



**Iowa
Citizens for
Community
Improvement**

We talk. We act. We get it done.

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Charles L. Evans
President and Chief Executive Officer
c/o Federal Reserve Bank of Chicago – West Des Moines
7601 Office Plaza Drive North
West Des Moines, IA 50266-2341

Dear Mr. Evans,

We are here today representing over 3,000 members of Iowa Citizens for Community Improvement and the National People's Action network to encourage the Federal Reserve to stand up and support modernization of the Community Reinvestment Act. Good, affordable credit is essential to the health of our nation's economy. Financial institutions must be held accountable and participate in the economy by offering quality loans and community investments.

The past decade has shown how devastating high-cost, predatory credit can be to our nation. Toxic credit that was targeted to low-income communities and communities of color pushed our entire economy to the brink of collapse. Now we are left with devastation in the form of rampant unemployment, faltering state and local budgets, miles of foreclosures and abandoned homes.

It is imperative that the banks, many of them the very ones who caused this crisis, repair this damage and continue to do good business in our communities. An updated and modernized Community Reinvestment Act can help. We recommend that the Community Reinvestment Act be updated in three main areas:

- **Real Accountability and Fairness:** The system for grading a bank's Community Reinvestment record needs a complete overhaul. Banks like Bank of America and Wells Fargo took down our economy, have put millions of families into foreclosure, starved our communities of the credit they need, and funneled hundreds of millions of dollars to payday lenders. Still, they've both gotten "Outstanding" community investment grades. This is unacceptable.
- **End Financial Discrimination:** Banks and predatory lenders targeted low income and minority borrowers with toxic loans. When those exploding loans blew up, this greed took down our whole economy. Now, they've abandoned these neighborhoods altogether. We need regulations to make sure that banks get an automatic failing grade if they discriminate by offering less credit, worse credit, or inadequate services.
- **Community-Led Community Reinvestment:** The purpose of our community reinvestment law is to make sure that banks are serving the credit needs of the whole community. They can't do

that from a downtown office tower or a headquarters across the country. Banks need us to come to our communities, meet with everyday people, listen to what the needs are on the ground and take action based on those needs. We're the experts on what will build our neighborhood economies, what kinds of loans and accounts we need, and where the good investments are.

We are requesting that you forward our concerns on to the Federal Reserve Board of Governors and respond to us as soon as possible. We are counting on you to stand up to big bank greed and fight for the interests of everyday people.

Sincerely,

Members of Iowa Citizens for Community Improvement, an affiliate of National People's Action.

NATIONAL PEOPLE'S ACTION

Modernizing the Community Reinvestment Act

A modernized Community Reinvestment Act (CRA) is the way to ensure that good, quality credit flows into all communities around the country. CRA can be the primary tool in repairing neighborhoods devastated by foreclosures and supporting small businesses that are key to our financial recovery.

The data universe created by the passage of the Home Mortgage Disclosure Act (HMDA) in 1975 allowed NPA to make the case for the Community Reinvestment Act that passed in 1977. The initial analysis of HMDA data showed that many banks were not lending in the areas where they accepted deposits, signaling racial and economic discrimination. CRA addressed these disparities by forcing banks to meet the credit needs of the communities they serve. Because of CRA, trillions of dollars of good loans were made to qualified borrowers in the past three decades. Good loans and good credit helped to build healthy communities and neighborhoods all across America.

But in the past decade, CRA's effectiveness has been hampered. An evolving mortgage industry has left huge portions of the nation's lending not subject to CRA. A combination of weak regulatory enforcement and a systematic watering down of the law through regulatory changes has left much of the rest of the industry under-regulated. But, even with these handicaps, CRA has been effective.

According to a report issued by the Federal Reserve Board of Dallas earlier this year

"...data...suggest that the CRA prevented the subprime situation from being more severe."¹

NPA and others have been sounding the alarm for years about the dangers of predatory lending, banking deregulation, insufficient regulatory enforcement, and weakening CRA. Each of these factors contributed to the current economic crisis. Together they destabilized the housing market and caused its collapse. A modern, fairly applied CRA will go a long way to bringing fairness and stability back to the markets.

