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TESTIMONY OF

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NATIONAL URBAN LEAGUE

BEFORE FOR THE

HOUSE SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

THURSDAY, APRIL 15, 2010

"PERSPECTIVES AND PROPOSALS ON THE COMMUNITY REINVESTMENT ACT"

Chairman Gutierrez, Ranking Member Hensarling, thank you for the opportunity to share the perspectives and proposals of the National Urban League on the Community Reinvestment Act (CRA). I am Cy Richardson, Vice President of Housing and Community Development at the National Urban League. Established in 1910, the National Urban League is celebrating its centennial anniversary as the nation's oldest and largest civil rights and direct services organization serving 2 million people each year in over 100 urban communities.

Economic Empowerment – assisting our constituents in attaining economic self-sufficiency through job training, good jobs, homeownership, entrepreneurship and wealth accumulation – leads the National Urban League's five-pronged strategy to advance the mission of the Urban League Movement and is imperative to closing the "wealth chasm" between African Americans and white Americans. According to this year's *State of Black America Report*: nationally, the typical African-American family's median wealth is roughly 8% of that of white households – $9,500 compared to $116,500.

Today's hearing on perspectives and proposals for enhancing the Community Reinvestment Act fall squarely within the economic empowerment discourse both nationally and in our local communities. My remarks will provide general recommendations for modernizing and strengthening the core purpose and utility of CRA followed by specific ideas for amendments to the service test – an important and highly visible core component of CRA.

CRA and the Subprime Crisis: Disarming the Weapons of Mass Deception

However, before I share the National Urban League's views and proposals along these lines, it is important to first address head-on some of the disturbing and unpleasant rhetoric that surfaced during this recent period of dissonance concerning CRA and the foreclosure crisis.

In the wake of the subprime meltdown, some observers and commentators have perpetuated a dangerous myth: that minority and low-income borrowers and measures to expand their opportunities for homeownership, such as the CRA, were responsible for the subprime crisis. However, a number of recent reports and studies have forcefully debunked these attacks on the CRA.

Intuitively, the National Urban League and other advocates from across the country have long known that CRA's affirmative obligation to serve low- and moderate-income communities was not the cause of the foreclosure crisis. Still, pundits and politicians were looking for scapegoats on which to blame the crisis – and CRA was referenced early and often.

Our analysis indicates that the Community Reinvestment Act has been effective in ensuring access to fairly priced credit for low- and moderate-income borrowers and communities, as lenders covered by the CRA are far less likely to make higher-cost loans than lenders not covered by the CRA. These are the facts, yet a considerable amount of time and care has been spent – and indeed, will continue to be spent, disarming what the President of the National Urban League Marc Morial has termed "weapons of mass deception," under which this line of false argument falls.

General Observations and Recommendations to Modernize CRA

The current crisis demonstrates that we need to modernize and expand the Community Reinvestment Act to cover all financial institutions and enforce it rigorously to ensure economic security and community prosperity for all. In keeping with the spirit of the CRA, our recommendations are provided as broad principles, rather than prescriptive and detailed rules, most of which can be taken up at the regulatory level.

In our judgment, Congress must:

- Keep the Act fundamentally intact, and seek to build on its strengths.
- Fine-tune the measurements to remain in step with shifting markets. Extending credit that undermines financial security should receive negative (and certainly not positive) consideration. Enhancing the range of possible sanctions to include both positive and punitive consequences will give regulators greater flexibility to implement the Act. For example, regulators can vary terms and conditions for bank borrowing, and offer benefits that can partially offset perceived and real costs of expanding services.
- Revitalize the public's role. Particularly in light of the current priorities of regulatory agencies, the public can play an important and cost-effective part in advancing the Act. This will require that institutions and regulators provide deeper data on a broader set of activities.
- Address the systemic imbalance in CRA scoring to give greater weight to the full array of services and lending provided as opposed to a primary focus on brick and mortar investment.
- Strengthen the Service Test by evaluating delivery channels based on measures of effectiveness; assessing the quality of outreach and disclosure; incorporating more quantitative measures and benchmarks; and restoring coverage of the Service Test to more institutions.

Specific Observations and Recommendations to Strengthen the Service Test

While a large portion of the debate concerning CRA modernization and reform focuses on the disconnect between examination grades and the banks' performance on branch distribution and frequently vague qualitative descriptions of service test performance, there is an even larger problem in the current administration of the Service Test. The 1995 regulatory changes to the CRA regulation emphasized outcome based measurements. Outcome based measures assess an institution's extension of banking products and services to customers rather than plans or intention to deliver such products. Under the lending and investment test, data collected on mortgage or small business lending or grants and investments allow for direct analysis of an institution's extension of products to low- and moderate-income (LMI) markets. Under the Service Test, there are no data analyzed or collected that allow for similar analysis.

Ostensibly, the goal of the CRA Service Test is not merely to get a sense of branch location, but rather to measure how banks are serving the credit and service needs of the community. A different set of data is needed to measure actual bank services to lower-income communities. Those data would measure such outcomes as the number of low-cost savings accounts opened, the percent of low-income households served, and a comparison of these figures against those of comparable banks. Branch distribution data is a seriously insufficient measure of how well a bank is meeting the needs of the community. Measuring delivery channels encourages the development of more delivery channels, but not necessarily the actual delivery of products and services.

