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Good morning Mr. Chairman and Members of the Subcommittee. My name is Mark A. Willis, I am a Resident Research Fellow at the Furman Center for Real Estate and Urban Policy at New York University. I represent solely myself at this hearing.

As background, I spent nineteen years in community development at JPMorgan Chase and Chase Manhattan Bank where I oversaw all of its community development programs and products to help strengthen low- and moderate-income communities. Since leaving JP Morgan Chase just under two years ago, I was fortunate to be offered a position as a Visiting Scholar at the Ford Foundation to work on ideas for reforming the Community Reinvestment Act (CRA). Most recently, I have joined the Furman Center for Real Estate and Urban Policy at New York University as a Resident Research Fellow. Also of some relevance to my testimony is my earlier career as an economist at the New York Fed and as a Deputy Commissioner at New York City's Department of Housing Preservation and Development. I have attached a brief biographical summary at the end of this statement.

The passage of the Community Reinvestment Act in 1977 set in motion a bold experiment that has yet to achieve its full potential. By encouraging increased availability of capital, Congress aspired to stabilize and revitalize lower-income communities. While CRA has had a number of successes over the past decades, it has fallen short of its original goals, because it has been slow to rectify its own shortcomings and has failed to adapt to changes in the banking industry and community development practices. The last major re-write of the regulations was in 1995 and amendments since have been limited and infrequent. As a result CRA is in need of a major revamp. Like all regulation, the key to an effective reinvention of CRA lies in the details. Today I will outline several key reforms, some of which can be accomplished through regulatory changes, and others that require legislative action.

(Some critics have asserted that CRA should be repealed, alleging that it was a or the primary driver of the subprime crisis. The evidence is in fact to the contrary: of all the higher cost loans made in 2005-6, a mere 6% of those were made by banks in their CRA assessment areas. Furthermore, my own experience was that the few loans that were done specifically for CRA purposes have continued to perform relatively well, given the current levels of unemployment and underemployment. Generally these loans were at fixed rates and the borrowers were often required to go through mortgage counseling.)

The CRA legislation sought to encourage banks to help meet the credit needs of all communities where they were taking deposits, with a special focus on lower-income communities, consistent with the safe and sound operation of the institution. It created an affirmative obligation (sometimes also called a duty to serve) for banks to seek to expand access to credit to underserved consumers and neighborhoods, and was specifically not structured as a prohibition of certain behavior, the approach taken by many other statutes and regulatory schemes.

Implementation of this affirmative obligation was delegated to the four regulatory agencies that oversee the banks (the Office of the Controller of the Currency, the Federal Reserve, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation). The statute gave them broad latitude in determining the measures they can use for evaluating performance as well as the procedures they can use to examine the banks. All of this is embodied in the regulations, exam guidelines, and Q&As.

Falling Short and Losing Ground

Despite its substantial successes, CRA has fallen short of its potential and is continuing to lose ground for a number of reasons. The core problem is the absence of an easy way to measure the incremental impact of a bank's CRA activities on the community. At first glance, it may seem to make sense to measure the number or dollar amount of loans a bank has made or evaluate the bank's share of the lower-income marketplace compared to its share of the middle and upper income marketplace (called parity tests). But the results can be misleading as they do nothing to gauge the impact of the loans or whether the loans would have otherwise been made. For example, a $50,000 loan to a small business or a $500,000 to a small affordable housing project may be more critical to the well-being of a community than hundreds or thousands of home mortgage loans that would be made as a matter of course by any number of different mortgage companies. Similarly, philanthropic grants given to support local organizations involved in community development receive little credit because they involve small dollar amounts even though they can have a critical and large impact. Also, small amounts of below-market financing can be critical for community development financial institutions (CDFIs) to be able to carry out their missions.

