role that federal policies have played in cementing this racial disparity.

This simple addition of racial analysis in the CRA will allow regulators and advocates to hold financial institutions accountable for any failures to provide responsible products and services in communities of color. In fact, advocates already often attempt to provide this analysis and seek remedies in their negotiations with banks and lenders, only to be rebuffed with explanations that the CRA does not address racial disparities. I have experienced this situation numerous times. Other advocates have also reported that their attempts to address inadequate financial services in communities of color were ignored or explicitly snubbed.

Furthermore, it would be of even greater value for the CRA to explicitly promote opportunity-based activities that affirmatively furthered fair housing and promoted regional equity in the assessed areas of financial institutions. This should include incentivizing grants and investments that would promote affirmatively marketed low-income housing in predominantly white and middle class communities, small business investments in communities of color, and support of financial services that reduce the income and wealth gaps between white communities and communities of color. This would ensure that regulators are complying with the Fair Housing Act by affirmatively furthering fair housing rather than investing in projects that perpetuate segregation and concentrations of poverty in low-opportunity neighborhoods.

¹ Woodstock Institute, et al. (2010) Paying More for the American Dream IV: the Decline of Prime Mortgage Lending in Communities of Color. Available at www.woodstockinst.org.

² Adams, Stella (2009) Putting Race Explicitly into the CRA. Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act. p.167-9.



Thus, CAFHA concludes that the CRA cannot be fully effective unless it explicitly includes race as a factor of analysis and incentivizes grants, investments, lending, and services that encourage the affirmative furthering of fair housing. CAFHA urges legislative and regulatory action to secure the inclusion of race in the modernization of the CRA.

Sincerely,

Rob Breymaier, President
Chicago Area Fair Housing Alliance

MEMORANDUM

To: Jennifer Kerslake
From: Laura Page
Date: August 9, 2010
Re: Updating CRA - Oral Testimony for August 12

Good afternoon, my name is Laura Page and I am a policy advisor for Illinois State Treasurer Alexi Giannoulias. I am here on his behalf today to thank you for hosting this very important hearing on modernizing the regulations that implement the Community Reinvestment Act. Our office works with banks every day in a variety of ways and we are committed to making sure that the banks we work with are doing right by their communities. By modernizing the CRA regulations we can make bank ratings more transparent and useful to consumers. In addition, a more transparent process will lead to more accountability – making sure banks are doing what they say, and making a positive impact on their communities.

While there is much to be done on the legislative side of this important law, including passage of a fair, safe, and more relevant version as proposed in the Community Reinvestment Modernization Act of 2009, (H.R. 1479), our focus today is the importance of building transparency within CRA, specifically with regard to qualifying activities, ratings, and reporting.

* * *

When more than 95% of banks in Illinois receive a grade of Satisfactory or better on the CRA exam, it appears they are already doing enough. With the exception of a few progressive financial institutions, however, we know this isn't the case. There is still an overwhelming need for affordable credit and financial services in low-income neighborhoods. Community outreach groups and consumer advocates, as well as individual consumers, want to see what that grade of Satisfactory actually means.

When CRA ratings were first made public, in 1990, around 10% of all financial institutions failed their exam. Today, that number is less than 2%. But millions of underserved Americans go without access to credit, and struggle each month to make ends meet. Where are we falling short?

In the State Treasurer's Office, we only want to do business with financial institutions that show commitment to their communities. Since last June, the state has required all banks that received or renewed state deposits to sign a CRA pledge that goes beyond simply earning a "Satisfactory" rating. It requires banks to serve the Illinois residents who need it most, by providing non-predatory foreclosure prevention products, conventional banking services to the unbanked, and small business loan and economic development products.

We're doing what we can at the state level to ask for community input and hold financial institutions accountable to their neighborhoods. But new federal regulatory reforms will help make clearer distinctions – for our office and all Illinois residents – between financial institutions that are really going the extra mile, and those that achieved “Satisfactory” by the skin of their teeth.

When regulators conduct CRA exams, they assign different weights to activities under the service and lending tests, but the rating reports do not clearly show how these weights add up to the total score. And because there are only four possible ratings, there is little indication of whether a “Satisfactory” financial institution actually fell one point short of Outstanding, or just a hair above Needs to Improve. Further stratification would help the public understand these ratings, and a numeric scale of 1 to 100, rather than 0 to 24, would be far more intuitive as a grading system.

In addition to making the rating system more transparent and intuitive, it is important to remain focused on the purpose of CRA and clarify what qualifies for CRA credit. We have come a long way since 1977. However, thousands of American communities still lack access to the most basic of financial services. The exam has long been focused on the lending test, diminishing other indicators of community development provided by the service test. Giving the service test more weight will encourage financial institutions to help serve low and moderate income communities – one individual at a time.

To give some examples, in 2009, my office launched a new micro-loan program, which encourages financial institutions to offer safe, affordable alternatives to payday loans. In partnership with the Illinois Asset Building Group, we promote these Small Dollar Loans across the state as a way for individuals to gain access to short-term, non-predatory loans when finances get tight between paychecks.

In addition, Illinois is the third state in the nation to develop a state-wide Bank On initiative, which pairs underserved, qualified individuals with new checking accounts. Nearly 370,000 Illinois residents rely on check cashing services to manage their monthly finances, spending an average of \$575 per year just to access their own paycheck. Participation in Bank On Illinois is an obvious way for banks to earn CRA service credit.

Finally, through our Linked Deposit programs, which provide state deposits to qualified financial institutions, banks can offer lower-interest loans for consumers, small businesses, and nonprofits, enabling Illinoisans to gain access to credit during tough economic times.

