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NATIONAL COUNCIL OF LA RAZA

HARNESSING THE POWER OF THE COMMUNITY REINVESTMENT ACT TO CONNECT LATINOS TO BANKING SERVICES

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Submitted by

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Good morning. My name is Janis Bowdler. I am the Deputy Director of the Wealth-Building Policy Project at the National Council of La Raza (NCLR). NCLR is the largest national Hispanic civil rights and advocacy organization in the United States, dedicated to improving opportunities for Hispanic Americans. I oversee our research, policy analysis, and advocacy on issues critical to building financial security in Latino communities, such as homeownership, consumer credit, auto lending, and financial planning. Over the previous decade, I have produced a number of publications on related issues, including *Survival Spending: The Role of Credit Cards in Latino Households*, *American Dream to American Reality: Creating a Fair Housing System that Works for Latinos*, and *Jeopardizing Hispanic Homeownership: Predatory Practices in the Homebuying Market*.

For more than two decades, NCLR has promoted policies, programs, and practices that support sustainable Hispanic homeownership. NCLR conducts research and analysis on relevant public policy issues such as preserving and strengthening the Community Reinvestment Act (CRA) and the Home Ownership and Equity Protection Act (HOEPA), supporting strong fair housing and fair lending laws, and expanding access to affordable credit. In addition, NCLR is the only Hispanic-focused housing counseling intermediary certified by the U.S. Department of Housing and Urban Development (HUD). The NCLR Homeownership Network (NHN) provided first-time homebuyer and foreclosure prevention counseling to more than 50,000 families last year alone. Through these efforts, NCLR is working toward the advancement of Latino families, strengthening America by promoting affordable homeownership opportunities and ensuring that families facing foreclosure receive assistance.

Our subsidiary, the Raza Development Fund (RDF), is the nation's largest Hispanic community development financial institution (CDFI). Since 1999, RDF has provided $400 million in financing to locally based development projects throughout the country. This work has increased NCLR's institutional knowledge of how Latinos interact with the mortgage market, their credit and capital needs, and the impact of government regulation on financial services markets.

CRA leverages private investment toward a fundamental public policy goal: the fair and equal distribution of banking services in all neighborhoods, regardless of the racial, ethnic, or income composition of its residents. Established in 1977, CRA requires that regulated depository institutions safely and soundly serve the credit needs of communities where they conduct business in exchange for public investments such as deposit insurance.[1] The act was established in response to widespread "redlining," a practice that severely restricted credit in minority and low-income communities. It has since emerged as a critical investment and affordable lending tool, lauded by regulators, banking institutions, and advocates alike. However, our national banking and credit markets have changed dramatically since 1977. Physical branches are not the only hubs for the delivery of bank services, and such services are delivered by a broader set of players than those covered by CRA. CRA must evolve to remain relevant and effective in a dynamic marketplace.

[1] CRA is intended to encourage banks and thrifts to help meet the credit needs of the communities in which they operate—including designated low- and moderate-income neighborhoods—consistent with safe and sound banking operations. CRA only applies to federally regulated banks and thrifts whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). To learn more, please visit http://www.ffiec.gov/CRA.

Therefore, NCLR welcomes the opportunity to discuss ways to strengthen the law and its implementation. In my remarks today I will open with a short overview of the act and challenges to its potency. I will then focus on specific strategies regulators can employ to better leverage CRA to bring unbanked families into the financial mainstream.

Community Reinvestment Act

CRA was passed in 1977 to address clear evidence of discrimination and disengagement that manifested in tangible ways, namely, the refusal to lend and the lack of access to credit and banking services in minority and low-income neighborhoods. CRA works in conjunction with other fair housing and equal credit laws that prohibit discrimination against the individual, but is unique in that it places an affirmative obligation on private banks to meet the credit needs of the communities in which they do business. This obligation is placed on regulated banks and thrifts in exchange for federal benefits such as Federal Deposit Insurance Corporation (FDIC) deposit insurance and access to the Federal Reserve's discount window. Opponents of CRA's goals and process have argued that the law inhibits the growth of banks or causes them to engage in risky lending. In practice, regulators review financial institutions according to their size, require that lending and investment be conducted within the bounds of safety and soundness, and allow substantial flexibility in the range of activities considered in the determination of an institution's rating.