In order to meet volume and parity measures, banks have sometimes undertaken activities that are a waste of resources, if not counterproductive altogether. Banks have been driven to buy market share by offering borrowers bigger and bigger subsides, or to open unprofitable branches in lower-income neighborhoods, sometimes even damaging the economics of local banks that were already there. Banks have even resorted to selling mortgages to each other to boost their mortgage numbers, providing employment for investment bankers but doing nothing to increase the number of mortgages available in the community. By forcing investments that do not make economic sense, CRA can have the counterproductive effect of undermining the business case for lending and investing in lower-income neighborhoods. Yet, despite these consequences, exams have increasingly been based on quantitative measures of production.

A second set of problems trace themselves to the changes in the banking world since the legislation was enacted in 1977 when banking was mainly a *local* affair with *local* banks serving their *local* markets. The business of banking has seen tremendous changes since then, and has seen considerable changes even since the last major re-write of the regulations in 1995. In the nineteen seventies, local banks collected deposits and made loans to community businesses and individuals. Today we have large, national and regional banks that collect deposits and offer products and services across large footprints, relying on the efficiencies of production models that benefit from economies of scale. We now also have internet banks and industrial loan companies which serve large, even national, geographies, but take deposits in only one or a limited number of locations. Lastly, our ideas of how a bank can best help a local community have evolved beyond the narrow notion of expanding access to credit to include the provision of affordable transaction and savings accounts as well as housing that serves a broad range of income groups..

The current economic/financial crisis has only served to further weaken CRA's impact just when lower income communities are most in need of support. The increased focus of the regulators, government officials, investors, and the public on safety and soundness has meant less focus on CRA. With many mergers being driven by financial problems and with the widespread concern with entities that are too-big-to-fail, it is now less likely that regulators will be calling for public meetings to review a bank's CRA performance as part of the process for approving a merger or acquisition. As a result public input and scrutiny will be less, and banks will have less reason to be concerned that their reputations will be impugned.

Some Fixes Require Legislation, Lots of Opportunity for Regulatory Reforms
CRA can be reformed through both legislative and regulatory changes. In fact, legislative action could embody all the necessary changes. However, legislation may not be the best route for many of the changes that would make CRA more effective. Much can be done through regulatory changes which could avoid some of the pitfalls in relying too broadly on legislation as the best way to bring about change.

Key to maintaining CRA's effectiveness is to continually update it. So attention needs to be paid to some downside risks of relying exclusively on the legislative route. First, and perhaps most important, legislation is hard to amend or update; and the current criticism of CRA (albeit without a factual base) portends an uphill battle. If the regulatory process for updating CRA has been slow, then legislative action has the danger of being even slower. Second, to the degree that detailed prescriptions become embedded in the statute, regulators could be severely limited in their ability to fix even minor problems as they arise. Third, we need to be vigilant to ensure that reform of CRA doesn't become an attempt to remedy perceived shortcomings of other legislation such as fair lending. CRA is not and cannot be the panacea for other legislation that is not working.

Congress has given the regulatory agencies broad discretion but their past efforts to re-write and update the regulations have proved to be painful, sparking lots of controversy

with many critics expressing dissatisfaction with the results and few cheers for a job well done. The challenge now is to motivate the regulators to take on the task of re-writing the regulations. Three specific steps could be taken to help unblock the road.

1. Empower a Lead Agency

Regulatory change is never easy, but the difficulty is more than quadrupled when it is necessary to achieve unanimity among all of the four banking agencies enumerated in the statute. Designation of one of the agencies to take the lead would be a good first step along with setting a tight timetable and providing sufficient staffing and analytic resources, and authority to resolve disputes. A specific role for Congress would be to help build a sense of urgency by holding hearings like these that gather ideas for overcoming the shortcomings of the current rules and reinforce support for the regulators undertaking new reforms.

