

Testimony of B. Doyle Mitchell
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Association

Before the House Financial Services Subcommittee on Consumer
Protection and Financial Institutions

“The Community Reinvestment Act: Assessing the Law’s Impact on
Discrimination and Redlining”

April 9, 2019

Chairman Meeks, Ranking Member Luetkemeyer, Chairwoman Waters and members of the Subcommittee, good morning and thank you for this opportunity to testify on the Community Reinvestment Act. It gives me great hope that one this Subcommittee's first hearings of the 116th Congress is shining light on this critical issue. My name is B. Doyle Mitchell, and I am President and CEO of Industrial Bank. Industrial Bank has been serving individual customers and small businesses in Washington D.C. and Prince Georges County, Maryland since 1934.

I am also a board member of the National Bankers Association (the "NBA"). The NBA is the leading trade association for the country's Minority Depository Institutions ("MDIs"). Our mission is to serve as an advocate for the nation's MDIs on all legislative and regulatory matters concerning and affecting our member institutions as well as the communities they serve. Many of our member institutions are also Community Development Financial Institutions ("CDFIs"), and many of our member institutions have become banks of last resort for consumers and businesses who are underserved by traditional banks and financial service providers.

THE NATIONAL BANKERS ASSOCIATION SUPPORT A STRONG CRA

In enacting CRA, Congress stated that the purpose of CRA was to ensure that regulated financial institutions demonstrate that they "serve the convenience and needs of the communities in which they are chartered to do business." As such, these institutions have a "continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered." While the CRA has made great strides in ensuring access to credit in low and moderate income ("LMI") communities and among minority and low-income borrowers, systemic economic and social challenges remain perpetuating a lack of access to fair services for many and allowing predatory providers to thrive. Given growing economic inequity in urban, rural and Native American communities, it is important to get CRA reform right.

The NBA strongly support the purposes and objectives of CRA. Enacted 40 years ago, CRA has been instrumental in ensuring LMI communities have access to credit and financial services, but the last significant regulatory overhaul of CRA occurred two decades ago. In that time, the financial services industry has radically changed but, CRA has not. We strongly support modernization that ensures CRA does not lose effectiveness for LMI communities and that also creates a regulatory framework that streamlines financial institutions' ability to comply with the CRA. The success of CRA reform effort should be measured by whether it will result in more credit and services delivered to LMI communities that doesn't create unnecessary regulatory burdens on the financial institutions that best serve these communities.

THE NBA RECOMMENDS UPDATING CRA AND PRESERVING FLEXIBILITY

NBA members believe that the current framework for CRA is effective but needs modernization to reflect changes in the financial service landscape. We strongly agree with the notion expressed by regulators and lawmakers alike, that CRA examinations should be conducted in a more clear, consistent and transparent manner. We believe; however, this result can be best achieved by modifying the existing framework – versus inventing a new system.

We have great concerns about the proposed “metric based, single ratio” framework outlined in the OCC’s ANPR; and thus, opposed its adoption. We believe the proposed “single ratio” metric is too simplistic to fit all banks and all communities. We believe the proposed system will reduce banks’ flexibility to respond to local market conditions. We believe that a single ratio would encourage a minimalist approach to CRA compliance where financial institutions would be more focused on hitting their ratio than thinking comprehensively about potential approaches for meeting the credit needs of LMI communities that the current framework requires.

While imperfect, the strength of the existing framework is that it is flexible. Each bank can develop a strategy that fits its business model, local economic conditions and opportunities. The distressed urban, rural, and Native communities that CDFIs and MDIs serve are often “outliers” relative to more prosperous suburban and robust, high-growth communities. Thus, a formula that fits high or middle-income places is unlikely to fit the communities we serve. No matter how sophisticated, we do not believe a formula- based approach is likely to adequately capture the nuances of every community – and could result in harm to our banks and communities.

We believe that the CRA can continue to be a powerful tool to promote investment in LMI communities. To this end, we offer the following recommendations to the Subcommittee on this very important topic.

Creating an MDI investment tax credit that can accompany the CRA’s provisions encouraging majority bank equity investments in MDIs. The Community Reinvestment Act has long provided for CRA credit for majority-owned financial institutions making CRA-qualified investments in MDIs – ranging from selling loan participations to equity investments in MDI holding companies. Unfortunately, this provision standing alone has not encouraged the volume of MDI-majority owned financial institution investment that this CRA provision was intended to encourage. We would urge Congress and federal regulators to consider potential enhancements to this particular provision of the CRA, including the development of an MDI investment tax credit that could be utilized by majority-owned financial institutions who also receive CRA consideration for investments in MDIs.