The leverage of private investment toward the public goal of ensuring that minority and low-income communities receive the same opportunities to obtain a variety of bank services has produced untold benefits to target communities, the covered banks, and the general public. That said, CRA is facing a serious challenge as its potency and effectiveness have waned in recent years, and some question its necessity and relevance in the contemporary market. NCLR maintains that the original social goals of CRA are still relevant. Latino, immigrant, low-income, and unbanked households face broad and deep barriers to financial markets that, without deliberate intervention, would be insurmountable, inhibiting their progress toward financial security and empowerment.

CRA's progress toward its stated goals is not to be discounted. With increased regulatory attention during the 1990s, banks covered by CRA increased lending activity in low-income communities, growing the share of their loan portfolios with CRA-covered loans, and outpaced similar growth in lending to low- and moderate-income families among non-CRA-covered institutions. The act has helped to revitalize neighborhoods and enable nontraditional borrowers, including many Latinos, to access services and benefit directly from investments made by large mainstream banks that might otherwise have left the community underserved. CRA has also been an important tool, albeit indirectly, in mitigating the effects of discrimination and disparate treatment of minorities, Latinos, and immigrants within mainstream financial markets. The act has also prompted regulated banks to establish and strengthen relationships with community-based organizations, which help advance banks' goal of lending safely and affordably to low-income residents.

Despite these important outcomes, developments in the U.S. financial market over time have eroded the effectiveness of CRA. While some argue that overt redlining appears to be a thing of

the past, research demonstrates that policy and practice within mainstream mortgage and credit markets continue to exacerbate inequality and racial/ethnic discrimination. For example, low-income families, female-headed households, immigrants, and borrowers of color frequently require more time and resources to underwrite, increasing costs for an institution to accurately assess creditworthiness and limiting profit. This higher cost has often resulted in credit rationing that effectively and unnecessarily forces creditworthy borrowers into underregulated subprime lending markets that are beyond CRA's influence, where predatory lending has thrived. This development has created a new set of challenges for those seeking to ensure affordable and equitable access to credit for low-income and minority families.

Furthermore, regulators evaluate a depository institution's performance in certain geographic areas generally determined by the presence of physical branches and based on three key areas: lending, investment, and service.[2] However, as technology improved and regulations changed, many banks began conducting business well beyond the walls of their branches.[3] CRA-covered institutions have acquired noncovered affiliates and expanded their customer base through new delivery channels such as agents, brokers, and the Internet, thereby broadening their reach without a proportionate increase in CRA coverage. Finally, community leaders have raised concerns over "grade inflation," questioning whether exams are sufficiently rigorous to hold banks accountable. In the last five years, fewer than 2% of CRA exams have resulted in "needs to improve" or "substantial noncompliance" ratings.[4] As a result, the CRA exam is a less credible threat to underperforming institutions.

CRA's diminishing influence over the development and delivery of financial products has had a devastating impact on local communities and fueled a dual credit market where the cost, scope, and type of credit available varies by geography and borrower characteristics other than risk. Meanwhile, demand for financial services has been growing, or at least holding steady, in most communities, especially among Latino, Black, and Asian households, which are expected to drive household growth through 2050. As the presence of CRA-covered institutions is reduced in certain neighborhoods, they leave a vacuum that is quickly filled by fringe financial providers. Neighborhoods once served predominately by depository banks have been inundated by offers and services from mortgage brokers and finance companies, subprime credit card providers, payday lenders, and auto dealer financers. Such companies have proved adept at breaking into neighborhoods that are underserved by CRA institutions. They have diversified their workforces, offered products that appear attractive to unsuspecting customers, and marketed a guaranteed "yes"—tactics that banks have not employed consistently. Because these providers

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[2] Service tests vary in scope depending on the size of the institution. For more information, see Comptroller of the Currency, Administrator of National Banks, *Community Reinvestment Act Examination Procedures: Comptroller's Handbook*. Washington, DC, 1997, revised for web publication 1999, http://www.occ.treas.gov/handbook/craep.pdf (accessed April 13, 2010).

