OCC: Docket ID OCC-2010-0011
Comments re: Community Reinvestment Act

Submitted by
Daniel Betancourt, President and CEO
Community First Fund
PO Box 524
Lancaster, Pennsylvania 17603
717 393-2351

On behalf of the Community First Fund I appreciate the opportunity to provide provide comment on modernizing the Community Reinvestment Act. Community First Fund is the premier economic development organization serving 13 counties in Central Pennsylvania. Community First seeks to reduce the concentration of poverty in the cities and towns we serve by providing capital and technical assistance to entrepreneurs, housing developers and community organizations. Community First Fund is certified as a Community Development Financial Institution by the US Treasury and has provided over $30 million in loans to over 900 borrowers since our founding in 1992.

In recent years, it has become increasingly clear that the nation needs a revitalized approach to the responsibilities outlined in the Community Reinvestment Act—an approach that reflects the seismic shifts in the way financial institutions do business, in the changing needs of their customers, and the increasing reach and sophistication of their partners. This new version of CRA must:

- Update the concept of "assessment areas" to keep pace with the shift in financial institutions' geographic relationship to their customers;
- Support financial institution investment in institutions such as CDFIs; and
- Consider new approaches to considering, evaluating, and crediting community development activities.

The CRA has overall supported community development well. In fact, it has largely defined financial institutions' community development lending and investment activity; it is significantly more difficult to lend and invest in markets that are not included in a bank's CRA assessment area. In practice, underserved submarkets (most often minority and low-income but defined primarily by CRA-shaped geography) comprise the "community" and the provision of financial services is the means to its "development." The CRA has supported countless community development organizations, strategies, and initiatives. It has proved to be a remarkably effective law because it has connected opportunity markets to opportunity capital and financial services.

A Modernized Approach to CRA

Since its passage, almost everything having to do with the CRA—and the ideas of "community" and "development" noted above—has changed. Banking no longer centers around place and savings; instead, it centers around consumer demographics, delivery channels, and product innovations. These shifts in the marketplace require a new way of looking at CRA. In this modernized framework, CRA is no longer a policy for the fringe markets. Instead, it is and should be a core component of economic growth rather than an outlier of economic policy.

Rethinking Markets and Assessment Areas

It is our belief that the most important change for a new CRA should be an update to the concept of "assessment areas" to keep pace with the shift in financial institutions' geographic relationship to their customers. While the CRA still should in most cases apply to geographic markets, deposit-taking is an obsolete marker for markets. By current estimates, less than 20 percent of Americans' long-term savings now are deposited in banks. The current use of deposit-based assessment areas concentrates CRA obligations in some areas, and leaves other markets underserved. Some rural areas without the brick-and-mortar presence of large financial institutions are effectively "credit deserts; in other areas financial institutions struggle to find the right investments and services.

For example, the Philadelphia Federal Reserve report lists the 10 top originators of small business loans in the Lancaster MSA. The four leading providers of small business loans include American Express Bank, Chase Bank, CitiBank and Capital One Bank. None of these banks has a retail presence in the Lancaster MSA. Yet they have provided over $60 million in small business loans representing nearly 50% of the small business loan market share. Often these small business credit cards carry very unfavorable terms including very high interest rates.

Despite this clear evidence of having a significant market in our communities, at least one of these banks, when contacted for investments with Community First, has declined making an investment, citing the fact that Community First is not in their assessment area. Clearly this does not represent the spirit or the intent of the CRA.

A more appropriate and useful definition of financial institution markets, for purposes of the CRA and otherwise, is everywhere each financial institution offers and/or provides products and services and everyone it serves. For example, if a bank offers a credit card to a person—something it can do easily without a brick-and-mortar presence—its CRA responsibility (to provide comparable service for all its products and services) should, in principle, extend not only to that person but to the geographic market where that person lives even when there is no bank branch in that location.

Further, in view of the current crisis in small business lending, it would seem reasonable that CRA exams be expanded to include some too similar to HMDA applied to small business lending in low income communities and to women and persons of color.

Foster investment in community development

Over the past 30 years sophisticated capital, product, and service delivery channels have emerged, including Community Development Financial Institutions (CDFIs). These delivery channels rely on economic markets more than geography.