The NBA strongly recommends enhanced interagency CRA training for examiners. To address discrepancies in implementation of CRA between bank regulatory agencies, we recommend that all CRA examiner trainings be conducted on an interagency basis. To further facilitate common understanding of how CRA exams are conducted, we recommend that bank CRA officers also be permitted to attend such trainings.

The NBA recommends the creation of a robust public database of CRA case studies and peer performance data. The case studies should describe the project or activity and include an explanation of why specific activities are deemed CRA “eligible” or “ineligible.” Approximately 83% of NBA CRA officers surveyed indicated that they would benefit from a formal line of communication between their CRA regulator and their bank’s CRA team that could provide near real-time feedback on CRA-eligible activity before an investment is made. A database of opinions and case studies can serve as a training tool and source of information for both examiners and bankers.

The NBA strongly recommends that CRA encourage banks to provide long-term support to CDFIs. Specifically, all banks should receive CRA consideration for supporting CDFIs and MDIs regardless of whether such entity is located in and/or serves the bank's Assessment Area. Regulators should also encourage banks to make long-term investments, loans, and deposits to support CDFIs and MDIs by giving instruments held in portfolio the same weight as new originations in an exam cycle.

The NBA recommends that bank investors receive significant and consistent CRA credit throughout the life of an investment. The CRA exam cycle creates barriers for traditional banks to invest in CDFI and MDI banks. Examiners give the most CRA credit to new transactions executed during an exam cycle – which are generally three years apart. For example, a bank can get CRA credit every three years for renewing the same loan to a CDFI or MDI loan fund that matures during an exam cycle. Yet, if a bank makes an equity investment in a CDFI or MDI bank that is typically held in portfolio over a longer period, they get little CRA credit beyond the original investment. Banks also report significant inconsistencies in treatment of older investment activities by examiner and across regulatory agencies.

The NBA recommends that CRA help promote financial literacy and inclusion among LMI populations, as well as unbanked, underbanked, and other vulnerable populations. Access to credit and financial services needs are critically important to the economies of physical places. Thus, CRA should continue to ensure LMI places have robust access to such services. Given the rise of payday lenders and other predatory providers who target vulnerable people, CRA needs a complementary prong that focuses on financial literacy and inclusion.

The NBA supports increasing the federal government's participation in Treasury's Minority Bank Deposit Program. Our MDIs represent some of the smallest financial institutions in the banking industry. They often have limited branch footprints and a limited ability to reach new depositors outside of their geographic footprint – either directly through branches or in marketing resources – so mission-oriented depositors from nonprofits and governmental entities are often a reliable source of deposits for MDIs. Historically, Treasury's Minority Bank Deposit Program has been a reliable source of deposits for NBA member banks, but the federal government's utilization of the program has decreased dramatically in recent years. While not specifically on topic for today's hearing I would be remiss if I did not note the NBA's unequivocal support for the reintroduction of Chairman Meeks' bill codifying the Minority Bank Deposit Program. We would urge that the measure be enacted this Congress. We also urge the relevant oversight subcommittees for this program to identify the particular causes of the program's decline and the affirmative steps Treasury will be taking to increase participation in the program.

CONCLUSION

The NBA again applauds the Subcommittee for holding this important hearing and for the full Committee's ongoing efforts to assert and reassert the importance of the CRA in the modern lending marketplace. CRA has made great strides in ensuring access to credit in LMI communities and among minority and low-income borrowers. Systemic economic and social challenges, however, perpetuate to lack of access to fair services for many and allow predatory providers to thrive. Given growing economic inequity in urban, rural and Native American communities, it is important to get CRA reform right.

In this regard, the NBA and its members banks look forward to working closely with the Committee and Subcommittee to ensure a modernization that ensures CRA does not lose effectiveness for LMI communities and that also creates a regulatory framework that streamlines financial institutions' ability to comply with the CRA. I have attached a copy of the NBA's November 16, 2018 joint comment letter with the Community Development Bankers Association responding to the OCC proposed changes to the CRA which contains more detailed views for your consideration. Thank you again for the opportunity to testify. I will be pleased to answer any questions.