[3] For a full discussion on how changes in regulations, such as the near-repeal of the Glass-Steagall Act, and industry consolidation have impacted the significance of CRA, see Liz Cohen and Rosalia Agresti, "Expanding the CRA to All Financial Institutions," in *Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act* (Boston and San Francisco: Federal Reserve Banks of Boston and San Francisco, 2009), 134–137, http://www.frbsf.org/publications/community/cra/expanding_cra_to_all_financial_institutions.pdf (accessed August 4, 2010).

[4] House Committee on Financial Services, Subcommittee on Housing and Community Opportunity, *Fair Housing Issues in the Gulf Coast in the Aftermath of Hurricanes Katrina and Rita*, 109th Cong., 2nd sess., 2006, http://financialservices.house.gov/media/pdf/109-74.pdf (accessed August 4, 2010).

frequently offer inferior or needlessly expensive products, the overall public and social ends that the act aims to address have become harder to reach.

In sum, the forces that set CRA in motion—discrimination and disparate treatment of neighborhoods—have rebounded in force, fueled by changes in the way bank business is conducted. Moreover, the introduction of the Troubled Asset Relief Program (TARP) and other federal investments in regulated and unregulated financial institutions in 2007–2009 clearly demonstrates that the original justification for compelling private investment toward a public and social end remains. Access to taxpayer assistance via deposit insurance, loans, discounts, or other forms of capital create an obligation to serve the entire public without discrimination. This policy goal will only be fully realized if CRA is updated to adapt to today's market. NCLR testified to this point earlier this year before the U.S. House of Representatives Committee on Financial Services, where we offered eight principles to guide the modernization of CRA.[5] Those principles are:

- All institutions that provide consumer financial services and avail themselves of federal support of any kind must be covered by CRA.
- Covered institutions must be assessed in their true geographic footprint.
- CRA exams and ratings must incorporate the input of local communities.
- CRA-covered institutions should spur innovative and responsible investments and lending in low- and moderate-income communities, establishing best practices for the rest of the market.
- Exams and rating procedures must be transparent and open to the public.
- Exams must incorporate the institution's fair lending record.
- The practice of grade inflation has no place in sound and meaningful CRA enforcement.
- Investments in communities hit hard by the economic crisis should be rewarded.

Leveraging CRA to Expand Basic Banking Services

I have been invited here today to discuss ways in which CRA could better leverage the delivery of bank services to the unbanked and underbanked. This statement focuses on changes that could be made to the CRA exam as an enforcement tool to leverage this one aspect of CRA's goals. The changes and strategies recommended are for administrators. Complete modernization of CRA will also require legislative changes not discussed here.

Exams vary based on the size and classification of each bank. Banks with assets greater than $1 billion have separate community development and service tests. Banks and thrifts designated as "Intermediate Small Banks" or "Small Banks" are defined by having up to $1 billion and less than $250 million in assets, respectively. Both have streamlined tests that consolidate the assessment criteria of the community development and service tests. "Wholesale Banks" are defined as those that do not extend credit via retail. "Limited-Purpose Banks" offer a narrow product line such as credit cards or auto loans. Their tests are similarly streamlined. A notable difference is that the assessment areas of Wholesale and Limited-Purpose Banks are usually

[5] Eric Rodriguez for the National Council of La Raza, *Principles to Modernize the Community Reinvestment Act: How CRA Can Help Low-Income Latino Families Build Wealth and Secure Their Financial Future*, 111th Cong., 2nd sess., 2010.

tightly defined around the institution's headquarters, as many do not have a retail presence. Therefore, their assessment area may not capture the bulk of their business, which may be obtained via mail, Internet, or brokers.

