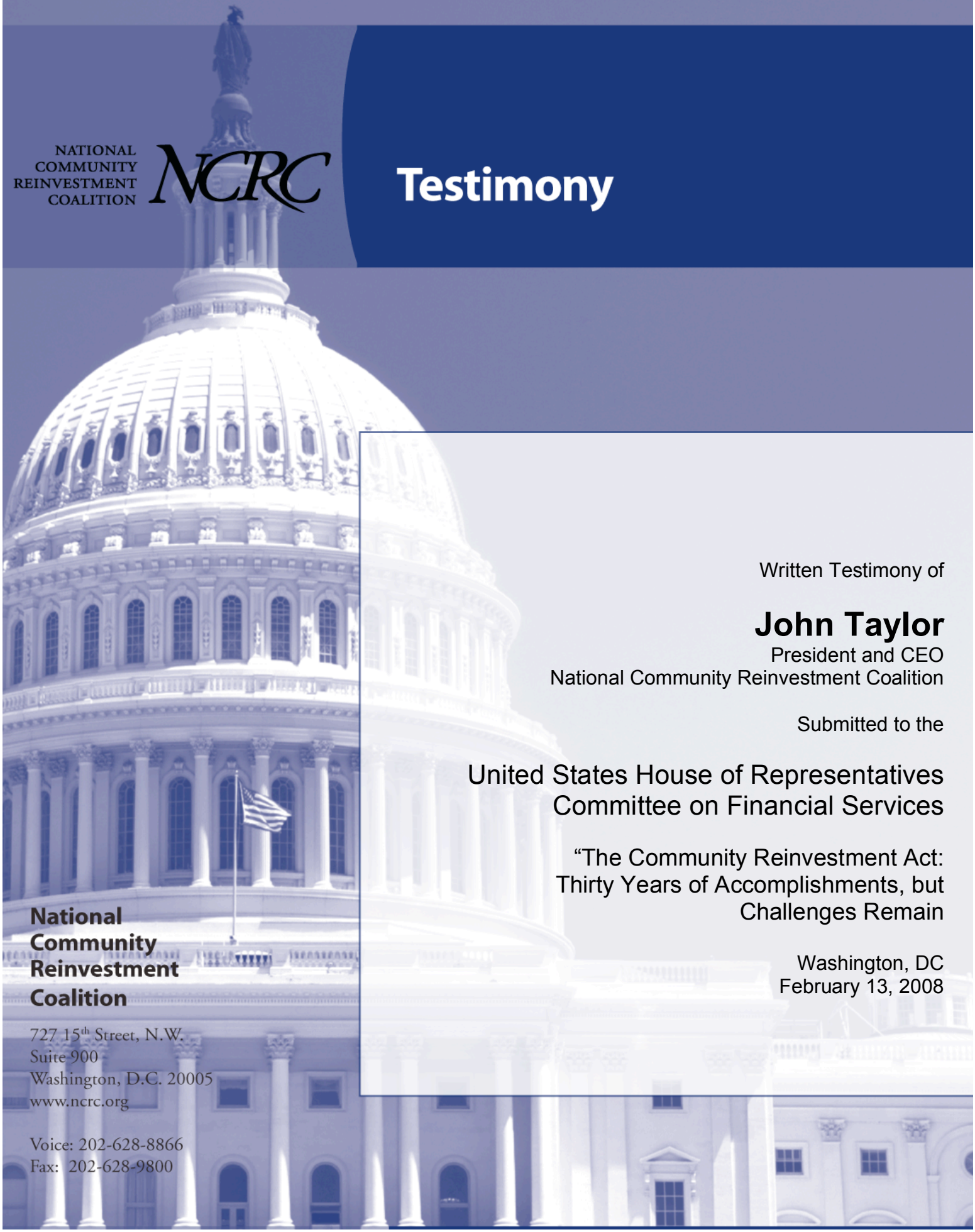


NATIONAL COMMUNITY REINVESTMENT COALITION

NCRC

Testimony

Written Testimony of

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President and CEO
National Community Reinvestment Coalition

Submitted to the

United States House of Representatives
Committee on Financial Services

"The Community Reinvestment Act:
Thirty Years of Accomplishments, but
Challenges Remain

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Introduction

Chairman Frank and Ranking Minority Member Bachus, it is a pleasure and honor to be here today testifying about the Community Reinvestment Act (CRA). I am the President and CEO of the National Community Reinvestment Coalition (NCRC). NCRC is an association of more than 600 community-based organizations that promote access to basic banking services including credit and savings, to create and sustain affordable housing, job development and vibrant communities for America's working families. Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, local and social service providers from across the nation.

As we celebrate thirty years of the Community Reinvestment Act (CRA), we should reflect on the powerful and proven effects that this law has had on increasing access to capital and credit in low- and moderate-income communities. Looking back, we see a law that has stimulated the flow of billions of dollars each year to lower-income and minority communities to expand homeownership and promote healthy neighborhoods.

A regulatory infrastructure for the housing finance market that has remained largely unchanged since the 1970s is chiefly to blame for the current foreclosure crisis. In this matter, we are fortunate to have thirty years of experience with the Community Reinvestment Act which allows us to plot a path forward. The changing and complicated nature of the financial system, and its centrality to the economic wellbeing for all Americans, demands that we modernize CRA and extend its reach.

Numerous studies have found that CRA encourages responsible lending to low- and moderate-income communities in a way that is consistent with safety and soundness concerns. Importantly, most of the unfair and deceptive practices in the subprime market were the work of non-CRA covered mortgage lending institutions.

The current crisis demonstrates that a key component to a robust and sound economy is the inclusion and full participation of all households in an efficiently functioning and responsibly regulated financial system. The National Community Reinvestment Coalition, under the rubric of the "Financially Inclusive Society," is examining ways in which the many thoughtful financial innovations that have been developed over the past decade, can be better prioritized and organized into a comprehensive legislative proposal, that might one day lead to true equality of access to financial services for all Americans.

