

Consumer Action

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Consumer Action is a consumer education and advocacy non-profit which has been fighting for the rights of consumers since 1971. We offer free publications on topics such as housing, foreclosure, and consumer credit in up to eight different languages, and we count over 1500 community based organizations in our network of housing group CBOs.

The CRA must keep pace with changes in the banking and lending world in order to ensure that the needs of low and moderate-income communities are met.

We must expand CRA assessment to better reflect the ways in which banking and credit have evolved in recent years. As new kinds of financial institutions like online banks have grown in importance, the CRA's ability to require banks to serve the financial needs of low-income Americans has diminished. Therefore, the model of using bank branches for assessment must be expanded, to include all the communities in which the bank actually does business.

As an example, Green Dot, a vendor of prepaid or "stored value" cards, is currently attempting to purchase Bonneville Bank, a financial institution with only one branch, located in Provo, Utah. If Green Dot's acquisition goes smoothly, it is expected to focus the bank on issuing its re-loadable prepaid cards, and benefit from improving Green Dot's margins through reduced interchange fees.

This re-purposed bank would issue prepaid cards all over the country, yet given the current methodology for CRA assessment, it would only be responsible for reinvestment in Utah county. Utah county has a population of just over 530,000, yet people all over the country would be touched by the activities of the bank. Given the transformation of banking—less reliant on bricks and mortar branches, more activities conducted online--it is reasonable to encourage banks to reinvest wherever they derive a significant portion of their business. Assessment areas should be refined to include any state or area in which the institution has a visible share of the market for loans or other CRA-eligible financial instruments.

In order to best achieve the goals for which it was designed, CRA also must evolve to cover a wider range of financial activities that more accurately represents the credit ecosystem of a community. Future iterations of CRA must cover independent mortgage companies and other key credit actors. We should recognize that securities firms like Charles Schwab and Goldman Sachs, insurers, as well as credit unions, are also vital to the wellbeing of a community.

If CRA had covered independent mortgage companies, most of the deceptive or unsound lending practices would have been prevented. Financial scams run by companies like Ameriquest, New Century, and Countrywide would have been exposed and halted before they could have ensnared so many borrowers.

An expansion of CRA would be a simple yet powerful way to shield borrowers from dangerous lending practices. According to the Federal Reserve, just 6% of the sketchiest loans originated in 2005 and 2006 that drove the foreclosure meltdown were made by CRA-regulated institutions.

Furthermore, a study by the Federal Reserve Bank of San Francisco found that loans originated by independent mortgage companies not covered by the CRA were twice as likely to go into foreclosure as loans originated by CRA-covered banks in their assessment areas.

In terms of CRA examinations, banks should receive CRA credit for their initiatives in foreclosure prevention, which is surely the most urgent housing issue of the present. A bank's efforts at modifying troubled but salvageable mortgages is an appropriate component of how we should measure the institution's success at meeting the needs of the communities it serves.

Let's say, for example, a bank developed a new balance forgiveness program. This program offered borrowers a full principal writedown with the tradeoff that, upon future sale the bank would be entitled to three-fourths of the property's appreciation. If such a program was successful in creating sustainable modifications, the bank should receive CRA credit for meeting the needs of its community.

Banks which service loans but did not originate them should receive CRA credit for modifications as well, whether or not the modified mortgage fell within the servicer's designated assessment area.

Through our consumer hotline, we hear frequently from homeowners and former homeowners who are bearing the brunt of the foreclosure crisis.

A woman from San Pedro, CA told Consumer Action a familiar story of how difficult some servicers can make it to even apply for a mortgage modification:

"We have sent the same paperwork, at their request, over and over again....It is very difficult to speak to a customer service representative as the recorded message is set to loop and not connect you with a real person....Their customer service for the Home Retention program is outsourced to India and I have to leave a message. We have never gotten a return call or email. We have emailed and written them several requests for a call / email back but to no avail. We get a letter, sent certified mail, every month telling us we are in default of our loan and that we should think about a modification. I don't

understand why the company that is supposed to be handling our modification is sending us that kind of letter!”

We feel that a bank’s efforts at foreclosure prevention must be included in that bank’s CRA evaluations.

Finally, it is not enough simply to modernize the regulations. It is just as crucial that the *enforcement* of regulations be modernized as well. For this, we have a distressing precedent. In the wake of the savings & loan crisis, Congress enacted the Home Ownership Equity Protection Act of 1994, giving the Federal Reserve authority to modify and update consumer protections. If the Act had been properly enforced, we might well have avoided our subprime disaster. Unfortunately, Fed chairman Greenspan refused to take any action, and the legislation failed to achieve its intended purpose. Irrespective of how CRA is to change, it is urgent that our present regulators adopt a more active role.

We are excited to participate in helping CRA continue to serve our communities, and appreciate the opportunity to share with you our comments.

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