Basic banking services are fundamental to building financial sophistication and creditworthiness and are recognized as putting customers on a path to greater financial opportunity. "Basic banking services"—a term used throughout this section—may include checking and savings accounts, "checkless" checking products, remittances, check cashing, starter credit, or credit-builder loans. Once banking staples, these primary products are now considered expensive for banks to maintain, especially for low-income segments that may keep lower balances and present fewer cross-selling opportunities. Small profit margins serve as a disincentive to pursue or compete in this market. CRA has its roots in redlining and traditional analysis has focused heavily on mortgage lending, and for good reason. Unfortunately, it is clear that the lack of focus on community services has been to the detriment of consumer credit and transactional accounts. The FDIC found that while the majority (73%) of banks were aware of an unbanked market segment in their service area, less than one-fifth were undertaking activities to attract that market.[6] Nonetheless, CRA standards and exams do not emphasize basic banking services and do not reflect the dramatic changes in financial service models and delivery methods. As a result, regulators have not compelled CRA-covered institutions to invest in the technology, product design, or outreach that would connect families with bank accounts and services.

The issue of improving the delivery of basic banking services to all communities is of particular importance to Latino families, nearly half (47%) of whom are the unbanked or underbanked.[7] Drawing underserved market segments into the banking system is also fundamental to the overall success of CRA. A family's relationship with a bank prior to homeownership has a significant impact on its ability to qualify and access the most favorable of mortgage loans.[8] This resonates strongly in low- and moderate-income neighborhoods that have seen an influx of immigrant workers, many of whom have short recorded credit histories or no credit scores and require additional outreach and product development. Not surprisingly, where bank investment is low, potential customers turn to high-cost sources of credit and transactional services. Key indicators include:

- **Credit Cards:** Latino and Black consumers are nearly twice as likely as White consumers to pay interest rates higher than 20%.[9] This figure becomes more troubling in light of the recession, where communities of color have been living with double-digit

[6] Federal Deposit Insurance Corporation, *The FDIC National Survey of Banks' Efforts to Serve the Unbanked and Underbanked*. Washington, DC, February 2009, http://www.fdic.gov/unbankedsurveys/ (accessed August 4, 2010).
[7] Center for Financial Services Innovation, *A CFSI in Brief on the Underbanked Consumer Study: Characteristics of Latino Un- and Underbanked Consumers* (Washington, DC: Center for Financial Services Innovation, 2009), http://cfsinnovation.com/system/files/imported/managed_documents/latinoinbrief_july09_inbrief.pdf (accessed August 4, 2010).
[8] Michael Barr, "Credit Where It Counts: The Community Reinvestment Act and Its Critics," *New York University Law Review* 80, no. 2 (May 2005).
[9] Jennifer Wheary and Tamara Draut, *Who Pays? The Winners and Losers of Credit Card Deregulation* (New York: Dēmos, 2007), http://www.demos.org/pubs/whopays_web.pdf (accessed August 4, 2010).

unemployment for more than a year. In this environment, many families are relying on credit cards to make ends meet, racking up substantial household debt.[10]

- **Remittances:** In 2009, immigrants from Mexico sent approximately $22.87 billion home and spent an estimated $1.5 billion in fees and other costs getting it there.[11] Fees vary greatly not just among companies but also from customer to customer, ranging anywhere from $4 to $22 for the same service. Banks have had a small but rarely competitive presence in the remittance market.

- **Small-dollar lending:** Similarly, many families have become dependent on small-dollar, short-term loans such as payday and car title loans. Many of these products have Annual Percentage Rates (APR) well over 300% and are structured in such a way that cash-strapped families will inevitably return for a new loan to pay off the original. A review of payday lenders in California revealed that they were heavily concentrated in Black and Hispanic neighborhoods, even after controlling for other explanatory variables.[12]

- **Car loans:** Auto financing is often a family's first major loan. According to one study, 57% of Hispanic customers who financed their car through the auto or dealer finance company were charged an unwarranted markup, compared to 40.2% of White customers. The average markup for Hispanic customers was $715, compared to $461 for White customers.[13]

Without strong incentives for banks to develop products in these areas, the banking and credit needs of low-income, low-wealth, minority, and unbanked households often go unmet.

