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Introduction

The Community Reinvestment Act (CRA) has helped expand economic opportunities for millions of Americans. For many families, CRA has made the American Dream possible by ensuring that loans for homes, small businesses, and other opportunities for asset building are available and accessible to all communities.

Banks have also benefited from CRA. Many banks have found new and profitable markets in communities that they might have otherwise overlooked.

In essence, CRA has led to win-win opportunities where banks, customers, and communities have benefited from increased bank investments in underserved communities. CRA has worked best where true partnerships have formed between banks, community-based organizations, and government agencies.

Overall, CRA has advanced the principles of an ownership society by creating opportunities where people and families can create and own assets.

Still, CRA is not perfect. Despite CRA's track record of success, more can and should be done to invest in America's neighborhoods.

As we speak today, too many families are losing their homes and too many small businesses are shutting down. Too many neighborhoods are decaying due to crime and abandonment. While CRA is not a sole panacea for addressing these ills, a modernized CRA can do much to advance the economic growth that can alleviate problems at their source and improve life and opportunity in all communities.

Threats to Economic Recovery and Long-Term Growth

Too many Americans are not participating in a meaningful way in our financial system. A growing number of individuals and families lack fundamental access to asset building opportunities. Their lack of access and participation hamstrings both their growth and the health and wealth of the entire society.

For example, millions of Americans still lack basic checking accounts, much less savings accounts. The homeownership gains made in recent years are being rolled back. College is becoming more expensive and people are saving less for their children's education. Millions of Americans do not have retirement accounts. Small businesses are not growing sufficiently to create jobs. And too many Americans are not investing in the stock market.

This lack of opportunity to build wealth will hurt not only communities, but also businesses that rely on healthy consumers. By not addressing these issues, including through the modernization of CRA, we risk limiting economic opportunities for years to come.

Taking CRA from Debt to Wealth Creation

CRA's original intent was to advance the credit needs of underserved communities. To succeed in the future, CRA's goal should be focused on creating wealth building opportunities for the millions of Americans living from paycheck to paycheck. CRA should focus on a variety of asset and wealth building initiatives and regulators should use a coordinated approach to track progress.

Regulators can focus on several asset building, wealth creating opportunities. Indicators that regulators can focus on include but are not limited to the following:

1. Homeownership;
2. Business ownership;
3. Business contracts;
4. Equity investments;
5. Checking accounts;
6. Savings accounts;
7. Retirement accounts;
8. Ownership of stock; and
9. Employment.

Such a wealth creation focus can facilitate processes for regulators to measure progress and highlight best practices in each of these areas, as well as to identify and stop bank practices that strip wealth from consumers.

For example, regulators could quickly put an end to high overdraft fees that frustrate consumers and deplete their accounts.

CRA exams can measure progress and efforts for many wealth-creation indicators. A clear focus on wealth creation would also encourage banks to leverage their strengths that, if applied, could benefit more communities.

CRA Should Leave Room for Flexibility and Creativity

As currently structured, CRA can at times be regimented and even inflexible. In an attempt to modernize CRA, banks should be able to receive CRA credit in part by meeting the needs of communities through creative and responsible solutions.

Take one example: the current job crisis. Many of the wealth building opportunities mentioned above are irrelevant to individuals that don't have jobs. Given today's high and rising unemployment rate, it is incumbent upon financial institutions to play a role in job recovery.

In this example, CRA could help advance employment opportunities in the hardest-hit communities. Unfortunately, insufficient initiatives, uncoordinated regulatory efforts, and rigid rules currently dis-incentivize more proactive efforts by banks to address an issue like the employment crisis. Moving forward, banks and regulators should be given flexibility to address emergency situations and to allow for the rapid deployment of innovative ideas and approaches.

CRA has far more potential than has ever been explored by the regulators and possibly even by consumer advocates. Its potential has been hindered by a bureaucratic and uncoordinated approach by the regulators that has sometimes stifled creativity and leadership.

Measuring Effectiveness for All Americans: The Need for More Demographic Data

As improvements are made to CRA, its future effectiveness will be adequately measured only with more meaningful demographic data, specifically to ensure that progress is made for all Americans, including African Americans, Latinos, Asian Americans/Pacific Islanders, and Native Americans.

Some falsely assume that diversity data is requested to show or prove discrimination. Although diversity data can be used to demonstrate discrepancies in bank practices, the proper use of data demonstrates progress and measures impact for all Americans. Without the capacity to track progress over time, progress cannot be achieved.

There is also a false assumption that using income data is sufficient since communities of color are more likely to be in lower-income categories. Unfortunately, income data is often not reflective of the specific realties facing diverse communities.

For example, data from recent reports show that Latinos and African Americans were more likely to receive subprime loans even when controlling for income and FICO scores. A colorblind approach to homeownership would have failed to reveal this, which offers a key lesson for future homeownership efforts aimed at African Americans and Latinos.

The compilation of demographic data should not be limited purely to the consumer side. Diversity of senior management is also a safety and soundness issue for banks and corporations. The Federal Reserve of Boston commented in 1992 that management diversity at all levels ought to be evaluated and when there is no diversity or when the diversity is disproportionate with the population served, it should be red flagged.

This also affects CRA possibilities since a more diverse management will likely look at problems and opportunities differently. A focus on management diversity at banks is consistent with efforts at the Securities and Exchange Commission that may enable investors to understand key diversity data of corporations before investing in them. Considering the correlation between effectiveness and diversity, both investors and the public would benefit as banks disclosed diversity data to regulators.