The testimony I bring to the Committee today, on behalf of NCRC, addresses the following points:

1. **How CRA increases access to credit, investments and services in low- and moderate-income communities**

2. **How to improve the examination process and criteria**

3. **How to improve the adequacy of the enforcement mechanism for CRA compliance**

4. **The role of public comment and the degree public participation should play in the CRA evaluation and application approval process**

5. **Whether changes in the financial services industry have reduced the effectiveness of CRA and how expanding CRA to additional financial service providers may improve the effectiveness of the law**

6. **Whether federal banking agencies' examinations of institutions are adequate in finding evidence of discriminatory, predatory or illegal lending**

7. **Other Factors that Impair Effectiveness of CRA: Less Frequent Exams for Small Banks**

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1. How CRA Increases Access to Credit, Investments and Services in Low- and Moderate-Income Communities.

CRA imposes an affirmative and continuing obligation upon banks to serve the credit needs of communities, including and especially low- and moderate-income (LMI) communities. Because-banks have the privilege of safeguarding and investing community wealth, they have been given a lawful duty to meet community lending and credit needs. Banks most effectively respond to the credit needs of communities when they receive public feedback and consider community priorities. CRA exams and the merger application process offer opportunities for citizens to submit written and oral comments to banks and regulatory officials concerning the performance of banks in meeting credit needs. Regulatory officials consider these comments when assigning ratings on CRA exams and when deciding whether to approve or deny merger applications. Additionally, the publicly available data on home lending, small business lending, community development lending and branching become key tools for citizens to evaluate a bank's dedication to serving public credit needs.

CRA makes banks publicly accountable for responding to community needs. The quality of collected data, CRA exams and the merger application process determine the extent to which this accountability is preserved and the degree to which community credit needs are met. CRA also encourages banks to reach out to form programmatic relationships with community groups, including NCRC member organizations.

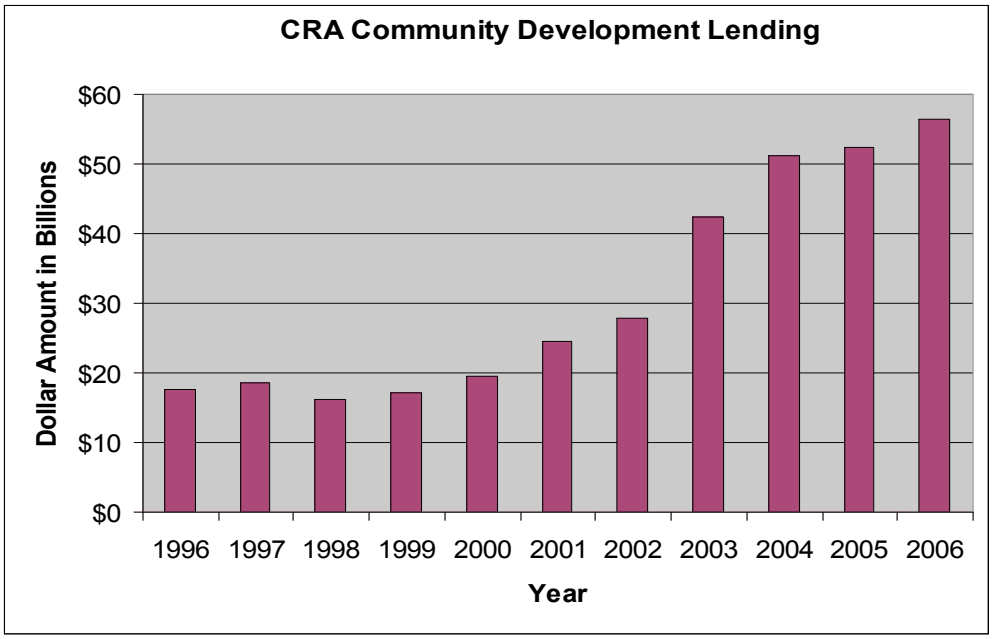
As shown in the survey of NCRC members in the testimony appendix, NCRC's members have experienced success in obtaining community development financing. For example, the Housing Development Fund (HDF), in Connecticut, manages almost $50 million in funding from banks. This organization has obtained capitalized funding pools from banks that, in return, receive CRA credit for their participation. HDF has used this funding to provide financial assistance to affordable housing developers and to first-time home buyers. To date, HDF has financed almost 600 affordable housing units and helped an additional 600 families purchase homes.

The San Diego Fair Banking Coalition received bank support for its Women Entrepreneurs program (WE). WE is a 54-hour entrepreneurial training program for women starting or operating a small business. WE also provides participants with individualized and confidential business consulting as needed.

According to NCRC studies, banks and thrifts (depository institutions) have made 341,619 community development loans totaling more than $344 billion since 1996. From 1996 to 2006, the annual dollar amount of community development loans increased 219 percent - from $17.7 billion to $56.5 billion, respectively. (See graph below.) During this same period, depository institutions also made 12,433,172 small business loans in low- and moderate-income neighborhoods totaling more than $513 billion.

The CRA merger application process has motivated banks to make $4.6 trillion in CRA agreements and commitments to LMI and minority communities. As described in NCRC's *CRA Commitments* publication, CRA agreements are detailed pledges for offering affordable home loans, small business loans, community development investments, and branches in working class and minority communities.[1]

[1] NCRC's *CRA Commitments*, via http://www.ncrc.org/policy/cra/CRA%20Commitments%2007.pdf.



Overall, banks make considerably more home loans in geographical areas covered by CRA agreements than those that are not.[2] This was documented in a study conducted by Federal Reserve economists using NCRC's CRA database. The incentives provided by CRA encourage banks to seek out opportunities in previously underserved markets. According to the Treasury Department, CRA-covered lenders increased home mortgage loans to LMI borrowers by 39 percent from 1993 to 1998. This increase is more than twice that experienced by middle- and upper-income borrowers during the same period (17 percent).[3] Likewise, study by *The Joint Center for Housing Studies* at Harvard University estimates that without CRA, 336,000 fewer home purchase loans would have been made to LMI borrowers and communities between 1993-2000.[4] The study also reveals that banks issue a higher number of loans to LMI borrowers in geographical areas covered by CRA exams than in areas not covered by the exams (Banks are generally not subject to CRA exams in geographical areas in which they engage in lending through brokers, as opposed to branches).