CRA exams, regulations, and other procedures can be updated to drive capital and resources to unbanked, underbanked, low-income, minority, and other underserved customer segments. While format and weight differ across classifications, the basic criteria measured are similar. In the approaches laid out below, NCLR focuses on the community development and service tests, both of which measure activities that could generate investment in basic banking services. Currently, neither test is specific enough to achieve this goal. In fact, research has shown that when a bank is on the cusp between "Satisfactory" and "Needs to Improve," activities under the service test were scored higher, giving the wavering institution the boost needed to qualify for a

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[10] Janis Bowdler, *Survival Spending: The Role of Credit Cards in Hispanic Households* (Washington, DC: National Council of La Raza, 2010), http://www.nclr.org/index.php/publications/survival_spending_the_role_of_credit_cards_in_hispanic_households-1 (accessed August 4, 2010).

[11] Dilip Ratha, Sanket Mohapatra, and Ani Silwal, *Migration and Remittance Trends 2009*, Migration and Development Brief 11 (Washington, DC: Development Prospects Group, World Bank, 2009), http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MigrationAndDevelopmentBrief11.pdf (accessed May 5, 2010); and The World Bank Group, "Remittances Prices Worldwide: Making Markets More Transparent," http://remittanceprices.worldbank.org/RemittanceCosts/?from=197#13 (accessed May 5, 2010).

[12] Wei Li et al., *Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California* (Washington, DC: Center for Responsible Lending, 2009), http://www.responsiblelending.org/payday-lending/research-analysis/predatory-profiling.html (accessed August 4, 2010).

[13] Mark Cohen, "Imperfect Competition in Auto Lending: Subjective Markup, Racial Disparity, and Class Action Litigation," Vanderbilt Law and Economics Research Paper 07-01 (Nashville: Vanderbilt University, 2006).

satisfactory rating.[14] Clearly a more effective approach is required. In the next section I discuss recommendations on how to improve the service test and the community development test to create a more meaningful strategy to extend financial services to underbanked families.

The Service Test

The service test is the primary mechanism for evaluating basic banking services. However, as described above, the service test lacks standards and does not specifically direct investment of monetary or intellectual capital into transaction accounts, financial services, or starter credit. Instead, the service test centers on the opening and placement of bank branches. Physical branches are important anchors in many low-income communities and minority neighborhoods. In focus groups, Latino consumers identified the advice and customer service provided by bilingual and bicultural employees as contributing to their banking success.[15] However, branches are not by themselves an indicator of quality services or investment. Moreover, the lack of standards and definitions within the service test has allowed for inconsistent assessments, subjectivity, and grade inflation.[16] Consequently, the service test cannot measure the adequacy of a branch's product offering, response to community need, adaptation of technology or new outreach strategies, customer retention, or presence of a workforce that reflects the community—each of which could be indicators of branch quality and effectiveness.

An effective service test should oblige banks to meet the basic banking needs of area families, as well as reflect true consequences for deficiencies in services. NCLR recommends the following three changes:

- **Collect data on account openings and maintenance.** Analyzing account performance and maintenance data is a critical step in determining practical standards on which to base the service test. Data will allow the public to compare service between affluent and low-income neighborhoods, assess the diversity of product offerings, and map community demand. While critics will be quick to suggest that data collection is onerous, research shows that most banks already collect the account-level data fields that would be required.[17]

- **Create meaningful standards and benchmarks.** Once data are available, regulators should institute guidance that allows examiners to evaluate branches against their peers and in accordance with documented community need. Bank services, such as basic accounts, credit-builder loans, or transaction services to noncustomers must be judged for their quality—affordability, community uptake, presence of hidden fees, and length of time open—not simply their existence. Examiners should also be looking for signs that the products are not working for the target market, such as accounts being open and

