

HOUSING AND COMMUNITY DEVELOPMENT

Resolution HCD-19-33

A RESOLUTION TO PROTECT THE COMMUNITY REINVESTMENT ACT

WHEREAS, the Community Reinvestment Act (CRA) was enacted on October 12, 1977 to end the practice of "redlining" by financial institutions where they would draw a red line on a map around the neighborhoods they did not want to offer financial services; before the enactment of the CRA, redlining made it near impossible for low- and moderate-income Americans, racial and ethnic minorities, and their neighborhoods to access credit services, such as mortgages and business loans, regardless of their qualifications or creditworthiness;

WHEREAS, CRA was a landmark civil rights law aimed at ending discrimination that was once common in America's banking and housing markets;

WHEREAS, discrimination in lending is still a problem;

WHEREAS, the CRA states that "regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered;"

WHEREAS, the CRA establishes a regulatory regime for monitoring the level of lending, investments, and services in low- and moderate-income neighborhoods traditionally underserved by lending institutions; examiners from three federal agencies assess and "grade" a lending institution ' s activities in low- and moderate-income neighborhoods;

WHEREAS, the federal agencies conducting CRA examinations are: The Office of the Comptroller of the Currency (OCC), which examines nationally chartered banks; the Federal Deposit Insurance Corporation (FDIC), which insures state-chartered banks that are not members of the Federal Reserve System; the Federal Reserve Board, which supervises State-chartered banks that are members of the Federal Reserve System;

WHEREAS, if a regulatory agency finds a financial institution not serving these neighborhoods, it can delay or deny that institution's request to merge with another lender or to open a branch or expand any of its other services; the financial institution regulatory agency can also approve the merger application subject to specific improvements in a bank's lending or investment record in low- and moderate-income neighborhoods;

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WHEREAS, a financial institution's CRA grade can be downgraded if a federal agency uncovers evidence of illegal, abusive or discriminatory lending on their fair lending exams that occur at about the same time as CRA exams;

WHEREAS, since 1996, according to analysis of bank lending data by the National Community Reinvestment Coalition (NCRC), CRA-covered banks issued more than 25 million small business loans in low- and moderate-income tracts, totaling more than \$1 trillion, and \$980 billion in community development loans that support affordable housing and economic development projects benefiting low- and moderate-income communities;

WHEREAS, the annual dollar amount of community development loans increased 443 percent from \$17.7 billion in 1996 to \$96 billion in 2016, a 2016 review of the CRA examinations of intermediate small banks (ISBs)/mid-sized banks (banks with asset sizes today between \$313 million and \$1.252 billion) found that ISBs produced over \$9.3 billion of community development (CD) loans and grants;

WHEREAS, studies have found that CRA-covered home lending is safer and sounder than non-CRA covered lending; when a larger share of lending is issued by CRA-covered banks than by independent mortgage companies, a neighborhood experiences lower delinquency rates and less risky lending;

WHEREAS, despite the tremendous benefits of CRA to communities, the full potential of CRA has not been realized because it has not been updated to take into account changes in the banking industry and the economy; independent mortgage companies not covered by CRA now make more than 50 percent of the home mortgage loans in America and financial technology companies (Fintech) not covered by CRA operating via the internet are rapidly increasing their lending;

WHEREAS, notwithstanding the need to modernize CRA, we are concerned about ideas from some federal regulators that would substantially weaken the law;

WHEREAS, geographic assessment areas must remain the focus of CRA exams for all banks; banks should continue to be graded based on every geography where they lend or receive a significant percentage of their deposits; banks cannot be allowed to cherry-pick where they lend - and where they do not lend at all or to ignore the credit needs of distressed and vulnerable communities;

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WHEREAS, regulators review of a bank's CRA commitment should not be consumed by a "one ratio" approach on which most or all of a bank's CRA rating would be based. One ratio would consist of the dollar amount of a bank's CRA activities (loans, investments, and services to low- and moderate-income people) divided by the bank's assets or the bank's "Tier One" capital;

WHEREAS, one fraction cannot sum up how, if and where a bank is lending and investing and whether they are being responsive to the particular credits needs of their local community;

WHEREAS, more banks and not fewer banks, including ISBs/mid-sized banks, should be examined under CRA for their community development lending and investments; and

WHEREAS, CRA should explicitly state obligations to fairly serve all races and ethnicities; banks that engage in large-scale illegal and harmful activities should fail their CRA exams.

THEREFORE BE IT RESOLVED, that the National Black Caucus of State Legislators (NBCSL) will support efforts to modernize CRA, but not relax or undermine the law's goal and intent;

BE IT FURTHER RESOLVED, that the NBCSL will oppose regulators efforts to raise bank thresholds and exempt more banks, such as ISBs/mid-sized banks, from an examination of their community development lending and investments;

BE IT FURTHER RESOLVED, that the NBCSL will support modernizing CRA to apply it to non-bank institutions including mortgage companies, financial technology companies, and credit unions;

BE IT FURTHER RESOLVED, that the NBCSL will oppose regulators efforts to water down the penalties under CRA for discrimination;

BE IT FURTHER RESOLVED, that the NBCSL will support a CRA with a clearly-defined grading system that emphasizes lending, bank branches, fair lending performance, and responsible loan products for working-class families;

BE IT FURTHER RESOLVED, that the NBCSL will support efforts to hold a bank accountable if it fails its CRA exam, or wishes to acquire a bank with a better CRA grade, and urge agencies to recognize and encourage community benefit agreements and efforts that motivate banks to make more loans, investments, and services available to traditionally underserved communities; and

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BE IT FINALLY RESOLVED, that the NBCSL send a copy of this resolution to the President of the United States, the Vice President of the United States, members of Congress, and other federal and state government officials as appropriate.

SPONSOR(S): Brenda Gilmore (TN) and Senator Mamie Locke (VA)

Committee of Jurisdiction: Housing and Community Development Policy Committee

Certified by Committee Chair(s): Brenda Gilmore (TN) and Senator Mamie Locke (VA)

Ratified in Plenary Session: Ratification Date is November 30, 2018

Ratification is certified by: Representative Gregory W. Porter (IN), President