

Community Reinvestment Act Joint Public Hearing, August 12, 2010  
Panel One: Ellen Seidman

Ellen Seidman:

Thank you very much. Members of the panel thank you very much for holding these hearings and for inviting me to participate in them.

I'm testifying today in my capacity as former Director of the Office of Thrift Supervision and as many of you know, I was a strong supporter of CRA during my tenure. My remarks focus on community development which has been a consistently successful element of CRA. Conversely in my opinion, CRA is a necessary although not sufficient condition for meaningful community development.

Notwithstanding the success, CRA could be more effective; for example, the fragmentation of community development among the three large banks, CRA tests frustrates efforts to address needs in a comprehensive and integrated way and elevates form over substance. An equally fundamental problem is community development activities are often looked at only quantitatively. In particular in a limited scope exam which is what happens in many assessment areas outside of those in which banks have a significant portion of the deposits, only quantitative efforts are considered.

An uncertainty permeates the system. How can regulators make CRA more effective in promoting community development? By focusing on community needs, providing a greater degree of certainty and incenting institutions to go beyond the simple and easy. It's also time to better recognize different roles for different types of things.

The strategy as the statute starts with community needs. I suggest the agencies create the concept of a community needs and capacity analysis. The bank's community development activities would be evaluated against. The needs analysis would start with community development needs but could include other types of needs. The concept of capacity would put greater focus on identifying and if needed enhancing or creating local institutional capacity for community development.

On an interagency enrolling periodic basis, the agencies would either undertake themselves or commission from a respected third party. Such an analysis for the 50 to 100 largest metro areas and for the remaining portion of each of the 50 states, all parts of the country including rural areas and smaller cities, where large institutions are rarely subject to a full scope exam, would have their needs and capacities assessed enabling a qualitative assessment of activities in these areas. Because the analysis would be done on an interagency basis, interagency discrepancies as to what counts should be diminished.

Effectively responding to community development needs requires focus and integrated action. By giving virtually no credit for community development loans, a good deal of credit for investments, and very limited credit for community development services, the current system encourages unproductive structuring and discourages integrated response. The intermediate small bank unified community development test appears to avoid this problem, although there is some concern that if a test were made applicable to larger institutions, the most valuable type of

support for intermediaries, namely, equity support would dry up. An evaluation of the ISB test would be a good first step to resolving this issue.

The most traditional way of reducing uncertainty would be a private letter rolling system like the agencies had in place before about 1998; and the agencies should reconsider the decision to do away with it. An alternative would be to reinvigorate the strategic plan concept, but focus primarily on community development. A strategic plan would enable institutions to publically plan and announce their intentions to undertake activities with a certainty of receiving a specific degree of credit for success.

A third alternative would build on the community needs and capacity analysis. Institutions that engage in activities that are specifically identified in the analysis would be guaranteed credit for those activities, subject to any geographic requirements. Banks also need to be insured of credit when they engage in partnership building. CDFIs, CDCs and other similar entities need equity capital, loan capital and the expertise and experience banks can provide. In return, the intermediaries are good conduits for banks that may not want or be able to provide financing directly. They offer scale efficiencies, risk diversification, expertise and tailored systems and enable banks to have significant impact well beyond their own capacity. By making CRA credit certain for loans and investments including equity investments in and providing expertise to these organizations, no matter where they are located, the agencies could have an enormous positive impact on the ability of banks to participate in meeting the most challenging community needs.

The size variations among banks are now so large that they are qualitative as well as quantitative. True community banks should be expected to meet the needs of places where they operate, as should regional institutions with branches. However, many larger institutions have the financial and technical capacity to be helpful outside of their assessment areas in places where community needs often exceed the capacity of local institutions. If these institutions have earned satisfactory ratings in their own assessment areas, they should be provided the assessment of achieving an outstanding rating by serving the community development needs including partnership building needs elsewhere. The largest of the brick and mortar institutions for example those with more than \$100 billion dollars in assets, should in addition to assessment area evaluations be subject to institutional community development evaluations that would consider how well the institution meets special community development needs. These would be regulated to find needs beyond the capacity of local institutions. Similarly large non-brick and mortar institutions should not have any local assessment area, but should be expected to meet these community development needs.

While these suggestions can ultimately bring both efficiency and certainty of the community development aspect of CRA, doing them well requires examiners who are both allowed and encouraged to exercise judgment, who have training and proper supervision to make sure that they are understanding the needs, understanding the possibilities and are consistent. Thank you very much and I look forward to our discussion. Thank you.