CRA's effectiveness can also be measured by comparing the lending patterns of CRA-covered banks with those of lending institutions not covered by CRA exams. Data suggests that banks make a greater percentage of their loans to minorities and LMI borrowers than non-CRA covered mortgage companies and credit unions. In 2005, CRA-covered depository institutions made 5.8 percent of their home purchase loans to low-income borrowers, while non-CRA lenders issued only 4.8 percent of these loans to the

[2] Raphael Bostic and Breck Robinson, *Do CRA Agreements Influence Lending Patterns?* July 2002, available via bostic@usc.edu.
[3] Robert Litan, Nicolas Retsinas, Eric Belsky and Susan White Haag, *The Community Reinvestment Act After Financial Modernization: A Baseline Report*, produced for the United States Department of the Treasury, April 2000
[4] The Joint Center for Housing Studies at Harvard University, *The 25th Anniversary of the Community Reinvestment Act: Access to Capitol in an Evolving Financial Services System*, March 2002.

same group. Depository institutions and non-CRA covered lenders made 25.1 percent and 23.8 percent of their home purchase loans, respectively, to low and moderate-income borrowers. Also, in 2006 (the most recent home loan data available), depository institutions extended 23.5 percent of home purchase loans to LMI groups, whereas non-CRA covered lenders extended 21.5 percent.

NCRC's study *Credit Unions: True to Their Mission*, showed that over a three-year time period, banks consistently outperformed credit unions in offering home loans to minorities, women, and low- and moderate-income borrowers in a majority of states.[5] The study found that in Massachusetts (the only state with CRA for credit unions) state-chartered credit unions that abided to CRA guidelines served LMI, minorities and female borrowers at a rate significantly greater than non-CRA federally-chartered credit unions.

CRA has remained true to its statutory purpose of requiring banks to serve credit needs consistent with safety and soundness. In fact, CRA can be an important antidote to the predatory and unsafe lending that has contributed to the foreclosure crisis. In their review of HMDA data, the Federal Reserve has found that home loans issued by banks are significantly less likely to be high-cost and exhibit risky features such as piggyback lending. The Federal Reserve Board showed that 34.3 percent of the home purchase loans issued by non-CRA covered lenders were high cost loans in 2005.[6] By contrast, only 5.1 percent of the home purchase loans issued by depository institutions and closely scrutinized on CRA exams were high cost. These findings were corroborated by Traiger & Hinckley LLP which observed 33.5 percent of high-cost loans issued by non-CRA covered lenders in 2006, as opposed to only 11.5 percent of high-cost home purchase loans issued by CRA covered institutions.[7]

Research has not fully explained why CRA covered institutions issue fewer high-cost loans, but it confirms that they do. One factor may be that CRA-covered institutions are subjected to a higher level of regulatory scrutiny than non-CRA covered institutions, including fair lending and safety and soundness evaluations. Compliance with the law and keeping a good reputation and relationships in the community may be sufficient motivating factors for banks to lend responsibly.

Another factor may be that CRA encourages institutions to holistically meet community needs - from lending for homeownership to rental housing, basic banking, and small business lending. Under this rubric, banks are encouraged and are awarded points on CRA exams for preparing borrowers carefully for home loans through building savings and by providing quality homeownership counseling. Non-CRA covered institutions, by contrast, are not similarly encouraged to carefully respond to such needs nor to prepare community residents for homeownership.

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[5] *Credit Unions: True to their Mission?* available via http://www.ncrc.org/policy/states/cu_report2.php.
[6] Robert B. Avery, Kenneth P. Brevoort, and Glenn B. Canner, *Higher Priced Home Lending and the 2005 HMDA Data,* Federal Reserve Bulletin, September 8, 2006.
[7] Traiger and Hinckley, LLP, *The Community Reinvestment Act: A Welcome Anomaly to the Foreclosure Crisis,* January 7, 2008.

2. How to Improve the Examination Process and Criteria

Our testimony has so far described how CRA has leveraged significant increases in lending and investing. The remainder of the testimony will focus on the importance of strengthening CRA to adapt to changing conditions.

Research supports that CRA has been effective in providing financial institutions with incentives to serve their communities and increase loans, investments, and services. At the same time, necessary improvements will enable CRA to realize its full potential in directing resources towards the economic revitalization of LMI and minority communities.

Much of CRA's leverage is attributable to the fact that CRA evaluation outcomes are public. The CRA report card that measures banks' reinvestment performance has encouraged the industry to become conscientious of and responsive to community needs. The design of large-bank CRA evaluation recognizes a variety of community needs that are met through bank lending, investing, and provision of basic services. Had the large bank exam only focused on lending, banks would neglect vital investments and basic services. In contrast, had lending been downplayed on exams, less progress would have been recorded over CRA's 30 years in lending to LMI communities. In addition, the weighting system (50% lending, 25% investment, and 25% services) on the large bank exam has struck the right balance in the importance accorded to lending, investing, and services.

While the overall framework on large bank CRA exams has been successful, the following exam procedures are in need of reform.

A. ***Assessment Areas*** - The geographical coverage of CRA exams;
B. ***Affiliates*** - Whether CRA exams consider the behavior of mortgage company affiliates;
C. ***Minority Borrowers and Communities*** - Consideration of minority borrowers and communities on CRA exams;
D. ***Evaluation of Branching*** - Evaluations for considering branching on CRA exams;
E. ***Data*** - Data limitations that reduce the effectiveness of CRA exams.

Each of these issues are now discussed in turn:

A. ***Assessment Areas*** - The geographical coverage of CRA exams

The geographical locations covered by CRA exams generally consists of metropolitan areas or counties that contain bank branches. When Congress enacted CRA in 1977, banks received deposits and made loans through branches, and the majority of bank lending occurred through these branches. Today, banks utilize diverse channels for lending. While some banks still issue loans predominantly through branches, many others make the majority of their loans through brokers, correspondents, and other non-branch means.