[14] Michael A. Stegman, Kelly Cochran, and Robert Faris, *Creating a Scorecard for the CRA Services Test*, Policy Brief 96 (Washington, DC: The Brookings Institution, 2002), http://www.brookings.edu/comm/policybriefs/pb96.pdf (accessed August 4, 2010).
[15] Janis Bowdler, *Survival Spending*.
[16] Michael A. Stegman, *Creating a Scorecard*.
[17] Geoff Smith, Sarah Duda, and Malcolm Bush, *Benchmarking Branch Outcomes Using Available Data to Analyze and Improve the Delivery of Retail Bank Services to Low-Wealth Communities* (Chicago: Woodstock Institute, 2009).

closed in a short period, abnormal delinquency on short-term or small-dollar loans or credit lines, customer complaints, and shortage of diverse staff that reflect the community. Finally, I echo the suggestion of others that banks should be given credit for funding independent evaluations that document the impact of community development activities such as financial education, pilot programs, volunteerism or board participation, and philanthropy.[18]

- **Give credit for banking services accessible by low-income, underserved, or unbanked customers.** Sufficiently meeting the needs of low-balance account holders, those who borrow at lower levels, and nonbank customers should be quantified and assigned CRA credit just like loans. When coupled with more rigorous standards, quantifiable credit for such services will create meaningful incentives and lead to competition and innovation to the benefit of underserved market segments.

The Community Development Test

The community development test weighs bank investment, lending, and service across a broad spectrum of activities deemed to have a social benefit. Examples include lending to CDFIs, purchasing and financing low-income housing tax credits, philanthropy, volunteerism, technical assistance, and providing financial education. However, most institutions are evaluated based on the quality and quantity of community lending. Certainly this is an important practice and makes for simple exams and comparisons. Nevertheless, current regulations allow for a more expansive application of the test, which could better connect unbanked families to mainstream financial institutions.

For a variety of reasons, some financial institutions will not see it in their business interest to meet all or some of the credit and banking needs of the target market segment, even with a more rigorous service test, or worse, they will do so poorly. An alternative strategy is to have banks facilitate this activity through investments in institutions with market access and expertise. In essence, this is the theory behind investment and technical assistance for CDFIs. NCLR sees no reason why this same strategy could not be applied to institutions that provide basic banking services. For example, banks could provide loan loss reserve funds, certificates of deposit, technical expertise, lines of credit, or other tools to community-based credit unions and community banks. These institutions have demonstrated greater dexterity in delivering banking and credit products that meet the needs of specific neighborhoods and populations. This practice is allowable under current exam guidance. Since most covered institutions will design their programs to pass the test, altering exam procedures or issuing guidance that expressly encourages such initiatives and offering rigorous standards for implementation could spur desirable activities. In developing these regulatory changes, NCLR urges that the following four principles be followed:

- **Investment must be sizeable enough to allow recipient institutions to more than compensate for the investor's absence.** Disengagement on behalf of large institutions has a series of negative consequences for communities. They are denied access to

[18] Michael A. Stegman, *Creating a Scorecard.*

products whose favorable characteristics are driven by economies of scale, such as price. The lack of competition often results in the proliferation of inferior products. Knowledge from innovation is lost or never materializes. Vacuums of information or shortages of sound products open the doors for misinformation, fringe financial providers, and scams. Marketing and outreach efforts are restricted. Therefore, should a financial institution choose to facilitate banking services for the underbanked segment through investment in community banks or credit unions, for instance, the investment must be more than enough to allow the recipients to overcome any gaps created by the inactivity of the investing institution.

- **Investments in banking services should be community-driven.** Investing for the purpose of expanding the availability of banking services may be appropriate when the bank or thrift does not have the expertise or capacity to deliver the types of products in demand in specific neighborhoods. Consequently, an investment strategy (as opposed to a direct delivery strategy) must by definition be guided by the stated or documented needs of the target market. To achieve this objective, banks and thrifts must justify their strategy with data, statements from local leaders, proof of product demand or uptake, and program evaluations, among other methods.

- **Exam criteria emphasizing innovation and diverse delivery mechanisms should extend to the investment recipient.** A bank or thrift implementing this strategy will have discretion as to where their investment is placed. Therefore, they should also have some responsibility to ensure that their deposit or line of credit is truly facilitating and improving access to banking services. It would be inappropriate to grant credit for an investment that the receiver uses for purposes other than financial services or in a manner that does not benefit the target market or that violates equal housing and lending laws.