2. Focus on Common Ground Among Stakeholders

Everyone would agree that lack of consensus among stakeholders makes it hard for regulators to change the rules. Yet, the status quo leaves a lot to be desired, and the resolution of some issues could provide significant benefits to all parties. Unfortunately, the key stakeholder groups see the issues from quite different perspectives and often miss areas where their interests overlap. Any effort to find the common ground requires an understanding of the different perspectives among stakeholders. The following outlines some of the issues that underlie the concerns of advocates, bankers, and regulators

Advocates

Advocates, a term that encompasses a wide range of community-based organizations, come with one or more different perspectives. There are those who see the issues through a social justice lens and are exclusively focused on the needs of the communities they serve. Generally speaking, those advocates believe that banks should simply do the right thing, and if the banks do not, they should be sanctioned in some way. Others see CRA as a way to develop on-going and sustainable relationships with banks where both parties benefit—the community gets the funds needed for individuals to buy homes, etc., and for the construction of new projects and the financing of new business and the banks get new (and profitable) customers for its products and services. And of course there are those advocates who feel that both perspectives have validity. Both groups look to establish lines of communication with banks to try to resolve issues and develop partnerships.

Another area that concerns many advocates is grade inflation. Without a clear understanding of what is expected of a bank to get a Satisfactory Rating or even an Outstanding Rating, advocates worry that the exams are too easy or are becoming easier over time. Since the vast majority of banks do get one of these two “passing” grades, it is a legitimate question as to whether the test is hard enough or have banks actually devoted the appropriate resources out of self interest (e.g., concern for their public reputation or for gaining approval of applications to merge, acquire, or open a branch).
Advocates also generally want to see more resources dedicated to stabilizing and revitalizing lower-income communities. They look to bring other financial sector firms

under some type of CRA-like affirmative obligation and they want to make sure that all communities, both large and small, across the country benefit from CRA.

Bankers
Bankers have an inherent allergy to the idea of more regulation; they are reluctant to entertain a broad discussion about reform of CRA since they worry that new regulations might end up making it harder for them to operate. Bankers are judged by their ability to get results and many do not want to risk change now that they understand and can deal with the current system. CRA officers also have to spend a fair amount of time working with their colleagues in other business lines so any changes in the rules would require devoting time and resources to re-educating their colleagues, who are often skeptical of how CRA works in practice, even when they are sympathetic to its purpose.

Bankers also operate in an environment where every business line is its own profit center. Even if the central staff monitoring CRA performance across the institution is not itself a profit center, it works with units that wake up every day thinking about how to improve revenues and control costs. In this environment, the only truly successful way to ensure that a product or service will be available on a sustained basis to as wide a customer base as possible is to show that it can make at least some money, even if the profit potential falls somewhat short of the bank's internal hurdle rates. A product or service that loses money will simply not be sustained, regardless of the amount of cajoling. One that makes money will grow and receive dollars for innovation and infrastructure that can improve the product over time and lower its costs. As for philanthropy or for loans made at a loss (i.e., at rates below the rate the bank charges internally for its funds), they are items which are budgeted annually at a level often based on the overall profitability of the company and not necessarily a reflection of demand.

Regulators
Regulators also have a perspective that is important to take into account. The regulators know that they cannot make all stakeholders (bankers, advocates, or politicians) happy so they are reluctant to undertake the process of reform. No matter what they do, they open themselves up to criticism from all sides. In addition to issues of substance, the regulators are also criticized for how they apply the criteria they use to determine the CRA rating of a bank. Unfortunately, the best way to be able to defend their assessments and to be more consistent across banks is to create more bright lines between what counts and what does not and to make the exams more quantitative. Unfortunately, as we have seen, this increasing reliance on pure numbers has its own downsides and the more details in the regulations, the more rigid the system has become.