CDFIs are private-sector, public-purpose financial institutions that combine mission with market discipline and sound lending practice, successfully executing deals perceived as "high risk." They lend and invest responsibly in urban, rural, and reservation communities across the country, financing small business, affordable housing, and community facilities opportunities often overlooked by other lenders. For decades, CDFIs have met the challenge of providing access to capital and credit in economic turbulence. Financial institutions have been a critical partner in that effort. Bank investment provides a significant portion of the capital that CDFIs use to lend and invest in their markets. But banks get something out of the deal, too: reliable, efficient investment vehicles for both financial and social return; entrance into new markets; co-lending that shares the risk of direct transactions; and not least, of course, credit under CRA.

In several instances of larger community development projects, Community First has worked with local banks to provide the necessary financial support. These have included downtown mixed use projects, revitalizations of one or more buildings, purchase of a key piece of property for an affordable housing project or the support of a key mixed use development in a low income community.

Regulatory considerations that encourage financial institutions to continue to invest in such opportunity finance institutions will extend the reach of CRA. In particular, regulators should provide that an investment into a CDFI helps satisfy a financial institution's CRA obligations regardless of whether the CDFI operates in the institution's assessment area. One simple way to do this is to provide CDFIs the same regulatory treatment afforded to minority- and women-owned depository institutions, providing CRA consideration for investment in CDFIs regardless of location.

In 2008, CDFI customers were 46 percent female, 49 percent minority, and 70 percent low income.[1] By statute, CDFIs must serve the low- and moderate-income communities referred to in the CRA. Both the statutory requirements and the actual performance of Treasury certified CDFIs support the addition of CDFIs to this Q&A and in other communications from the regulators. Since these markets overlap, it makes sense to support banks' reaching these customers through CDFIs.

Institutions should also receive CRA credit for a range of strategies, including credit enhancements such as guarantees or letters of credit; and for long-term, renewed, and continuing investments as well as the "first" investment in a CDFI.

In the early days of CRA, banks primarily provided equity or equity like investments to CDFI's. These investments were longer term, limited recourse facilities. In addition to

---

[1] Opportunity Finance Network (2010). "Opportunity Finance Institutions Side by Side Fiscal Year 2008 Data and Peer Analysis," 11th Edition, http://www.opportunityfinance.net/store/product.asp?pID=174.

providing loan capital to the CDFI, these equity like facilities allowed the CDFI to leverage other conventional investments. This is important because CDFI's are required to have a much larger net asset ratio (20 to 25%) than conventional lending institutions. Hence equity and equity like investments a vital to the growth and expansion of a CDFI's lending capacity. Providing extra credit for these longer term investments would greatly aid the CDFI industry in moving capital to areas of greater need.

Evaluating Community Development

Though CDFI partnerships are a critical piece of a modernized CRA, other delivery channels can and should play an important role alongside such activity. CRA should look at economic market channels as well as geographic market channels for CRA, including participating in syndicated or related asset sales with CDFIs; participating in syndicated or related asset sales through other financial institutions with differing capacities within particular markets; participating in municipal or state government financing channels that meet CRA standards; or financing CRA innovation, research and development, and infrastructure in addition to, not instead of, intermediary financing.

The new CRA should consider new approaches to considering, evaluating, and crediting community development activities. One approach is to augment current regulations with a rigorous community development test that would evaluate both qualitative and quantitative factors: both the volume of community development loans and investments and their impact. Investment in CDFIs and opportunity finance institutions should receive significant credit in this test. Training for examiners in community development lending and investing, particularly in understanding the capitalization, accounting, and risk management practices of CDFIs and others is also crucial.

Conclusion

The CRA's thirty-year track record proves that community reinvestment and safety and soundness can work together to produce results that are good for financial institutions and for their communities. The broad principle of affirmative obligation to serve communities will continue to serve as a foundation while regulatory and implementation changes update CRA to meet the changed—and still changing—needs of markets and communities.

Thank you for the opportunity to provide testimony on the future of the CRA. Please do not hesitate to contact me if you have questions or need additional clarification.