

Testimony of:

**Thomas P. FitzGibbon, Jr.
Managing Director
First Michigan Bank
Troy, Michigan**

**At the Federal Reserve Bank of Chicago
Regarding: R-1386
Thursday, August 12, 2010**

Thank you for the opportunity to testify today as part of this series of important hearings on modernizing the Community Reinvestment Act. I present this testimony not as a representative of the institution that I work for, nor the banking industry, but I do think that my testimony reflects the concerns of the practitioners in the field of Community Development from the banking and nonprofit housing and economic development industry. For several years I have been involved in community development nonprofit leadership, while providing Executive and Board of Director roles for publically traded and privately held regulated depositories.

My testimony will focus on the need to address the need to expand the organizations and institutions that should be covered by the Community Reinvestment Act and the methodology for evaluating the performance of those institutions and the current institutions covered by the Act and the Rules.

Although the Act itself has remained virtually unchanged, the Rules for enforcement have changed several times since the Act was passed in 1977. Recent Rules changes adopted by the FFIEC (with the obvious exception of the Office of Thrift Supervision) changed the institutional asset size examination rules and other

The Community Reinvestment Act and the Rules that govern compliance needs to be modernized to reflect the changes that have occurred in the last 33 years.

The world has changed dramatically since the CRA was passed into law. The major changes that occurred in the Rules in 1991 as a result of the last collapse of the financial services sector requiring a more significant review of the twelve assessment factors and the 1995 Performance Context changes reflected the concern that regulated depositories should be measured for performance to ensure that they were lending, investing and servicing customers in their CRA delineated markets. Since that time the migration to internet banking, wholesale and limited-purpose banks, as well as the explosion of barely regulated mortgage brokers and wholesale mortgage banking has all but diluted the impact originally intended by Congress. These situations combined with the significant consolidation of the regulated depositories resulting in a reverse bell curve of depository institution size (fewer and larger banks, lower number of community banks of mid-size and fewer small banks) leaves compliance with the Rules to fewer and fewer depositories. This, while the consumer and small business loan demand has shifted away to non-depository channels.

So where do we go from here?

The major players in the mortgage market at point of origination since 1997 have been the mortgage companies and the mortgage brokers. These industries are regulated and chartered by individual states. At one point in 2007 there were more than 400,000 brokers in California alone. Illinois had almost 3,000. When I testified before Congress on the impending doom in the mortgage industry my concerns about

that industry and the lack of controls over quality and fraud were widely dismissed. As a member of the Consumer Advisory Committee of the Board of Governors of the Federal Reserve System in 2004 at the last look at CRA reform I was asked by the representative from World Savings if I supported more regulation, I responded in the affirmative. When we debated at that same public forum about changing the Rules to limit the scope of examinations for institutions with lower deposit levels I objected. Deposit levels are merely one indicator of the role that depositories should be measured by. Thus the non-depositories who originate loans should be guided by the same principles that depositories will be measured for compliance with the Rules.

Similarly the insurance industry as a major player in lending and investing in loans for commercial and residential loans should also be included. The Frank-Dodd Act and the new Federal Insurance Office should initiate Rules that measure how that industry provides credit in the market and influences development and redevelopment activities. Once that office is established and Rules are written to develop more robust data there should be a requirement that Insurance Companies be subject to examination for their performance.

The Service Test component requires significant updating in order to incorporate the changing roles of depositories and the incorporation of new covered industries. In addition, some consideration should be given to incorporating value to the institution that provide assistance during the current industry crisis to consumers and businesses who are having difficulty making payments under the original terms of their loan. This special consideration should also be given to those institutions working with the FDIC under loss-share failed institution agreements to encourage those institutions to modify loan agreements to preserve home ownership and small businesses.

The designation of Wholesale and Limited Purpose Banks must be changed to reflect the fact that these institutions also draw funds from the consumers and small businesses in local markets and loan in markets far away from their local community. I cite as an example one failed local bank in Chicago that received an Outstanding CRA rating as Wholesale Bank, drew significant deposits in the local market and virtually ignored any local community development efforts at all. I don't blame the examiners for rating this bank so high, but the Rules that are in place for the Wholesale and Limited Purpose Banks gave them no room for criticism.

I know what it takes to achieve an Outstanding Rating and it is frustrating to be in the same class as this failed bank. It begs the question about grade inflation and that subject should also be addressed with a more granular rating system that provides much more detail regarding the performance of the rated institution.

Thank you for this opportunity to provide my insight into this very important topic.