The most promising way to break down the perceptual barriers among the stakeholders would be to engage them all in an open and candid discussion. Common ground might be found between regulators who would benefit from greater clarity of the guidelines which would could allow for more consistency in the ratings across banks, bankers who would benefit if they could put together their business plans with more confidence of the outcome if they meet their goals; and advocates who would benefit from having clearer standards against which to judge the banks. Similarly, facilitating more regular updates

of the regulations could make it easier for the different stakeholders to allow for experimentation and new ideas with the knowledge that subsequent fixes would be possible. To the extent such a dialogue would uncover areas of agreement, the regulators would then have a constructive place to start to revamp the regulations

3. Show How Reform Need Not Be a Zero Sum Game

Many of the stakeholders are also reluctant to support change since they fear that giving more credit to one element of the exam will necessarily decrease the importance of another. This concern that CRA is a zero-sum game is understandable given the way the current system for large, retail banks derives an overall rating for a bank by taking a weighted average of the results of the Lending, Investment, and Services tests, each of which is itself a weighted average of its components. If, for example, more weight were given to the funding of affordable rental housing and CDFIs (both essential elements of what are called community development loans) under the Lending test, then, all else equal, the value of mortgage loans and small business loans would have to diminish. Thus it is hardly surprising that those who want to preserve the level of attention now paid to home mortgages and small business loans are reluctant to contemplate changes that may lead to a reduction in the importance of these loan activities.

One way out of this trap would be to expand upon the current approach that requires a bank to achieve at least a minimal "passing" grade on the Lending Test in order to be eligible for an overall "Satisfactory" rating. Other products and services or groups of products and services (e.g., a community development test, see below) could receive similar treatment, making the passing of each of them of equal importance, at least with regard to being able to achieve a passing grade overall.

Specific Proposals to Significantly Improve CRA's Effectiveness

If these three steps help to unstick the process for updating regulations, there is much that can be done through regulatory changes. In particular, the agencies could restructure the exams to be clearer and more specific about what is required or desired from the banks of different types and sizes and in different neighborhoods. They could modify or replace tests that give credit for activities that do not have a positive incremental impact on lower-income communities or, indeed, are harmful. They could redesign the system to provide quick feedback on emerging issues and products. More rapid and regular updates would create a system that achieves continuous improvement.

Make "Satisfactory" an Explicit Floor and Specify Required Products or Services

To add teeth to CRA and to clarify its requirements, an overall rating of "Satisfactory" should be made an explicit pre-requisite for a bank to apply for any of the regulatory approvals covered by the CRA statute. In addition, the products or services required for a "Satisfactory" should be laid out through a series of minimum standards. Failure to achieve these minimums would result in an overall rating below "Satisfactory." This approach eliminates the zero-sum problem, at least with regard to qualifying for a "Satisfactory," and addresses some of the concerns of advocates that the regulators have not been tough enough "graders" or flunked enough banks. Additional gradations might

make sense but increasing the number of overall rating levels beyond the current four would require legislation.

In particular, minimum levels of performance should be set for individual products or services or for groups of them (just as the existing Lending Test looks at the collective performance of a bank with respect to both home mortgages and small business loans). Groupings make sense particularly when better performance on one component can compensate for a lesser performance on another.

In addition to requiring a minimum performance level for home mortgage and small business loans, there could be a "minimum" test for retail services which could combine an evaluation of the geographic distribution of branches, an examination of the bank's policy with regard to closing branches, and an assessment of the effectiveness of any alternative delivery systems for the same products and services found in branches. Another approach might be to set a minimum level of performance under consumer compliance that covers discrimination, consumer safety, and unfair and deceptive marketing practices. Still another might be a community test as described below.

Calibrating the "height" of these minimums requires a comparison of the costs of meeting them versus the incentives needed to induce banks to comply. Just as the incentives built into CRA are limited, any requirements that banks supply particular products or services should also be limited. If the minimum standards are set too high individually or collectively, then the regulations will run the risk that some banks may choose to live with a failing grade. While those banks that anticipate needing any of the delineated powers in the statute, e.g., for permission to merge or acquire, will be highly motivated to try to comply, many banks will likely set a lower bar as to what they consider to be reasonable.