Though the CRA regulation stipulates that assessment areas include geographical regions containing bank branches, the regulation also states that assessment areas shall include geographical regions surrounding branches in which the bank has originated or purchased a substantial portion of its loans.[8] Despite the clarity of this regulatory clause, the federal agencies usually adopt a narrow definition of assessment areas for banks or thrifts that issue most of their loans through non-branch channels. For these banks, it is not unusual to encounter CRA exams that cover only the geographical area of the bank's headquarters and thus a minority of the bank's lending.

Data reveals that discriminatory and unsafe practices are more likely to occur when CRA exams cover loans defined by narrow assessment areas procedures. In 2007, NCRC identified several lending institutions engaged in questionable practices, including: refusal to make loans under a minimum loan amount (usually $75,000 or $100,000), refusal to make loans to row homes, and failure to offer loans within entire cities (such as Baltimore and Philadelphia). In other cases, lending institutions charged higher interest rates on loans that could not be justified by legitimate business necessity. NCRC investigations revealed four banks engaged in these practices. Tellingly, only 11% to 13% of the loans investigated were in the banks' assessment areas.

Occasionally, federal agencies will review a sample of loans outside assessment areas to determine if lending performance remains consistent with lending inside assessment areas. But the agencies sampled loans outside the assessment areas for only one of the four banks that NCRC investigated. In general, the reviews of lending outside of assessment areas have not been satisfactory. The sample of loans reviewed usually consist of a minority of a bank's total loans. Also, it is not uncommon for an examiner to issue vague conclusions, for example, that lending is consistent inside and outside of assessment areas.

To address the problem of assessment areas, NCRC recommends a solution consistent with HR 1289 - the CRA Modernization Act of 2007. Under this bill, if a bank has captured one half a percent or more of the local lending market, a CRA exam would designate the geographical area served by the bank as an assessment area. A procedure such as this would ensure that a majority of a bank's loans were scrutinized by CRA exams. We believe that policymakers would want the majority of a bank's loans and purchases to be included on CRA exams so that the exam can effectively ensure that the loans are serving low- and moderate-income populations in a safe and sound and non-discriminatory manner.

B. ***Affiliates*** - Whether CRA exams consider the behavior of mortgage company affiliates

Under CRA currently, banks have the option of including their non-depository affiliates, such as mortgage companies, on CRA exams. This procedure often leads to the "cherry picking" of affiliates to be included in CRA exam process. Banks are tempted to include

[8] See Section 345.41 of the FDIC's CRA regulation available via http://www.fdic.gov/regulations/community/community/index.html

affiliates on CRA exams if the affiliates perform admirably but will opt against inclusion if the affiliates are engaged in risky lending or discriminatory policies. This is counter to the essential purpose of CRA, which is to ensure that the institution as a whole is meeting credit needs in a responsible manner. It is not sufficient if only one part of the institution is complying.

Four non-depository affiliates of banks were identified by NCRC's fair lending investigations to be engaging in redlining or other discriminatory practices**.** These four affiliates were not included on their bank's CRA examinations. Current CRA examination procedures enable banks' affiliates to engage in such practices undetected. The CRA Modernization Act would end this serious gap in CRA enforcement by mandating the inclusion of affiliates on CRA exams.

Combined Effects of Inadequate Procedures for Assessment Areas and Affiliates

Inadequate procedures for assessment areas and affiliates often result in CRA exam coverage of only a minority of loans made by major lenders in metropolitan areas. NCRC analyses' usually show that fewer than five of the top 20 lenders (in terms of the most loans issued) in a metropolitan area typically have a CRA exam that actually measures performance in that metropolitan area. In some cases, banks can be half or more of the top 20 lenders, but their CRA exams' assessment areas do not include the particular metropolitan area. Also, non-depository affiliates can be excluded from their CRA exams.

The Joint Center for Housing Studies at Harvard University conducted a national study with results that mirrored NCRC's analyses. The study found that just under 30 percent of the home purchase loans issued in 2000 were made by CRA institutions in CRA assessment areas.[9]

Fundamentally, the inadequate procedures for assessment areas and affiliates lead to the failure of federal agencies to implement CRA's statutory purpose. The CRA intends a bank to meet the credit needs of all communities in which it operates. Therefore, it is not sufficient for CRA exams to cover a minority of a bank's and its affiliate's loans.

C. ***Minority Borrowers and Communities*** - Consideration of minority borrowers and communities on CRA exams

On a CRA exam, lending to low- and moderate-income borrowers and communities is examined in detail. A major part of the lending test consists of scrutinizing the percentage of a bank's loans made to low- and moderate-income borrowers compared to the demographics of the bank's community and to the percentage of loans made to LMI borrowers issued by the bank's competitors. Tables throughout the CRA exam engage in this analysis for home purchase lending, refinance lending, home improvement lending and small business lending.

[9] Joint Center for Housing Studies, Harvard University, *The 25th Anniversary of the Community Reinvestment Act: Access to Capital in an Evolving Financial Services System*, March 2002.

CRA exams have a fair lending component that assesses whether a bank discriminated by rejecting qualified minority applicants or steering minorities with good credit to subprime loans. While the fair lending test is necessary, it does not test whether banks are affirmatively making loans to minorities. In other words, a bank can employ non-discriminatory policies but still make relatively few loans to minorities because it does not market to minority communities. It may pass its fair lending review because it treated the few minorities who applied fairly, but it can still make very low percentages of its loans to minorities. If, on the other hand, lending to minorities was an explicit criteria on CRA exams, then consistently low percentages of loans to minorities in all loan types and geographical areas would contribute to a lower rating for the bank.

Given the evidence of lending disparities by race, NCRC has called for CRA exams to explicitly examine lending and services to minority borrowers and communities. In our *Broken Credit System* report, we show that minority neighborhoods received larger percentages of subprime loans than predominantly white neighborhoods, even after controlling for creditworthiness and other housing stock characteristics.[10] Federal Reserve economists came to similar conclusions about high levels of subprime loans in minority neighborhoods after controlling for creditworthiness.[11] In our more recent report, *Income is No Shield against Racal Differences in Lending*, NCRC found that racial disparities in high-cost lending are large even when comparing middle- and upper-income minorities against middle- and upper-income whites. Finally, in another NCRC study, *Are Banks on the Map*, we find larger disparities in branching by race of neighborhood than by income of neighborhood in 25 large metropolitan areas.[12] NCRC hypothesizes that a lack of analysis in CRA exams by race of neighborhood has contributed to the greater disparities in branches by race than income. Overall, we believe that a consideration of lending and branching by race of borrower and neighborhood would lessen the racial disparities in access to bank services and loans.

