

**Statement  
of  
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**On Behalf of the  
National Association of Affordable Housing Lenders  
on  
Community and Consumer Advocates' Perspectives on  
the Obama Administration's Financial Regulatory  
Reform Proposals**

**House Committee on Financial Services  
U.S. House of Representatives**

**July 16, 2009**



**CELEBRATING 30 YEARS OF SUCCESSFUL COMMUNITY INVESTMENT**

## **SUMMARY**

1. NAAHL supports Chairman Barney Frank's decision to preserve the bank regulators' role to enforce the Community Reinvestment Act (CRA). CRA is a success story and a big business. It annually funnels hundreds of billions of dollars in loans and investments to low- and moderate-income communities, financing affordable rental housing, home purchases, charter schools, daycare facilities, and small business and microenterprise loans.
2. The regulators should revise the CRA regulation to update rules that discourage bank participation in important community development work that benefits low-and moderate-income (LMI) communities.
3. Any statutory changes to CRA should be carefully considered, practical to implement, and incentivize high-impact community development activities that may fall outside of banks' normal course of business.
4. A new consumer financial protection agency should have the authority needed to put an end to the problem of the "dual mortgage market" that contributed to the mortgage meltdown.

## **INTRODUCTION**

My name is Joseph Flatley, and I am the President and CEO of the Massachusetts Housing Investment Corporation (MHIC) in Boston. I am also a former chairman of the National Association of Affordable Housing Lenders' (NAAHL) Board of Directors. Thank you for the opportunity to testify.

MHIC is a private non-profit whose mission is to finance affordable housing and community development. Since 1990, MHIC has invested over \$1.3 billion in 320 projects – for the creation of more than 13,300 units of affordable housing and more than one million square feet of commercial space. MHIC has also been a leader in the creative utilization of the New Markets Tax Credit program to finance community development projects, and has been awarded five allocations of New Markets Tax Credits totaling \$364 million.

NAAHL represents America's leaders in moving private capital to those in need, 100 organizations committed to increasing lending and investing private capital in LMI communities. This "who's who" of private sector lenders and investors includes major banks, blue-chip, non-profit lender CDFIs, and others in the vanguard of affordable housing.

NAAHL's mission is to increase responsible, private capital lending and investing to low (under 50% of area median) and moderate (under 80%) income persons and areas. Over the past decade we have worked with Congress to thwart attempts to gut CRA regulations, believing that CRA has provided important incentives for insured depository institutions to increase access to LMI persons and areas, consistent with the institutions' "safety and soundness".

NAAHL strongly supports House Financial Services Committee Chairman Barney Frank's decision not to transfer statutory responsibility for the Community Reinvestment Act (CRA) away from the prudential bank regulators, a recommendation NAAHL made before the Administration released its proposal. NAAHL is committed to community investment; let me explain why we support the current oversight structure.

The Administration's proposals suggest they listened carefully to the concerns of NAAHL and other affordable housing advocates about the urgent need for enhanced regulatory focus on Community Development (CD), and appropriate credit for high impact CD activities. But since the Administration released its proposal to transfer CRA to a new Consumer Financial Protection Agency (CFPA):

- NAAHL non-profits have expressed concerns about how the "emerging market" business of innovative, high impact, CD lending and investing, including commercial real estate transactions, would fare in a consumer-product-focused compliance culture such as the CFPA.
- NAAHL bankers have raised concerns about splitting the "Siamese twins" of CRA evaluation (going to CFPA) and the diminished influence of CRA in the regulatory application approval process (retained with the banking regulatory agencies).
- All raised concerns about the possibilities of dueling regulators (CFPA versus bank regulators) disagreeing about banks' CRA credit risks, resulting in a shift in CRA focus away from innovation and high impact CD lending and investing.
- Former OTS Director Ellen Seidman testified recently before this committee about the three important reasons she is not convinced that the CFPA is the best place to locate CRA.

#### **CONSUMER FINANCIAL PROTECTION AGENCY (CFPA)**

The Administration's proposed CFPA contemplates a massive, unprecedented shift in oversight of Federal laws involving consumer protection. Ideally, the CFPA will have the authority needed to put an end to the problem of the "dual mortgage market" that contributed to the meltdown, as unregulated, unexamined mortgage market participants were left free to abuse their customers. But CRA was not part of that problem, and CD lending and investing is now more important than ever before to rebuilding in LMI communities.

