Statement

of

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National Association of Affordable Housing Lenders
on
The Community Reinvestment Act

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CELEBRATING 30 YEARS OF SUCCESSFUL COMMUNITY INVESTMENT

NAAHL represents America's leaders in moving private capital to those in need, 200 organizations committed to increasing lending and investing private capital in low- and moderate-income (LMI) communities. This "who's who" of private sector lenders and investors includes 50 major banks, 50 blue-chip non-profit lenders, and others in the vanguard of affordable housing, including insurance companies, community development corporations, mortgage companies, financial intermediaries, pension funds, and foundations.

SUCCESSFUL COMMUNITY INVESTMENT

Thank you for the opportunity to testify about the importance of the Community Reinvestment Act (CRA) in meeting America's affordable housing and community development needs. We believe that CRA has been, and will continue to be, critical to the preservation and expansion of housing affordable to low and moderate individuals (LMI) because it encourages private capital lending and investing in affordable housing and community development projects nationwide.

The private-public partnership fostered by CRA has evolved and matured over the past 30 years. For-profit and non-profit lenders and investors, developers, community leaders, and government at all levels, have all learned to collaborate as partners in devising new solutions and creative strategies for financing affordable housing that people are proud to call home in thousands of communities across the United States.

We have also learned how to lend and invest private capital safely in underserved areas and to help borrowers with little cash to bring to the closing table.

We have learned over the years how to do it right: how to build affordable rental housing and homeownership properties that contain a mix of incomes, built with the discipline of the private market and using government resources responsibly. These homes are of high quality and lasting value, and remain affordable over the long run.

"TAKING THE ROUGH EDGES OFF OF CAPITALISM"

Since enacted in 1977, CRA has provided a regulatory incentive for funneling literally hundreds of billions of dollars into low and moderate income communities. Former Federal Reserve Board (Fed) Chairman Paul Volcker recently characterized the law as "taking the rough edges off of capitalism," by clarifying the responsibility of all Federally-insured depository institutions "to help meet the credit needs of their communities," including those of the less affluent.

This infusion of private capital leverages public subsidy for affordable rental homes as much as 10 to 25 times, so affordable homes can be built with a limited amount of government support. In an era of shrinking federal subsidy, an active and growing primary market for affordable housing lending is key to achieving homes affordable to persons whose income is classified as "low" (those under 50 percent of area median income) and "moderate" (those under 80 percent of AMI).

Every academic study of CRA has confirmed that the law has been enormously successful in incentivizing insured depository institutions' involvement in underserved areas.

- In each of the past 3 years alone, insured institutions report over $50 billion per year in community development loans on housing affordable to low (under 50% of area median income) and moderate (under 80%) income (LMI) households.

- During the same period, lenders reporting under the Home Mortgage Disclosure Act (HMDA) reported making about $800 billion in mortgages to LMI borrowers and in LMI areas.

This increased lending and equity investing have spurred economic growth and demand, thereby increasing banks' opportunities to make even more loans and sell more services. Banks also use their "public welfare investment" authority to finance Low Income Housing Tax Credits (LIHTCs), New Market Tax Credits (NMTCs), and other housing and economic development funds. Banks currently hold at least one-third of housing tax credits, which help to finance 98 percent of affordable rental housing and 40 percent of all multifamily starts in the U.S.

CRA investments also support critically needed community development, urban revitalization, rural development, and job creation. They do so in a manner that is not only beneficial to the communities served, but also ensures their profitability, and safety and soundness. In addition, banks supervised by the Fed, and the Federal Deposit Insured Corporation (FDIC), as well as the OCC, are examined not only on CRA-qualifying investments, but also on the loans and services provided to LMI persons and areas. Affordable housing lending has become increasingly sophisticated as experienced practitioners develop new products and share best practices. For just a few examples,

- Over 15 years, the Massachusetts Housing Investment Corporation (MHIC) has provided over $1 billion in financing for over 11,000 units of affordable housing

- In New York, the Community Preservation Corporation (CPC) has financed the preservation and development of more than 145,000 units of housing representing public and private investments of over $6.5 billion

- In only 9 years, the Alabama Multifamily Loan Consortium has originated more than $70 million in mortgages financing over 2,000 affordable apartments across the state, 10 percent of which must be accessible to tenants with disabilities, including "Rosa Parks Homes", the first elderly and disabled LIHTC affordable rental apartments in Montgomery.

- The California Community Reinvestment Corporation in 17 years has provided more than $800 million in affordable housing loans and made 26,000 apartments available to residents who earn 60 percent or less of area median income (AMI), including preserving "Curtis Johnson Homes" in Los Angeles.

- In our own metro area, just think of Columbia Heights redevelopment; Anacostia’s resurgence; or even the expansion of our beloved St. Coletta facility. St. Coletta is one of only a handful of charter schools in the U.S. serving students with autism and multiple disabilities. With Bank of America’s letter of credit backing publicly issued tax-exempt bonds and a taxable loan, St. Coletta not only refinanced its existing facility but also finance new construction of another building designed by renowned architect Michael Graves.

Given two decades of innovation and solid experience, our vanguard can offer specific suggestions for ways to ensure the sustainability of community investment, and also to encourage even more in the new millennium.

NAAHL POLICY RECOMMENDATIONS

FIRST, DO NO HARM

We now have a mature, sophisticated understanding of bringing private capital to underserved areas. Sometimes differing regulations among agencies, the reality of 4 different bank regulations and hundreds of examiners have undermined confidence in what qualifies for favorable CRA consideration. The lack of predictability about what examiners count as CRA credit is a deterrent to lending and investing in emerging markets. More training for bank examiners about the nature of community development lending and investment would help banks and thrifts better achieve the policy goals set forth in federal legislation. Community development lending and investment is quite specialized more like an art than a science. Banks should be given the benefit of the doubt, not the third degree. Uneven or lagging regulations and enforcement could dilute the impact CRA can make.