Before the CRA regulatory reforms in the mid-1990's, CRA exams under Assessment Factor D would often use HMDA data to assess performance of lending to minorities. An example of this approach is employed in the evaluation of Signet Bank conducted by the Federal Reserve Bank of Richmond in 1996. This use of HMDA data should be reinstated and expanded given the reality that lending differences by race and ethnicity remain persistent and significant. If the regulatory agencies do not reinstate lending and service to minorities as criteria on CRA exams, then Congress should amend CRA to add lending and service to minorities as provided in the CRA Modernization Act of 2007.

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[10] *Broken Credit System* available via http://www.ncrc.org/policy/cra/documents/ncrcdiscrimstudy.pdf

[11] Paul S. Calem, Kevin Gillen, and Susan Wachter, *The Neighborhood Distribution of Subprime Mortgage Lending*, October 30, 2002. Available via pcalem@frb.gov. also Paul S. Calem, Jonathan E. Hershaff, and Susan M. Wachter, *Neighborhood Patterns of Subprime Lending: Evidence from Disparate Cities*, in Fannie Mae Foundation's Housing Policy Debate, Volume 15, Issue 3, 2004 pp. 603-622

[12] See NCRC's *Income is No Shield against Racial Differences in Lending* via http://www.ncrc.org/pressandpubs/documents/NCRC%20metro%20study%20race%20and%20income%20disparity%20July%2007.pdf, and *Are Banks on the Map* via http://www.ncrc.org/pressandpubs/documents/NCRCAreBanksontheMap.pdf

D. Evaluation of Branching - Evaluations for considering branching on CRA exams;

The service test evaluates a bank's distribution of branches in low- and moderate-income communities, assesses the range of bank services and deposit products for these communities, and scrutinizes the level of community development services such as financial counseling offered by a bank.

Access to branches and deposit accounts are essential to assist low- and moderate-income consumers to engage in banking relationships, establish savings for loan down payments and collateral requirements, and prepare themselves for acquiring home and small business loans. Research conducted by the Federal Reserve Board demonstrated that banks offer a higher percentage of prime loans when they issue loans through branches than when they make loans through brokers.[13] NCRC's research for the Appalachian Regional Commission likewise revealed that small business lending is higher in rural counties with a greater number of bank branches.[14] The provision of affordable products through branches is critical for the efforts of low- and moderate-income families to build wealth through increases in home and small business ownership. However, LMI and minority communities have a proliferation of payday lending outlets and other fringe lenders whose high fees hinder the ability to save and build wealth.

Because branching and access to basic banking services are vital to wealth building, the CRA service exam needs to be rigorous and comprehensive, holding banks to a high standard of branching and service provision in LMI neighborhoods. Research suggests the contrary. A study conducted by the Center for Community Capitalism concluded that CRA service test scores are likely to be inflated when low scores on the lending test and investment test confront banks with the possibility of CRA exam failure. The Center's econometric analysis is supported by qualitative analysis showing that banks with low lending and investment tests often receive "High Satisfactory" or better scores on the service test while offering few services and branches in low- and moderate-income communities.[15]

NCRC member The Woodstock Institute found lackluster service tests that did not hold banks accountable for branching and offering community development services. For example, of the 14 banks in Woodstock's sample with the highest scores on the service test, eight had branch distributions in low- and moderate-income communities that were well below the averages for all lenders, as a group, in the banks' assessment areas. The exams also were inconsistent in providing data and detail on the level of bank services;

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[13] Avery, Brevoort, Canner, Federal Reserve Bulletin, op. cit.
[14] *Access to Capital and Credit for Small Businesses in Appalachia via* http://www.ncrc.org/pressandpubs/press_releases/documents/2007/NCRC%20Study%20for%20ARC.pdf
[15] Michael A. Stegman, Kelly Thompson Cochran, and Robert Faris, Center for Community Capitalism, University of North Carolina, *Creating a Scorecard for the CRA Service Test: Strengthening Basic Banking Services under the Community Reinvestment Act*, 2001.

some exams provided numbers of accounts and financial counseling seminars offered while others merely mentioned that the banks provided services.[16]

Mid-Size Banks: Less Scrutiny of Branches in Low- and Moderate-Income Census Tracts

Another concern with the assessment of bank services is the community development test, applied to mid-size banks with assets of between $250 million to $1 billion (adjusted annually for inflation). As part of regulatory changes to CRA, federal banking agencies replaced the service and investment test with a new community development test of mid-size banks. This new test scrutinizes branching activity as part of its examination of the level of community development services provided by a mid-size bank. Since this new test no longer had a specific criterion examining branching activity, community organizations expressed concern that exams may decrease the attention to branching activity overall and in low- and moderate-income census tracts.

To address these concerns, NCRC and the Economic Justice Project of the Justice Action Center based at the New York Law School conducted analysis of the new mid-size bank exams. Our sample of 92 banks included data collected on the adequacy of the new community development exam for assessing branching patterns.[17]

The scrutiny of branching in low- and moderate-income census tracts appears to have decreased significantly under the new exam format. Of the 92 sampled exams, 29 exams or approximately 32 percent of the total number of exams lacked basic information on the number of branches in LMI census tracts, as shown in the table below. When the income levels of census tracts with branches are not collected, it is not possible to analyze the extent of the bank's branching in low- and moderate-income census tracts. In contrast, the previous exams of the 92 banks in our sample omitted information on the number of branches in LMI tracts on just three exams.