NPA's proposal for modernizing the Community Reinvestment Act (CRA) aims to increase transparency, accountability and stability in the financial system by modernizing the Community Reinvestment Act to address longstanding shortcomings in the execution of the law.

NPA recommends that the following changes to the Community Reinvestment Act regulations be made:

1. Make CRA Cover All Lending

In the last 20 years the universe of lending has changed dramatically. The neighborhood banks that once provided most of the lending in this country have been relegated to a corner of the market.

¹ "The CRA and Subprime Lending: Discerning the Difference" Banking and Community Perspectives

Issue 1, 2009, Federal Reserve Bank of Dallas

Entities such as wholesale lenders, independent mortgage companies and mortgage company subsidiaries of huge Bank Holding Companies now make a bulk of the loans and investments but are almost completely unregulated by CRA.

Institute a Bank Holding Company (BHC) Lending and Investment Test

BHC's are the umbrella corporation for a host of financial services entities but they are not explicitly examined under CRA. Currently only a handful of the financial services that take place under their name are subject to CRA and, even when an affiliate or subsidiary is subject to CRA, the scope of activities that are covered is insufficient. The buck needs to stop at the top and the BHC must be examined for all the lending and investments that take place under its name.

Require All Lenders, Their Affiliates and Subsidiaries to be Subject to CRA

The power of CRA to ensure fairness in capital markets has been eviscerated by policies that allow institutions to include or exclude lending activities of affiliates of holding companies, creating ways for lenders to hide subprime lending activity and unequal credit allocation. If holding companies channel different loan products through different affiliates, as was the case with Citigroup, then any disparate racial patterns associated with the segmented lending may be hidden. Since CRA rewards lenders for the level of loans, an apparent fair distribution of loans in the merged data may mask, for example, the channeling of prime loans to predominately white and higher income areas and the channeling of FHA and subprime loans to minority and low-and moderate-income areas. Moreover, the CRA assessment factors and grading should include not only the lending activities of affiliates and subsidiaries, but the investment activities and servicing activities of the bank and all affiliates and subsidiaries.

Make Lender Assessment Areas Cover Where Loans are Being Made, Held as Investment, or Serviced

In the 1995 CRA regulatory revisions, the Fed and the other regulators actually permitted institutions to draw their CRA assessment areas in any way they pleased as long as the regulator could be convinced that it was a "reasonable" area for the institution to serve. In spite of some language about not discriminating and not excluding low-and moderate-income areas, what was reasonable was ultimately left to the subjective discretion of the examiner. We are recommending that the regulators retake control of the assessment area delineation process. Institutions should be required to include in their assessment area all areas in which they make (or hold in securities or service) 5% or more of the loans in a community and/or requiring that the institution include all low- and moderate-income and minority areas that fall within the area drawn from any of their offices to the farthest point presently included in their service area (to prohibit skipping over minority and lower-income areas).

Require Local Needs Assessments and Reinvestment Plan Report (or Goals)

In the past, when citizens and organizations have placed comments in the lender's CRA file, these were reviewed as part of the factors related to the lender's assessment of credit needs. These comments, challenges, and other activities provided community organizations and the general public with a vehicle to define credit needs, propose the types of programs or loan products that could serve those needs, and also identify operations of lending programs that needed modification. Eliminating the factors related to assessing community credit needs cut the public out of the CRA examination and rating process, and reduced the CRA to a private relationship between the lender and the regulator.

This valuable process of assessing the community needs must be re-established. Had this process been in place in the past decade, the concerns so adamantly put forth by community groups about high risk predatory loans and their consequences would have provided a warning to both the banks and the regulators that could have shut down these unsound markets before they undermined our entire economy. Therefore, the institution must provide a report that defines the credit needs of all of its service areas in the country and lists the types of loans and services they will provide to meet these needs (including the needs and opportunities for future economic recovery and growth). The report should include a plan for the rehabilitation of communities suffering from concentrations of foreclosures and for the support of affordable housing initiatives through the local rural or metropolitan area. The report should include how the lender intends to provide sound credit services to those markets now

served by payday lenders, title lenders, check cashing companies, etc. Reports should be made quarterly on the progress in meeting the goals defined in the above reports.