Supporting Small Businesses with Contracting Opportunities

Fifteen years ago, the Greenlining Institute ran a full page ad in the New York Times entitled "Who's Afraid of Alan Greenspan?", protesting the Federal Reserve's failure to collect business lending data by race, ethnicity, and gender.

To his partial credit, Chairman Bernanke has demonstrated that he is more neutral, rather than strongly opposed, to this change in business lending data collection, leaving it to Congress to make the change in conformity with standards for HMDA data. The Federal Reserve should either modify the regulation or actively urge Congress to put the changes into effect as quickly as possible.

Providing business contracts to small minority owned businesses also enhances the safety and soundness of the small businesses receiving loans and capital from financial institutions. Therefore we would urge that every CRA regulator gather data on every race and gender in contracts awarded. This is already being done among major banks. For example, Wells Fargo, Bank of America, Citi, Chase, Union Bank and U.S. Bank regularly gather such data on an annual basis. There are little to no costs involved in implementing this as a part of CRA.

Extending CRA for Maximum Effectiveness

Financial services critical to wealth creation are now provided by institutions not covered by CRA. Moving forward, CRA should apply to the insurance industry and other financial institutions, including hedge funds and private equity firms. We also urge that every industry that benefits in any way from federal government fiscal or monetary policy be subject to CRA.

Ratings

The CRA rating system has never figured out how to reward unique leadership efforts. We therefore see plenty of evidence of "satisfactory" ratings for extraordinary leadership and conversely "outstanding" ratings for failures of leadership and effective service to the community.

Although there has been some improvement in the CRA grading system, 99 percent of very large financial institutions routinely receive a satisfactory or outstanding rating. We have recommended for many years that the regulators, either on their own or through congressional authority, create a more rigorous rating system.

For example, the system could include more grades, including a new rating of "outstanding plus", that are restricted to less than 5 percent of financial institutions. Financial institutions that fail to meet the standards of their competitors would receive "needs to improve" ratings so that at a minimum, at least 10 percent of the institutions receive this rating. This would operate similar to a 'curve' in a classroom.

In the current CRA system, CRA ratings are referenced mainly during mergers and acquisitions. In this era of banks that are "too big to fail" future mergers and acquisitions will be less likely. A dwindling number of mergers and acquisitions deflates the opportunity for consumers to comment on the CRA ratings of banks and lessens the overall importance of CRA ratings. Creating systematic opportunities, such as annual hearings for consumers to comment on the performance of banks, is essential to enhancing CRA in our current economic reality.

Several proposals have been offered by stakeholders for enhanced enforcement mechanisms to ensure the effectiveness of CRA. These include potential fines and penalties for non-compliance, as well as incentives to be leaders in the field.

Philanthropy

Philanthropy is an important component of CRA that is rarely recognized or promoted by regulators. Philanthropy as a part of community reinvestment is not simply a hand-out; it instead is an investment that builds the capacity of the financial institution's consumer base, present and future.

At a time when foundations are cutting back, philanthropic investments by financial institutions are essential to creating informed customers and building positive partnerships with communities that financial institutions serve. A stronger emphasis on philanthropic investments by CRA regulators will encourage banks to invest strategically in their consumer base, which makes for a safer and sounder banking system.

Conclusion

CRA works best when people implementing the law believe in its spirit and intent, when committed financial sector executives care for the communities they serve, and when non-profit partners have the capacity to produce results. The partnership spirit of CRA should be cherished, nurtured, and protected in any changes moving forward.

Despite early indicators that the economy may be on its way to recovery, many communities are being left behind. Modernization of CRA is therefore especially timely and integral to a recovery for all communities.

CRA has the potential to be one of the most powerful tools to create win-win partnerships benefiting both consumers and financial institutions. It can ensure more transparency, responsibility, and innovation in the activities of financial institutions in our nation's communities. A renewed emphasis on community wealth creation, in addition to its current focus on access to credit, can further expand its effectiveness.

About Orson Aguilar

Orson Aguilar is the second Executive Director in the 15-year history of the Greenlining Institute, a multi-ethnic coalition - originally founded to combat "redlining" by banks and create reinvestment into low-income communities - of nearly forty community-based, faith-based, and civil rights/immigrants rights groups. He is an expert in banking and housing policy, economic development, youth leadership training, and other social justice policy issues.

Orson's first-hand, personal experience of poverty predates his professional pursuit of its alleviation. He grew up in the largest apartment complex in Boyle Heights (East Los Angeles) where he attended public schools and experienced not only material poverty, but also its corollary realities of environmental injustice and gang violence.

Today, in his role at the helm of the Greenlining Institute, Orson focuses on private and public policies that promote investments and equity in low-income and minority communities like East Los Angeles. He has played key organizing and advocacy roles in corporate mergers and acquisitions that have resulted in billions of dollars in investments for the poor. Orson has also been instrumental in developing Greenlining's Fair Growth and Sustainable Development Program that seeks to ensure that our poorest citizens also benefit from the nation's desire to "go green".

Orson was recently named upcoming Latino leader by the nation's largest Hispanic newspaper, La Opinion. He is a past Commissioner for the City of Oakland's Budget Advisory Committee, chairs the Board of Directors of the Mission Economic Development Agency (MEDA), and is a member of the University of California's Santa Cruz's Alumni Association Board.
Prior to the Greenlining Institute, he was a fellow with the Congressional Hispanic Caucus Institute. Orson received his Masters in Public Affairs at the Lyndon B. Johnson School of Public Affairs and graduated from UC Santa Cruz with a degree in Psychology. He currently lives in Oakland with his wife, Dr. Claudia Canizales Aguilar.