Information on Branches in LMI Tracts

Sample of CRA Exams	Total	# Without Info. on LMI Branches	
		Count	Percent
Current Exams	92	29	31.5%
Previous Exams	92	3	3.3%
On Current Exams			
Discussions of LMI Branches	92	43	46.7%
No Discussions of LMI Branches	92	49	53.3%

[16] Woodstock Institute, *Measuring the Provision of Banking Services for the Underbanked: Recommendations for a More Effective Community Reinvestment Act Service Test*, March 2007.
[17] The full study will be published in the spring of 2008 in the *New York Law School Law Review.*

Further examination of the sample suggests that the new exams are not giving sufficient attention to branching activity. In our review of the exams, we found that 80 mid-size exams discussed the overall number of branches while 12 exams did not mention branches at all. In addition, in the majority of cases, exams did not discuss the number or distribution of branches in low- and moderate-income tracts. In 49 cases, the exam did not discuss the number or percentage of branches in LMI census tracts and in only 43 exams was the distribution of branches across income category of census tract discussed. Commentary was often lacking on whether the distribution of branches met community needs in LMI tracts or was proportional to the number of LMI tracts or people in the tracts.[18]

When federal banking agencies adopted the new CRA exams for mid-size banks, the agencies re-assured the general public that scrutinizing branching would be an important part of the new exams. The previous exams had an explicit criterion of evaluating the distribution of branches across income level of census tracts. According to the federal agencies, the new exams would evaluate community development services. Examiners would assume that community development services such as low-cost checking accounts were provided to a community if bank branches were in low- and moderate-income census tracts.[19] But how could the examiners make a determination that community development services were available if they failed to document how many branches were in low- and moderate-income tracts in a significant number of bank exams in our sample?

NCRC recommends that the diminished attention to services for mid-size banks and the lackluster nature of the large bank service test should be addressed. The regulatory agencies should construct clear and objective measures for comparing the distribution of branches to the distribution of LMI neighborhoods and people in those neighborhoods. The agencies should collect data on the number and percent of deposit accounts in LMI neighborhoods so that CRA exams contain substantive analyses on the distribution of deposit accounts instead of assertions that banks provide services to LMI people. Similarly, the rigor of analyses of community development services should be enhanced with data on the number of financial counseling sessions and other community development services. Enhanced service tests are critical for bolstering the number of branches and the amount of affordable bank services in LMI and minority communities.

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[18] An example of the cursory review of branching patterns is apparent in the 2006 CRA exam of First South Bank located in Washington, North Carolina and overseen by the Federal Deposit Insurance Corporation (FDIC).

[19] The interagency Question and Answer document as revised as of March 10, 2006 has the following question and answer: *§*ll.*26(c)(3)–1: What will examiners consider when evaluating the provision of community development services by an intermediate small bank? A1:* Examiners will consider not only the types of services provided to benefit low- and moderate-income individuals, such as low-cost bank checking accounts and low-cost remittance services, but also the provision and availability of services to low- and moderate-income individuals, including through branches and other facilities located in low- and moderate-income areas. Generally, the presence of branches located in low- and moderate-income geographies will help to demonstrate the availability of banking services to low- and moderate-income individuals.

E. ***Data*** - Data limitations that reduce the effectiveness of CRA exams

If data is of limited quality, CRA exams cannot effectively measure bank's performance. Federal agencies have used the Home Mortgage Disclosure Act (HMDA) data in detail on exams, but further enhancements in the use of this data are needed. In contrast, the agencies' use and development of the CRA small business data has been lacking.

The agencies provide detailed tables on home loan lending. The narrative and tables on the CRA exams separately analyze home purchase, refinance, and home improvement lending. This is necessary since the separate types of home lending respond to different credit needs. In other areas of analysis, however, the use of HMDA data should be enhanced on CRA exams.

Data on purchases should be analyzed separately from loan originations in order to bolster the integrity of CRA exams. If loan originations were analyzed separately from loan purchases, it would be more difficult for banks to manipulate CRA exams through the selling and buying of loans. In addition, community advocates assert that originating a loan is a more difficult task than purchasing a loan and should be weighted more heavily on CRA exams. At the least, these activities should be analyzed separately (back in 2004 the agencies proposed separate data tables on originations and purchases only to abandon this proposal).[20]

The quality of HMDA data on loan purchases should be enhanced. Currently, Regulation C requires data on loan purchases to include the census tract location of property but not the race, gender, or income of the borrower. Banks should be required to collect the same information on borrower and neighborhood characteristics on loan purchases as they do on loan originations. Some banks collect complete information on loan purchases while others do not. The rigor of CRA exams would be enhanced if data on loan purchases was made uniform.

CRA exams should use the new pricing information in HMDA data to separately evaluate prime and high-cost lending. Just as home purchase and refinance lending responds to different credit needs so to does prime and high-cost lending. Also, it is important to ensure that banks making both prime and high-cost lending offer a balanced product mix to LMI borrowers and communities. This objective can be achieved only if prime and high-cost lending are analyzed separately.

While the major issue associated with HMDA data has been its application on CRA exams, the predominant issue regarding small business data is that of quality. The federal agencies significantly lessened the quality of this data by exempting mid-size banks from requirements to collect and report it. As NCRC demonstrated in its report for the Appalachian Regional Commission, mid-size banks are an important source of credit for small businesses, particularly in rural areas and medium sized cities and towns. The agencies' decision to delete the reporting requirement for mid-size banks negatively affects

[20] See the February 6, 2004 Federal Register for the proposal via http://www.fdic.gov/regulations/laws/federal/04CRA.html

CRA's ability to ensure that banks continually respond to credit needs, including those of small businesses.

Limited information available on the demographics of small business borrowers hinders an accurate assessment of banks' responsiveness to credit needs. Periodic national surveys sponsored by the Federal Reserve Board consistently point towards the likelihood of discrimination in small business lending.[21] A powerful way to stop such discrimination and disparities in lending is to publicly provide data on the number of loans for minorities and women. Yet, the CRA small business data lacks information on the gender and race of the small business owner. It also lacks detail on the revenue size of the small business and has other limitations such as not separately reporting originations from renewals of loans.