2. Institute Meaningful Grading System with Real Consequences

The present rating system is limited and arbitrary. Over half of the largest financial institutions receive an Outstanding rating and almost no financial institutions of any size gets less than a Satisfactory rating. For example, while under suit by the City of Baltimore for an appalling record of discriminatory practices, Wells Fargo NA has received a CRA rating of "Outstanding." Obviously, engaging in an entrenched pattern of credit disenfranchisement is hardly an "outstanding" way of meeting the credit needs of a community. CRA grades must reflect the real record of lenders, and regulators should have specific benchmarks against which to rate lenders' activities.

For example, in 1995 when the regulations were revised, the Consumer Advisory Council to the Federal Reserve recommended that institutions that excluded minority areas from their service areas should receive an automatic failing rating. This recommendation should become one of the clear benchmarks in the grading process.

End the Practice of Race-based Loan Denials and Race-based Loan Pricing

For decades, lenders have been using race and other discriminatory practices as a basis for lending decisions. National studies reveal that in upper-income African-American neighborhoods, residents are one-and-a-half times more likely to have a subprime loan than persons in low-income white neighborhoods. Similarly, in neighborhoods where Hispanics comprise at least 80 percent of the population, residents were 1.5 times more likely to have a subprime mortgage loan than the national average rate. We are asking for equal credit allocation, equal credit opportunity, and an end to race-based denials and high costs based on race.

We need to ensure that there is a level playing field for all people trying to access credit. In order to ensure this, the regulations need to assess whether lender are using race as a factor by grading their outcomes. Initially, one of the twelve assessment factors was "evidence of discrimination or other illegal credit practices." But slowly and deliberately, issues of racial and ethnic discrimination were removed from the CRA examination process. Today, the regulatory agencies do not include race or ethnicity in any of their tables for the lending test. All of their analyses are based entirely on various income ranges of borrowers or areas. While Regulators are instructed to 'keep an eye out' for violations of Fair Lending Laws, any findings made are dealt with outside of the CRA exam and not made public

Include Credit Quality in Lending and Investment Tests

After the rampant deregulation of the past two decades, low-income and minority communities began to be flooded with an abundance of bad loans and bad options. Predatory lenders charge outrageous interest rates and fees for financial services in these neighborhoods due to the enduring lack of conventional lending sources. Instead of depository lending institutions, these communities are being served by payday lenders, title lenders, check cashing companies, etc. This has served to create two tiers of lending in the United States, with the people who can least afford it being the ones paying the most for financial services.

Under current CRA regulations, a lender has the option of including or excluding this type of high cost lending from subsidiaries, creating the appearance of a robust lending presence in minority and low to moderate income areas when in reality the credit that is being made available is toxic. This cannot continue. With updated Home Mortgage Disclosure Act data, the Federal Reserve Board, other regulators and community groups will be able to prove categorically the practice of funneling predatory, high cost credit to low-income and minority neighborhoods. Lenders should not be given points for providing toxic credit in place of good credit. A set of benchmark loan characteristics, including

reasonable debt-to-income ratios, allowable fees, interest rate caps and non-onerous credit standards should be instituted for regulators to gauge whether a loan is of good quality and in keeping with overall safety and soundness requirements.

Investments that contribute to a two-tiered credit system should be penalized. For example, if a lender is investing in pay-day loan centers, they are directly harming the community and their CRA grade should reflect that. Conversely, efforts made to supplant high-cost credit should be rewarded with lenders receiving credit for investments in quality micro-lending by the institution or through targeted investments to non-profits and Community Development Financial Institutions.

Require Consequences for the Poor Performance of Subsidiaries and Affiliates.

If any affiliate lender or subsidiary of a BHC receives a failing CRA grade, the BHC would automatically receive a failing grade as well. BHC's should not be able to avoid the negative effects of a financial failing subsidiary, nor should they be able to remain unaffected by the record of an affiliate or subsidiary that does not live up to its CRA obligations.

Require Reinvestment Improvement Plans for Failing Institutions

Any lender, be it BHC, bank or affiliated mortgage company that receives a CRA rating of Low Satisfactory or below should be required to complete a comprehensive reinvestment improvement plan with measurable goals that will guide their way forward to serving the quality credit needs of their communities. The regulator must approve the plan and community groups must have the opportunity to comment and challenge the plan through hearings. Once a plan is accepted, progress against the goals and programs set out in it will form the basis for any subsequent CRA exams with progress against the plan specifically measured ahead of any higher CRA grade is awarded.