Create a Community Development Test

The exam protocol for large, retail banks lacks a community development test which combines community development lending, investments and services. Yet, this array of activities is critical for stabilizing and revitalizing neighborhoods—the original intention of the legislation. Community development loans and services are too important to be systematically undervalued as they are at present for large, retail banks. Furthermore, if it were possible to treat all of these activities under one umbrella, a bank would be free to respond to local needs and opportunities, whether they be loans, investments, services or a melding of the three.

One way to create a community development test would be to give banks the option of adding community development loans and services to the existing Investment Test. Banks could also be allowed to increase the weight given to this expanded test (perhaps by up to 50 percent), with a concomitant reduction in the weight given to the now narrower Lending Test. Moreover, the problems with the parity tests mean that the evaluation of home mortgage and small business lending also needs to be addressed as noted earlier. The new Community Development Test may also call for one or more minimum standards of the type discussed above. Also, as a result of having this new test,

reshufflings of the remaining components of the Lending and Service tests should also be on the table in order to adjust the groupings to be subject to a minimum standard.

Calibrating Quantity versus Quality, Production versus Process

Over the years, examiners have tried various ways to measure bank compliance with the affirmative obligation imposed by CRA. Some have been better aligned than others helping to stabilize and revitalize lower-income communities. It has proven difficult to measure directly the net incremental impact of a bank's actions on a community. Regulators have relied on such proxies as the amount of production (e.g., the number of loans), the market share of a bank in the lower-income community compared to that of the industry as a whole (also referred to as a parity test), and local efforts to market a product. The 1995 switch from measuring process to production was hoped to be an improvement but, as discussed above, this generated its own set of unintended consequences and the perfect yardstick has yet to be found. Some of the new tests have even had the perverse result of encouraging counterproductive behavior on the part of the banks through the sparking of destructive competition. These tests need to either be eliminated; be placed in a broader context that incorporates a number of different tests; or be reputable based on economic factors or the absence of need (see next section regarding a safety value).

Whether these tests that promote destructive competition are replaced or put in a broader context, it is time to include both quantitative and qualitative measures of production and process. By combining these approaches, it may be possible to better approximate an evaluation of a bank's positive incremental impact on lower income communities. Tests need to be devised for each of the minimum standards for a "Satisfactory" as well as what is needed for an "Outstanding." To ensure tests continue to work as intended, they should be reviewed regularly and modified or replaced as appropriate. The regulations also need to embrace and assess new practices in the community development field.

Finding the right balance between quantitative and qualitative measures is essential since as noted earlier, smaller size loan can have as much, or more, impact than a larger one. Process measures will help evaluate more nuance community impacts that cannot be identified with existing measures. For example, testing whether a bank has conducted valid needs assessments would encourage banks to maintain an on-going dialogue with the community. Similarly, developing a test to gauge if the community truly has access to bank officials with sufficient authority to be responsive to their ideas and concerns could satisfy this goal. In determining if a bank is doing enough extra to justify an "Outstanding," the test could require evidence of innovative products and services or of the dedication of sufficient expertise and resources to be able to structure innovative deals. This test would also encourage continued support for separate, specialized lending units. Of course, these types of tests would require examiners to be both well-trained and empowered to make the necessary judgments in the field.

One particularly difficult issue involves the pricing of products to serve lower-income communities. In some cases the existence of CRA actually impedes the availability of products because banks hesitate to charge the price needed to cover costs and earn a

reasonable rate of return. Regulators should clarify the role that the price of a product plays in evaluating a bank's performance. While pricing may be a key issue for advocates who worry about "fairness," the regulators might prefer to focus on the availability of the product or service as well as the long term prospect that more market competition could drive down the price as volume grows and banks invest in improving the product and the technology used to produce it.