NCRC surveyed its community organization members to gauge their experience in using CRA to finance various housing and small business-related activities. The survey respondents indicated that they have not been as successful as housing projects have in securing bank financing for small business development. This finding may be related to small business data issues in that CRA exams and stakeholders in the process have generally focused more on affordable housing than small business development. This is another reason to enhance small business loan data and augment the attention devoted to small business financing in CRA exams.

Rep. James McGovern introduced the Access and Openness in Small Business Lending Act of 2003 (H.R. 1748) that would require reporting the race and gender of the small business owner and mandate additional demographic detail in the CRA small business data. NCRC recommends that Congress pass this bill, even if the Federal Reserve Board lifts the current prohibition of banks voluntarily reporting the race and gender of borrowers of small business loans. In addition, Congress should either pass a bill or urge the regulatory agencies to reverse their decision exempting mid-size banks from CRA small business data reporting requirements.

3. How to Improve the Adequacy of the Enforcement Mechanism for CRA Compliance

Ratings on CRA exams and actions on merger applications are the enforcement mechanisms under CRA. A federal agency can deny, delay, or approve with specific conditions a bank's request to merge with another institution. Denials of merger applications are extremely rare. Delays or conditional approvals are the current enforcement tools employed in the merger application process. The lackluster record of enforcement suggests improvements are necessary.

[21] See NCRC's *Access to Capital and Credit for Small Businesses in Appalachia* for a discussion of the literature and the Federal Reserve sponsored surveys via http://www.ncrc.org/pressandpubs/press_releases/documents/2007/NCRC%20Study%20for%20ARC.pdf

CRA Grade Inflation

As the table below shows, the current failure rate for banks has hovered between 1 to 2 percent in recent years (ratings of needs-to-improve or substantial noncompliance indicate a bank has failed its CRA exam). When ratings first became public in 1990, more than 10 percent of banks failed their CRA exams. During the first five years of the public availability of CRA ratings, more than 5 percent of banks failed their CRA exams each year.

Year	Outstanding		Satisfactory		Needs to Improve		Substantial Noncompliance		Total
	Count	Percent	Count	Percent	Count	Percent	Count	Percent	
1990	340	10.9%	2,474	79.5%	280	9.0%	19	0.6%	3,113
1991	407	8.3%	4,016	81.6%	453	9.2%	46	0.9%	4,922
1992	653	12.7%	4,067	78.9%	395	7.7%	40	0.8%	5,155
1993	941	14.7%	5,060	79.3%	355	5.6%	26	0.4%	6,382
1994	1,000	18.1%	4,249	76.7%	275	5.0%	15	0.3%	5,539
1995	1,363	24.3%	4,106	73.1%	138	2.5%	7	0.1%	5,614
1996	1,214	26.5%	3,275	71.5%	81	1.8%	11	0.2%	4,581
1997	829	22.4%	2,807	75.7%	59	1.6%	11	0.3%	3,706
1998	681	18.6%	2,915	79.6%	59	1.6%	7	0.2%	3,662
1999	679	18.6%	2,915	79.7%	55	1.5%	7	0.2%	3,656
2000	220	17.5%	1,001	79.6%	30	2.4%	7	0.6%	1,258
2001	132	10.6%	1,088	87.1%	23	1.8%	6	0.5%	1,249
2002	201	9.8%	1,820	89.0%	18	0.9%	5	0.2%	2,044
2003	283	10.1%	2,492	89.2%	17	0.6%	3	0.1%	2,795
2004	329	13.1%	2,170	86.1%	17	0.7%	3	0.1%	2,519
2005	244	15.9%	1,278	83.2%	10	0.7%	4	0.3%	1,536
2006	171	13.1%	1,109	84.9%	20	1.5%	6	0.5%	1,306
2007	154	10.5%	1,292	87.8%	20	1.4%	4	0.3%	1,470
Total	**9,841**	16.3%	**48,134**	79.5%	**2,305**	3.8%	**227**	0.4%	**60,507**

Undoubtedly, banks improved their CRA performance over the years as they bolstered their efforts to make loans, investments and services in low- and moderate-income communities. At the same time, however, it is implausible that less than 2 percent of banks have failed to abide by their CRA responsibilities. As discussed above, the Center for Community Capitalism demonstrates inflation in the CRA services test. In addition, Rick Marsico in his book *Democratizing Capital* reveals how quantitative criteria are applied in an inconsistent manner on CRA exams, suggesting that a number of CRA exams have ratings that cannot be justified.[22]

The CRA Modernization Act contains a number of provisions that would be helpful for preventing grade inflation. The first is introducing more ratings. Currently, the CRA component tests (such as the Lending Test) have Outstanding, High Satisfactory, Low Satisfactory, Needs-to-Improve, and Substantial Noncompliance as possible grades. In contrast, the final rating on a CRA exam can be one of four grades: Outstanding,

[22] Richard D. Marsico, *Democratizing Capital: The History, Law, and Reform of the Community Reinvestment Act*, Carolina Academic Press, 2005.

Satisfactory, Needs-to-Improve, and Substantial Noncompliance. The final rating should also include High and Low Satisfactory as possible grades. In this manner, the general public and the federal agencies are more able to assess actual differences and gradations in performance. If the agencies remain wary of failing banks, they can apply grades such as Low Satisfactory when the banks truly deserve them. Moreover, the distinctions at the higher end of performance become more meaningful when the possible passing ratings include Outstanding, High Satisfactory, and Satisfactory.

If a low CRA rating in an assessment area triggered requirements for a bank to improve its performance, a bank would be more likely to adequately serve all geographical areas, including smaller cities and rural areas in addition to large cities. Currently, low CRA ratings even on a state level rarely have concrete ramifications for banks. The CRA Modernization Act of 2007 would require federal agency enforcement to correct low ratings and would require public input in this process. If a bank receives a rating of Low Satisfactory or worse in any assessment area, the Modernization Act would require it to submit a CRA improvement plan to its regulatory agency, describing how it intends to bolster its CRA performance in that assessment area.[23] The general public would have an opportunity to comment on the CRA improvement plan. The regulatory agency must either approve the CRA improvement plan or send it back to the bank for modifications. After the agency approves the CRA improvement plan, the bank must submit quarterly reports so that the regulatory agency and general public can monitor performance under the terms of the plan.