Include Foreclosure Prevention and Neighborhood Revitalization Efforts

All lenders should be graded on their record of providing timely and effective foreclosure prevention services, including loan modifications, for all loans they or their affiliates or subsidiaries service. Failure to provide adequate work-outs should have a negative effect on the ratings of the BHC and the affiliates involved in loan servicing.

Lenders also have a major part to play in cleaning up the mess they helped create in the current foreclosure crisis. Lenders must provide funds to acquire and rehabilitate the vast inventory of vacant properties left in the wake of their irresponsible lending. Both direct lending and investments in non-profits engaged in this type of community development should be rewarded through the exam process while failure to do so on a large enough scale should be penalized.

3. Re-Involve the Community in the Community Reinvestment Act

In the 1995 revisions to the CRA regulations, the regulatory agencies eliminated key aspects of the CRA enforcement, including any evaluation of how well the lending institution had assessed the community's credit needs. In essence, the regulatory agencies eliminated the role of the community and cut the public out of the job of ensuring good credit came to their neighborhoods.

Require Public Hearings on Exams

Since CRA was implemented, community-based organizations have been responsible for the creation of hundreds of Community Reinvestment Act agreements and programs. These include state-wide and local activities that created channels for good credit to reach communities and neighborhoods across America. These agreements are not defined in the CRA itself. They arose as part of the assessment of community credit needs and out of the active participation of the communities that the CRA was designed to serve. Often they evolved from the failure of the lending institution to take active steps to comply with the CRA and the failure of the regulatory agencies to enforce the Act. Since there is no 'right to private action' under the CRA, community groups and citizens working with a broad range of development organizations not only defined their credit needs but built the programs and capacity to meet those credit needs through the models provided by these formal CRA agreements. These agreements often arose from comments

placed in the CRA file, from direct contacts and negotiations with lenders, and from challenges and testimony at CRA hearings on banking. Even in this period of the mortgage meltdowns, many of these programs perform better than subprime, FHA, and prime loans.

It has been these programs and the community insights and working partnerships with the banks that have provided the models for both reinvestment and the performance evaluations for sound lending and investments. Therefore, the exam process and the application process need to have a formal role for community input, comments, and challenges.

Require Appeal Hearings on Grades

Incredibly, no public CRA appeal process exists. Banks can challenge ratings that they feel are undeserved, but community groups cannot challenge inflated ratings. Community groups are the ones who really know about banks' performances. We all would benefit from a standardized and rigorous process that is open to the public. Claims of grade inflation should be included in a bank's public CRA file for the next CRA examination.

4. Consolidate and Simplify Reporting

In order for the new CRA to really be an effective tool for cleaning up the mess of the financial meltdown and to be the first line of defense against future implosions, the public must have usable data that is coordinated and standardized. CRA has resulted in billions of dollars of successful reinvestment and in almost every case these investments were the result of a vigilant public and community that challenged a financial institution to do better. The community cannot do its job without access to usable data.

Coordinate Existing and Proposed Data Disclosures

There are a host of new, existing and proposed programs that aim to strengthen bank performance, fix the fall-out from the mortgage crisis and mitigate the effects of the economic collapse and all of these initiatives will and should produce performance data. It is imperative that this data not fall into a black-hole but be brought to light and made good use of. We are recommending that an independent coordinator, housed in the Office of Management and Budget, be charged with coordinating the release and formatting for data that emerges from such programs as the Troubled Asset Relief Program, the Home for Homeowners initiative, the Home Mortgage Disclosure Act and CRA.

Make All CRA Lending and Servicing Test Data Publicly Available

In order for the newly proposed lending tests to be effective, community groups and the public at large must have access to lending test results to discern the players and their impact on local neighborhoods. These results should be published in a usable format for all regulated banks, their servicers, subsidiaries and affiliates.

We recommend that the Federal Reserve work internally to produce complete and usable reports and advocate for the creation of a data coordinator by writing a letter to the White House supporting the creation of this position.