Incorporate a Safety Value to Guard against Unintended Consequences

Since the tests are likely to be, at their best, imperfect measures of the desired outcome, it is important to provide a safety value to minimize the chances that the regulations will force banks to undertake counterproductive activities. Before being made to over saturate or over subsidize a market, a bank should be allowed to defend its record by being able to show that the community is already being well served or the economics simply cannot work (e.g., banks have been known to offer subsidies of $8000 or more to try to increase their market share of lower income home mortgages). A formal "appeals" process should be established so that banks can make such a case and so overcome any initial judgment based on numbers alone of inadequate performance.

Add More Exam Protocols

Regulators should set up additional exam protocols to adapt to the realities of the geographic reach of internet banks and others that serve regional or national banks. Banks serving a nationwide market should be offered full credit for CRA-eligible loans, investments, and services made in any geography across the country, thus encouraging them to serve those lower-income markets. A similar approach might be applied to regional banks that would be able to serve all localities within their region regardless of the existence of a local deposit-taking facility. Such rules would help to ensure every community has access to capital at competitive prices. Such reforms would also allow for further geographic diversity in the portfolios of these banks and would reduce the pressure to over concentrate in some of their headquarter cities. Likewise, they would allow more capital to flow to regional and national loan funds which would then be free to serve all lower-income communities within their service area. (This approach differs in a significant way from those that propose expanding the definition of Assessment Areas to include geographies where a bank lends money but does not take deposits. Such an expansion of CRA responsibility needs to be thought through carefully, as it could result in, for example, the need to spread philanthropic and low cost loan money even more thinly. Since these proposals move away from focusing only on where a bank takes deposits, it may also require legislative change. See below.)

These changes may not be enough to provide access to credit in small communities with banks that are so small they only have to meet the stripped down lending test or with banks that only have a small share overall of the local mortgage or small business market. In these cases, the regulators could go further and offer extra credit to any bank that lends, invests, or provides community development services in these communities, regardless of where the bank takes deposits.

Another reason to design a special exam protocol for the largest banks is to identify a way to shorten exams that can currently consume 18 months or longer. These protracted exams tie up the resources of all parties for months, and banks justifiably complain that they are halfway through their business plans for the next exam before they fully know what rules they should be operating under. The result is an elongated feedback loop that slows the process of continuous improvement for all parties concerned. Exams should be able to be completed faster, or at a minimum any changes in how different activities are being evaluated need to be communicated on a real-time basis.

Special rules could also be developed for banks that have affiliates (i.e., other subsidiaries of the holding company) that are relatively large and perform activities that would be included in a CRA exam if they were a direct subsidiary of the bank itself. Currently, regulators do not look at non-bank affiliates unless the bank itself volunteers to include them in its exam. One approach would be to take into account the size and nature of the affiliates in determining the appropriate level of CRA activity expected from the institution.

Another alternative, particularly for the internet banks and others that serve national markets, but only take deposits in limited geographies, would be to require each of them to create their own custom-made "strategic plans." Once the plans are approved, banks would be able to be confident of how much of its efforts can go to communities beyond its hometown. Before adopting this approach, however, it would be useful to better understand the historic reluctance of banks to take up the option of creating a strategic plan.

Formalize a Process to Adjust Exams for Local Market Conditions

Another area worth exploring is to devise a more formal process for allowing exams to be adjusted based on variations in local needs. What may be valuable for today's Cleveland may not be so for Chicago. At the time of an exam, a bank has the ability to make the case for any local variations in its performance. Analyses of local needs can be incorporated in the "Performance Context," a document prepared by the banks as part of the examination process as part of the analyses they provide the examiners. This path is filled with uncertainty, though, since examiners can then reach different conclusions after reviewing the data or talking with the community.

To eliminate this uncertainty, regulators could play a more proactive role and take the lead in compiling an assessment of local needs. If they did, then banks could have the option of shaping their CRA programs in each locality around either the standard CRA framework or around the special finding for each locality. Alternatively, the regulators could try to make more attractive the existing option for banks to develop their own strategic plan. Such a plan requires regulatory approval but has the advantage of allowing a bank to set up its own criteria for being evaluated under CRA. Few banks have thought it worthwhile to pursue this option, but perhaps it could be modified to be more attractive.