The implementation of the Service Test needs major improvements before the test can capture the reality of an institution's delivery of banking services to lower-income people and minority communities. The following changes would allow the test to more effectively measure a bank's performance and should be included under an expanded reporting rubric:

- Branch distribution should be measured in a consistent manner against the percent of households living in low-and moderate income neighborhoods in the bank's assessment area.

- Standardized data on new and existing retail checking and savings accounts should be collected and analyzed by regulatory agencies. These data should include information on account holder census tract; year opened, and average annual balance.

- Since many lower-income people do not live in lower-income zip codes, examiners should also conduct sample surveys of the income and race/ethnic distribution of an institution's retail customers to determine the percent of those customers that are lower-income and/or members of minority groups.

- Examiners should institute a systematic analysis of the full cost of retail products which will allow for comparisons among institutions.

- Examiners should also construct and report a systematic analysis with quantitative data of the number and income/race of customers who use alternative ways of accessing financial products, telephone and internet banking, smart ATMs with such features as automated money orders, and wire transfers to other countries.

- Banks should report data on the services they provide to unbanked households and their success in using those services to recruit new customers.

- Examiners should carefully examine banks' relationships with high cost fringe lenders and determine whether those fringe lenders' disclosure activities (as opposed to just disclosure notices) costs, terms and conditions have a deceptive impact on their customers.

- Banks should be required to report quantitative details of their community development services, including the number of people who attend financial literacy events and the number of new accounts that result from such events.

- Large banks inundate customers with debt products including credit card solicitations and passive checks. Banks should be penalized if these offerings are likely to have a deceptive impact on the average customer.

- Banks should also be examined to see whether they effectively market savings products to lower-income consumers.

Moreover, with regard to small business lending:

- CRA should monitor bank lending activities to small and minority businesses to determine if their current lending practices are user friendly for these business concerns.

- CRA should include an evaluation of bank participation (providing funds/underwriting assistance) and collaboration with local non-profits that themselves provide micro lending (loans under $50k).

Implications of the Change in Financial Services for the CRA

Fundamental and transformative changes in the broad financial services sector make it critically important that proposals to re-tool CRA work to ensure that commitments to low- and moderate-income neighborhoods are not forgotten. We remain concerned that the obligation to meet the needs of LMI neighborhoods is not being applied to nonbank financial services companies, whose share of financial assets now exceed those of banks and thrifts, and whose holdings continue to grow. Absent a CRA mandate that all financial services companies meet the needs of low- and moderate-income neighborhoods in the areas they serve, and an expansion of the CRA mandate to non-credit-related services, these lower-income areas will continue to be underserved in financial services and fall prey to unscrupulous practices. Low- and moderate-income areas need access to other financial services and products – insurance, savings, money transmittal, and securities services – on fair, non predatory terms. This is even more urgent as financial services continue their shift from traditional banks to a more complex set of institutions and products.

With respect to the credit needs of these lower income neighborhoods, the subprime crisis indicates that, when it comes to home mortgages at least, the issue may be as much about the need to protect borrowers from fraudulent or predatory lending practices as it is about the flow of capital. However, reigning in the excesses of subprime lending may have a disproportionate impact on low- and moderate-income areas. Credit availability in these areas may contract substantially if lenders and investors believe wrongly that low- and moderate-income borrowers are not good credit risks. In that case, vigorous application of the CRA would be as necessary as it was in 1977 to ensure a continuous flow of investment on fair terms.

Indeed, inner cities and economically declining regions require large capital investment in infrastructure, and the demolition or rehabilitation of dilapidated properties, if they are to be attractive environments for private capital investment, including investments in homes.

Conclusion

The financial intermediation process, the structure of the banking system, and the methods for delivering financial services have changed in fundamental ways since 1977, and they have changed in ways that no one could have predicted when the CRA was first enacted. The facts on the ground in low- and moderate-income neighborhoods have changed as well. Explicit redlining is by and large a thing of the past. Innovations in technology and financial markets have lowered the cost of mortgages and consumer financing to the point that many more creditworthy borrowers are able to access credit.

Yet, the heart of the problem that the CRA was intended to solve remains: the need for the financial services sector to deliver enough support to low- and moderate-income neighborhoods. Neighborhoods require sound infrastructure, healthy retail businesses, and a core of well-maintained homes to retain value and to attract investment. There are still information deficiencies in these areas, resulting in a more subtle, and perhaps unintended but still hurtful form of redlining, which in turn causes some banks to under- invest and contributes to racial discrimination in lending. Critics who argue that the subprime crisis proves the CRA is a misguided and unwarranted government intervention in the financial services sector are wrong, not only because the facts show that Wall Street excesses, not the CRA, caused the subprime crisis, but also because there are identified market failures that require government action to address.

Bringing the Community Reinvestment Act into the twenty-first century requires the same kind of care and creativity that fostered the act in 1977, and provided for its reform in the 1990s. The CRA has proved it can help meet low- and moderate-income individuals and communities' material needs. Indeed, after the crisis caused by the subprime turmoil rolls through these neighborhoods, their problems are likely to be even more acute. Accordingly, we urge that the CRA be expanded and refined as I have outlined herein, and that considerable legislative and regulatory effort be focused on this purpose.

Finally, within the suggested changes that I have outlined, the CRA could become an even more powerful engine for revitalizing low- and moderate-income neighborhoods, coming to the fore just when the government's ability to use tax revenues to pay for infrastructure improvement and to invest in urban development is greatly diminished.

Thank you for the opportunity to testify and I will be pleased to answer any questions.