CRA's success has been well-documented by public and private studies. Bank regulators appointed in the Bush Administration confirmed that CRA credited loans have benefited both consumers and the bank originators. Home Mortgage Disclosure Act (HMDA) reporting documents that CRA has provided a regulatory incentive for funneling to underserved communities literally hundreds of billions in LMI loans in each of the past 5 years. This infusion of private capital leverages public subsidy for affordable rental housing as much as 10-25 times, and also finances LMI community services and economic development activities such as charter schools, day care facilities, small business and microenterprise lending.

## **SUCCESSFUL COMMUNITY REINVESTMENT**

We believe that the CRA has been, and will continue to be critical to the preservation and expansion of rental housing affordable to LMI communities because it encourages private capital lending and investing in community development projects.

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 and other community development activities.

We know how to do it right: how to build affordable rental housing and homeownership properties that people are proud to call home, with a mix of incomes, built with the discipline of the private market, using government resources responsibly. These homes are of high quality and lasting value, and remain affordable over the long run. Attached to this statement are pictures of two typical examples, in Alabama and Massachusetts.

## **TAKING THE ROUGH EDGES OFF OF CAPITALISM**

Since it was enacted in 1977, CRA has provided regulatory incentives for funneling more than a trillion dollars into LMI communities. Former Federal Reserve Board Chairman Paul Volcker has characterized CRA as “taking the rough edges off of capitalism.”

Every academic study of CRA has confirmed that the law has been enormously successful in incentivizing insured depository institutions’ involvement in underserved areas. But updates to CRA regulations are long overdue, and some advocate changes to the law. NAAHL proposes two guiding principles for revitalizing CRA, and makes several policy recommendations.

## **NAAHL PRINCIPLES FOR REVITALIZING COMMUNITY REINVESTMENT**

**First**, and most important, address the weaknesses in the current regulatory structure that discourage bank participation in important community development work that benefits LMI communities. Restore meaningful regulatory incentives for undertaking high-impact activities that reflect best practices in community development.

### **Policy Recommendations**

- Reward high-impact, innovative, high-quality, often costly community development lending, services and investments that respond to a local government/community’s needs assessment.
- Ensure that the regulations are sufficiently flexible to align with local policies, new markets, and financial instruments.
- Eliminate unrealistic bank “benchmarks” that have caused some market distortions by requiring specific market shares regardless of profitability or responsiveness to community needs.
- Provide meaningful incentives for an Outstanding rating under CRA.
- Reform regulatory techniques for evaluating performance. Increasing emphasis on the quantitative versus the qualitative impacts of CRA activities has discouraged risk-taking and innovation, and undercuts support for Community Development

Financial Institutions (CDFIs). Provide more flexibility to encourage banks and others with affirmative obligations to reach deeply into underserved areas.

**Second**, do no harm. For more than 30 years CRA has encouraged insured depositories to help meet the credit needs of their communities. Any changes to the law should be carefully considered, practical to implement, and incentivize banks to engage in high-impact community development activities that fall outside of their normal course of business.

### **Policy Recommendations**

- Maintain the focus of CRA on LMI borrowers and neighborhoods in local markets where financial institutions have a physical presence and staff. Broadening CRA's objectives to address a wide range of social and economic problems and expanding the geographic reach beyond where banks can effectively engage in CRA activities risks diluting the positive impacts of the law for community development.
- Permit limited purpose and wholesale depositories that lack "on the ground presence" to have nationwide assessment areas.
- Level the regulatory playing field and address the dual mortgage market problem by expanding CRA's affirmative obligations, safety and soundness, and consumer protection laws, including examinations and enforcement, to all primary and secondary market lenders.
- Maintain the combined oversight of safety and soundness, and the efforts to meet LMI credit needs.
- Maintain the integrity of separate laws. CRA has been effective because of a continuing focus on expanding capital and banking services to LMI households and neighborhoods. If existing consumer protection laws, regulations, examination practices, and enforcement are inadequate they should be enhanced to achieve the appropriate scope.

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





Alabama Multifamily Loan Consortium