Hold Public Hearings Annually to Review the Latest CRA Data

Input from the public has played a crucial role in alerting the regulators to community needs and the role a bank plays in a community. This input is in danger of being lost as fewer mergers and acquisitions will reduce the opportunities for public involvement. The regulators should consider holding regular joint meetings ever year to review the latest CRA data. Congress could also hold annual hearings. (To make holding these hearings mandatory, legislation may be the best route.)

A related and contentious issue is the push by advocates and researchers for the collection of more extensive data under CRA. The issues involved should be considered independently of the debate of how much detail to collect under HMDA, which is separately authorized and has its own rationale. While it is important that examiners have the data they need to carry out their responsibilities, it is a different question as to which of this data should be made public. Banks are concerned about cost, customer privacy, providing proprietary information that could be valuable to their competitors, and fueling a proliferation of law suits. But it is also the case that more data available to the public could allow for more fact-based and constructive discussions. The answer requires a balancing of the interest of the banks and the public.

One way to resolve this tension between the banks and the public would be to determine what type and amount of information is necessary to allow advocates and others to make the case that a problem may exist. This would shift the burden of proof back to the bank to explain why the data looks the way it does. While the data made public may not suffice for a court of law, it would at least be enough to help the public guide the regulators to where they should do more in-depth analyses.

Proposed Fixes that Can Be Done Only Through Legislation

Some of the proposed reforms can only be done through legislative action. The following are some of those ideas.

Add an Affirmative Obligation to Regulatory Reform Legislation

One way to expand CRA-like responsibilities beyond the banks would be to look for opportunities to build an affirmative obligation into financial reform legislation as part of any new/expanded regulatory scheme. If made a part of the responsibilities of a consumer financial protection agency or bureau, for example, then all the players providing the covered consumer products and services would share the same obligation to lower-income communities, thereby creating a level playing field, reducing the danger of a race to the bottom, and spreading any cost across a larger universe of firms than just banks alone.

Tighten Complementary Laws

Anti-discriminatory laws can be critical to helping lower-income communities thrive. The apparent targeting of minorities with toxic subprime products has hurt many of these communities. Rather than explicitly include race or ethnicity in CRA, a better approach may be to strengthen and effectively enforce existing fair lending laws. It might also work to help to add an affirmative obligation to those laws rather than to enmesh the CRA itself in the process of investigating discrimination, which often requires reviewing

individual loan files, a process that seems best done as it is now by the regulators as part of their fair lending exams.

Beyond Credit

The original sharp focus of CRA on "credit" may be outdated and it may be time to include other kinds of bank products and services. To explicitly require the provision of transaction and savings accounts that serve lower-income communities, for example, may require new legislation although the current statute may already provide enough latitude.

Expand Incentives

Since the value placed on achieving an "Outstanding" appears to be falling for some banks, additional incentives may be necessary just to maintain the status quo. One way to bolster CRA would be to offer to provide an explicit monetary benefit for achieving an "Outstanding." A proposal mooted a few years ago was to reduce assessments imposed by FDIC to maintain its insurance fund.

It has already been shown that monetary incentives can induce banks (and others) to provide more products and services in lower-income communities. Notable successes have been the CDFI Fund and the Low Income Housing and New Markets Tax Credit programs. The government should consider additional ways to subsidize products or services that generate externalities that benefit the community as a whole.

Expansion of Assessment Areas

Some advocates have proposed changing some of the basic tenets of CRA. For example, as some banks now sell home mortgage, credit card, and other products and services beyond the markets in which they take deposits, advocates note that in some communities the remaining local banks may not be of sufficient size to have the resources to revitalize their communities. One proposal to address this problem is to expand a bank's CRA responsibility to also cover geographies where it makes loans. While the problem may be real, the proposed solution risks diluting the efforts now being made by banks in their own communities. How would, for example, banks serve these additional communities where they may not even have a physical presence or local staff? Would it drain resources now deployed elsewhere? Would it require banks to spread more thinly the very valuable but limited resources set aside for philanthropic grants and below-market loans? Since the budgets for these purposes are generally set centrally and are not likely to be expanded simply because of a change in geography, some communities and localities will end up with less.