FULL CREDIT FOR POOLED INVESTMENTS

We recommend strongly that a bank should continue to receive full CRA credit for the entire dollar amount of its investment in national, as well as statewide and regional funds that make community development loans or investments, generally as defined under the CRA rules, regardless of the location of the fund's projects, provided that at some point at least some of the fund's projects are located in the bank's assessment area(s) or broader statewide or regional area that includes the bank's assessment area(s). This principle of banks pooling their resources, diversify their risks, and hiring an expert skill set to lend and invest on the banks’ behalf is an important principle, and major CRA success story, that predates even the law.

COMMUNTY DEVELOPMENTTEST OPTION

We also recommend that insured institutions have the option of a Community Development Test, providing flexibility in the provision of community development lending, community development investments, as long as the institution undertakes meaningful activities in both.

Community development encompasses those activities of a financial nature or otherwise, which have the effect of improving the life condition of LMI individuals, or of stabilizing and revitalizing the communities in which they live or work. In order to receive community development credit for CRA purposes, a project need not have community development as its "primary purpose", so long as a significant consequence of the project or activity benefits LMI individuals or communities.

RESTORE THE PRIOR STANDARD FOR PUBLIC WELFARE INVESTMENTS

Since Hurricane Andrew in 1992, insured institutions could have no more than 10 percent of their capital in public welfare investments. In late 2006, Congress increased that cap to 15 percent in regulatory relief legislation (S.2856/H.R. 6072), but in so doing, it decreased opportunities for direct bank investments.

With strong bipartisan support, the House of Representatives addressed this problem by approving H.R. 1066 early last year, to restore the previous standard for banks' direct public welfare investments and provide parity for thrift charters. The bill specifically recognizes the significance of past and future direct investments in rebuilding disaster areas, designated redevelopment areas, rural, distressed communities, and mixed income housing. Senators Mike Crapo (R-Idaho) and Tim Johnson (D-SD) introduced a near-identical version of the House passed bill, S. 2487, on December 18, 2007.

Upon enactment, banks and thrifts will once again be able to make direct investments in:
1) Designated disaster areas (Lower Manhattan, Gulf Coast)
2) Designated redevelopment areas
3) Mixed income housing (as cities like Chicago, New York and Boston desire) where neither the neighborhood, nor the majority of tenants, is under 80 percent of area median income
4) A small business investment fund that is not qualified under a separate Small Business Investment Company (SBIC) authority
5) 3,500 distressed, middle-income, rural areas

SECOND, HARMONIZE BANK REGULATIONS AND GSE GOALS

GSEs Are AWOL

Despite a charter change directing the GSEs to *lead the industry* in ensuring that access to mortgage credit is available to low and moderate income families, and take less of a return to do so, Fannie Mae and Freddie Mac have not yet brought the benefits of a government-sponsored secondary market to the prime segment of the LMI market.

Two top HUD officials from the Clinton and Bush administrations, both highly respected researchers, have said that the GSE affordable housing goals are based on the volume of affordable loans in the prime market. Yet year after year Fannie Mae and Freddie Mac's best "seller/servicer" customers complain to the GSEs that they refuse to help primary lenders meet the credit needs of their communities. Fannie Mae and Freddie Mac's resistance to consumer-friendly, CRA-eligible, conventional, sound prime loans has dramatically reduced the liquidity of CRA eligible, consumer friendly loans. Worse, HUD has actually allowed the GSEs to convert triple A rated securities backed by higher cost, subprime loans, as meeting their “affordable housing” goals. Instead of the GSEs engaging in the lower cost, lower balance mortgage market, the market adapted to the GSEs, their appetite for higher-yielding loans and their alternative network of unregulated mortgage originators.

As a result, billions of dollars in CRA-eligible loans remain on the books of the originating lenders, unless and until the lenders can replenish their supply of funds to do more; consequently, primary lenders, both banks and non-profits, to peddle sound loans like Fuller Brush men of old. Investors include pension funds, insurance companies, and other organizations but involve mostly expensive, time-consuming private placements.

We ask Congress to approve H.R. 3915, the House-passed mortgage reform bill sponsored by Reps. Frank and Bachus, incorporating the affirmation to purchase and responsibility to purchase CRA loans as in Senator Reed’s bill, S. 2391. Congress now has what may be a “once in a generation” opportunity to ensure that the GSEs begin to purchase responsible loans from primary lenders, both insured institutions and their non-profit partners, to replenish lenders’ supply of loan funds so the cycle can begin again.

ADDITIONAL POLICY INCENTIVES

At the federal level, the Federal Deposit Insurance Corporation under the leadership of Chairman Sheila Bair has developed a small-dollar loan pilot program that offers CRA credit to insured institutions which provide small loans in a safe and sound manner. The FDIC’s small-dollar loan program, which announced its first bank participants last week, is designed as an alternative to payday lending. New York and Louisiana lawmakers have passed legislation that directs state government deposits to insured depository institutions that open branches in underserved communities.

Meaningful updating of CRA incentives by the bank regulators has already provided a boost to some lenders’ efforts. Updating decade-old CRA regulations to acknowledge the importance of community development lending would make a real difference. For example:

- Banks with outstanding CRA ratings would enjoy safe harbors at the time of acquisition or merger

- Outstanding institutions could benefit from reduced premiums for deposit insurance

Thank you and we look forward to working with you to increase the flow of private capital to help meet the credit needs of all communities.