- **Investments should be graded on performance.** Similar to standards suggested to improve the service test, performance rather than mere presence of an investment should be the baseline for assessment. While experimentation and pilot programs should be rewarded, ineffective or unnecessary financial tools should not be granted credit. In keeping with current guidelines, credit should only be given for products, services, or delivery mechanisms that otherwise would not be provided by the mainstream market in adequate volume.

Building a New Strategy

These approaches can be implemented regardless of whether a given institution undergoes the full tests or streamlined versions. Banks should be given credit for collaborating and complementing each other's strengths and weaknesses. CRA's strength and key to longevity is its flexibility in implementation. This flexibility must be met with robust compliance reviews to maximize results. Revisions to both tests are necessary to drive banks to invest in retail financial services, as well as allow them to be nimble in their business strategy and for their approach to vary by market. In addition to revising the tests, NCLR offers four final recommendations to ensure that complementary efforts are self-reinforcing.

- **Assess performance wherever business is conducted.** Assessment areas are primarily drawn by the banks themselves,[19] raising questions about activity conducted outside the area. Instead, the public purpose of CRA would be better served by evaluating activities and outcomes where the banks do business, regardless of the presence of branches. There is precedent for assessing the banks' activity outside the self-defined geographic area.[20] Such assessments would capture business conducted via the Internet, mobile phones, mail, mobile branches, special events, "microbranches" housed within retail offices, or brokers and agents. Reasonable boundaries can be drawn based on the volume of business, with consideration of how communities just outside will be impacted. As with current requirements, boundaries must not have a discriminatory effect. Full geographic coverage will prevent banks from limiting their assessment area to their advantage, as well as allow institutions to reap the full benefits of their investments.

- **Mandate a strategic plan.** Under current guidelines, banks can opt for submitting a strategic plan on which their performance will be evaluated. The plan requires significant community input and outlines measurable benchmarks to be attained over a multiyear period. A modest version of this model should be adopted by all CRA-covered institutions to delineate the bank's approach to serving the needs of the underserved, general community development investment, and neighborhood stabilization efforts. A strategic plan is critical to creating opportunities for the public to weigh in on CRA-inspired investments and to hold banks accountable for their commitments and flexibility among metro areas.

- **Use evidence-based assessment criteria.** As recommended above, robust data collection is necessary to assess performance. It is also fundamental to effectively evaluating exam questions and approaches, criteria, and benchmarks. Data will also establish an additional public accountability tool.[21]

- **Screen for violations of equal fair housing and credit laws.** As regulators gain access to more data and assess performance in all areas where business is conducted, they must be on alert for potential discrimination or disparate impact. The current foreclosure crisis is a crude reminder that the absence of prime lenders creates an opening for predatory lenders. Therefore, regulators must screen for a fair housing and lending impact, including the banks' affirmative obligations to lend as well as the impact of their absence.

Conclusion

The original public purposes that serve as the foundation for the enactment of CRA are just as relevant in our current market. Over the last four decades, CRA has driven investment into underserved communities, leveraged private capital to extend affordable credit, and stimulated

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[19] Assessment areas are self-defined but must include areas where there is a physical presence. See National Community Reinvestment Coalition, *CRA Manual* (Washington, DC: National Community Reinvestment Coalition, 2007), 32, http://www.community-wealth.org/_pdfs/tools/cdfis/tool-ncrc-cra-manual.pdf (accessed August 4, 2010).
[20] National Community Reinvestment Coalition, *CRA Manual*, 34.
[21] The study examined two data sets, one containing transaction-level data and the other containing household-level data. Geoff Smith, Sarah Duda, and Malcolm Bush, *Benchmarking Branch Outcomes*.

innovation in affordable lending, neighborhood development, and community services. The underpinnings of CRA remain vibrant and relevant; however, the scope and implementation of CRA must be updated to keep pace with a changing market or face an erosion of its power.