Another question regards the level of activity that would trigger the obligation. In a bill now before Congress, the proposed trigger is any level of loan activity in excess of 0.5% the local market. With such a low threshold, this provision could have the opposite effect, leading banks to avoid making any local loans where the number that would trigger a local obligation is too small to be worth the effort. This could deprive the local community of having more firms compete for their business, decreasing access to credit. Lastly, how much burden would this add to the regulators who would have to evaluate

these additional geographies? Would it make exams even longer, further attenuating the feedback loop?

Consider Expanding Beyond Banking

Advocates would like to see other financial services companies (and non-bank affiliates of banks) covered by a CRA-type affirmative obligation in order to bring more resources to the field. The insurance industry is one example often cited. These types of proposals also has the advantage of helping to level the playing field to the extent banks compete with these other companies for customers. However, before rushing to pass legislation, many of the issues faced by CRA over the years need to be confronted: What particular products or services should be covered? Is the community underserved with regard to them? Would the benefits (including externalities) of providing them exceed the costs? If so, what would be the best way to cover all the firms playing in that particular market? If there is a problem with profitability, would monetary incentives be preferable? The clearer the answers are to these questions, the more effective the legislation will be in helping communities.

Conclusion

In addition to seeking the above statutory changes, there are several ways that Congress can help us move towards a more effective CRA, including: holding hearings like this to gather ideas; working to find common ground among stakeholders; and encourage the regulators to focus on the task of revamping the regulations and supporting those efforts to make CRA better able to stabilize and revitalize lower-income communities. To the extent common ground can be found that works for all parties, lower-income communities will be the beneficiaries.

Biography

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Mark A. Willis recently became a Resident Research Fellow at New York University's Furman Center for Real Estate and Urban Policy following the completion of his tenure as a Visiting Scholar at the Ford Foundation where he worked on community development and the financial services sector. Previously, Mr. Willis spent 19 years in community-development banking at JPMorgan Chase overseeing its community development programs and products to help strengthen low- and moderate-income communities. He founded the Chase Community Development Corporation and became executive vice president and head of the Community Development Group with a staff of 250, outstandings in excess of $3 billion, and revenues of $30 million. Over those years, he had responsibility for the development and implementation of innovative lending and investment programs for affordable housing, community economic development, small businesses, and affordable home mortgages; community relations; and corporate oversight of Fair Lending and Community Reinvestment Act compliance. Mr. Willis also served as the President of the Chase Manhattan Foundation from 1998 to 1999.

Before joining Chase, Mr. Willis held various positions in economic development and tax policy with the City of New York, and from 1986 to 1989, he was Deputy Commissioner for Development of the Department of Housing Preservation and Development. Before joining the City, he was an urban economist at the Federal Reserve Bank of New York.

Mr. Willis co-chairs Housing First! in New York City and has previously chaired the New York Community Investment Company and the Consumer Bankers Association's Community Reinvestment Committee, and co-chaired Living Cities: The National Community Development Initiative. Mr. Willis has also served as a member of the Bankers/Community Collaborative Council of the National Community Reinvestment Coalition. He currently serves on a number of boards including the executive committees of the Center for Housing Policy and the Greater Harlem Chamber of Commerce as well as the advisory board of the Office of Financial Empowerment of the NYC Department of Consumer Affairs. Mr. Willis teaches Housing and Community Development Policy jointly at New York University's Law and Wagner schools.

Mr. Willis has a B.A. degree in economics from Yale University, a J.D. degree from Harvard Law School, and a Ph.D. degree in urban economics and industrial organization from Yale University.