Activities like these should be counted toward CRA in a more meaningful way, to hold banks to a higher standard, and to highlight those institutions that are putting their money where their mouth is.

Finally, while these changes would make the process more transparent and the banks more accountable, we need to make sure that the resulting data is more accessible.

Although the FFIEC collects aggregate information from each the agencies and posts CRA ratings and high-level summary data on their website, there is no one-stop shop for obtaining full written reports. We propose a simple upgrade: the FFIEC searchable database should include full reports from all of the agencies, which in turn should require identical reports from their institutions. This will make it easier for the public and policymakers alike to make better decisions about where to do business.

Treasurer Giannoulis applauds the regulatory agencies for their efforts to modernize CRA and willingness to hear public comments at this critical juncture in our nation's financial history. We look forward to working with each of you as we strive to better serve the needs of American communities.



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Individual Presentation by Elisabeth Risch
CRA Interagency public hearing
August 12, 2010
Federal Reserve Bank of Chicago

Good afternoon. My name is Elisabeth Risch and I work at the Metropolitan St. Louis Equal Housing Opportunity Council. We are a nonprofit fair housing organization that works in the St. Louis metro area in Missouri and Illinois.

Our organization started working with the Community Reinvestment Act with the release of a report entitled *Bailing Out on Community Reinvestment* in December 2008 that examined the CRA performance of eight banks in St. Louis that had applied for or were considering applying for funds through the US Treasury's Capital Purchase Program. Based on the widespread racial and income disparities we found, we convened the St. Louis Equal Housing and Community Reinvestment Alliance, known as SLEHCRA.

We are a coalition of fourteen non-profit organizations working to increase investment in low-income and minority communities by ensuring that banks are meeting their obligations under the Community Reinvestment Act. Throughout the past year we have regularly submitted public comment letters on banks CRA performance evaluations and applications for banks operating in the St. Louis metro area.

From what we've seen of the banking environment in St. Louis, it is absolutely necessary to improve and strengthen CRA for the benefit of providing fair and equitable resources and services for our entire community.

Our organization has a number of recommendations for the improved CRA regulation that are particularly relevant to our work in St. Louis.

1. Geographic Coverage

The Assessment Areas of institutions on CRA exams must be expanded to include the geographies where the bank is doing a significant amount of lending. The current regulation of basing assessment areas on branch locations is not sufficient in addressing how the institution is fully meeting the credit needs of the community. Instead, banks need to be evaluated in all areas where they have a significant presence and make a significant number of loans based on their market share.

In St. Louis, geographical disparities within banking services have been and continue to be a significant issue of concern. St. Louis has racial and income differences that vary between counties in the metropolitan area. For example, the City of St. Louis is a separate county from St. Louis County and includes more of the low- and moderate- income geographies and areas of



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high minority populations. We have a number of cases where banks completely exclude the City of St. Louis from their assessment area while including the surrounding higher wealth and mostly white counties, even while they do a significant amount of lending within the City. One such case appeared to draw the line of their Assessment Area in the shape of a bowtie that excluded most of the predominately minority and low-income areas. The regulatory agencies cannot accept this kind of gerrymandering to avoid serving the low- and moderate- income communities. This takes us back to the days of redlining, which is precisely why CRA was originally enacted.

2. Considerations for lending and services to minorities:

The CRA regulation needs to include consideration of service and lending to minorities. The fair lending test, while helpful in identifying some discriminatory practices, does not account for an institutions lack of service to minorities.

St. Louis has a banking atmosphere that has continuously excluded minority borrowers and communities. There are widespread disparities in terms of bank locations, assessment areas, and lending for minorities. Many banks have lending percentages well below the aggregate performance. But, taken on a whole, the aggregate data shows inadequate lending to minorities throughout the entire metropolitan area.

Low percentages of loan applications and originations signal to us a lack of marketing and service to minority borrowers and communities. Reforming the CRA regulation to consider service and lending to minorities on CRA exams would provide these communities fair and equal access to mainstream financial services.

3. Affiliate activities:

CRA evaluations must include the activities of all of a company's affiliates. In order to fully evaluate an institution's lending patterns, we need to see the broader picture of all related transactions.

4. CRA ratings and exams

Banks have consistently received Satisfactory ratings on their performance evaluations. Nationally, 98 to 99% of banks have received a passing rating. In St. Louis it's clear that not all banks are of satisfactory standards. For example, one bank that we referred to the Department of Justice because they had not approved a single mortgage loan to an African American borrower in five years, even though their assessment area covered almost all of St. Louis County and parts of St. Louis City, was receiving Satisfactory ratings. The bank with an assessment area that resembled a bowtie also was receiving Satisfactory ratings. When we discussed with them our



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concerns about their assessment area, we were consistently told: “Our regulator approved it.” We recommend additional ratings, harsher scrutiny, and more rigorous exams for all banks.

5. The Role of Community Organizations

As a relatively new coalition working on CRA issues, we have been frustrated with some of the regulatory responses to our public comments. We would like the regulators to engage with community groups in a meaningful and transparent way throughout the process of CRA examinations. We recommend the regulators include a substantive summary of public comments received within a bank’s performance evaluation. More accurate dates of CRA performance evaluations should be posted. Email addresses should be published on websites for each regulator’s regional director to receive public comments. Further, we ask the regulators to defer processing of bank applications during a fair lending investigation by HUD or the DOJ. We ask the regulator not to make decisions on applications until fair lending complaints are resolved.

We applaud and encourage the regulatory agencies in their rulemaking for a stronger CRA, and I thank you for the opportunity to speak today.

Thank you.