4. The Role of Public Comment and the Degree Public Participation Should Play in the CRA Evaluation and Application Approval Process.

The merger application process presents significant opportunities for federal agencies to enforce CRA. Yet, the enforcement of community reinvestment obligations through the merger application process has been lacking over the last several years.

In testimony before this committee earlier this year, an official representing the Federal Reserve Board (FRB) testified that the FRB has held only 13 public meetings since 1990 on mergers. This is less than one meeting per year in an era in which consolidations have profoundly changed the banking industry. In addition, the FRB representative stated that since 1988, the FRB received 13,500 applications for the formation of banks or the merger of institutions involving bank holding companies or state-chartered banks that were members of the Federal Reserve System. Yet, only twenty five of these applications were denied with 8 of these denials involving consumer protection or community needs issues.[24]

[23] The concept of an improvement plan builds upon a procedure mandated by the current CRA regulation. At section 345.43 of the FDIC's version of the regulation, a bank with a less than Satisfactory rating shall allow the public to inspect a description of its efforts to "improve its performance in helping to meet the credit needs of its entire community." This description is to be updated quarterly.

[24] See http://www.federalreserve.gov/newsevents/testimony/braunstein20070521a.htm for Ms. Braunstein's testimony.

Realistically, the possibilities of merger denials in the future are small. But the agencies can influence the outcome of merger applications in other ways. Conditional approvals have been issued in the past requiring banks to institute non-discriminatory and anti-predatory lending safeguards. In addition, public hearings and meetings held by the regulatory agencies often facilitate mutually acceptable solutions to deficiencies in bank performance. Sometimes a bank will make a CRA agreement with a community group as described above. In other instances, the bank will pledge to implement a new lending program or best practice that responds to a community concern expressed at the hearing. Regulatory agencies may also require or encourage a specific reform after careful consideration of community input. As the Federal Reserve official indicated in testimony, however, public hearings are rare. Conditional merger approvals have also become almost non-existent in recent years.

The last major merger applications that were subject to public hearings were the Bank of America and Fleet merger and J.P. Morgan Chase and Bank One merger in 2004. In 2006, Wachovia acquired the largest lender of exotic mortgages, World Savings, yet there was no public hearing on this merger that posed significant fair lending and safety and soundness issues. Likewise, Regions had proposed to take over Amsouth bank in 2006. Although this merger involved two of the larger banks in the South, the Federal Reserve declined to hold a public hearing when the merger clearly had ramifications for the recovery of the Gulf States after Hurricane Katrina. More recently, the Federal Reserve declined to hold a hearing on the merger of Bank of New York and Mellon although the Bank of New York had received low ratings on two of the three tests on their two most recent CRA exams.[25]

The Office of Thrift Supervision (OTS) used to require the holding of a meeting between merging thrifts and community groups when such a meeting was requested by a community group that had submitted written comments pertaining to the merger. This procedure should be implemented by all the agencies. Meetings, as distinguished from public hearings, usually involve relatively small number of stakeholders, including regulatory officials, a few community leaders, and representatives of the merging institutions. These meetings are easy to convene and provide valuable dialogue.

When regulatory agencies receive several requests from community groups or citizens for a public forum, they should hold public hearings in addition to any meetings that might take place. Public hearings are more involved than meetings in that several community groups, citizens, elected officials, and others testify. Meetings allow for in-depth dialogue and debate among a handful of important stakeholders but public hearings become necessary when hundreds of citizens and community organizations wish to testify. Regulatory officials must afford them the opportunity to testify so that the officials can understand the gravity of the situation and the importance of the banks to the affected communities.

[25] Bank of New York received a low satisfactory on its lending and service test from the Federal Reserve Bank of New York on both its 2005 and 2003 CRA exams. In other words, the bank was close to failing on two CRA exams in succession. Yet, no public hearing on the merger occurred.

Finally, the CRA Modernization Act of 2007 has a provision stopping a merger proceeding if a bank has a failed rating in any assessment area. If a bank receives a rating of Needs to Improve or Substantial Noncompliance in any assessment area, its regulatory agency cannot accept or approve any merger application submitted by the bank until the bank improves the rating on a subsequent CRA exam. This provision assures that a bank must have passing grades and reasonable CRA performance in all assessment areas, including smaller cities and rural areas, in addition to larger cities. In addition, the CRA Modernization Act stipulates that if a bank receives Low Satisfactory in an assessment area, its regulatory agency must consider progress made in meeting the goals described in the improvement plan as an integral factor when reviewing a merger application.

5. Whether Changes in the Financial Services Industry have Reduced the Effectiveness of CRA and How Expanding CRA to Additional Financial Service Providers May Improve the Effectiveness of the Law.

In the 30 years since CRA's enactment, the financial industry has changed in profound ways. Lending is no longer confined to bank branches. Accordingly, CRA assessment areas must be expanded to include geographical areas beyond bank branches. In addition, non-depository affiliates of banks must be included on CRA exams. Moreover, banks now face more formidable competitors than they did in 1977. These competitors must be covered by CRA. As long as these competitors remain uncovered, it remains likely that their lending will be less safe and sound than the banks' and/or that they will offer a smaller portion of loans than banks to low- and moderate-income communities. Above, we describe how credit unions and independent mortgage companies do not offer as large a percentage of home loans to low- and moderate-income borrowers as banks. NCRC's fair lending investigation discussed above revealed that 26 of the 35 institutions engaged in redlining and other discriminatory practices were independent mortgage companies not covered by CRA.

Congress should follow the example of the Chairman's state of Massachusetts. Massachusetts has covered credit unions with CRA for a number of years. The Bay State has also recently enacted a community reinvestment requirement for mortgage companies. The CRA Modernization Act of 2007 would likewise require the application of CRA to independent mortgage companies.

The CRA Modernization Act would also require the application of CRA to insurance companies and would impose HMDA-like data disclosure requirements on insurance companies. A number of states already collect data on insurance provision and provide this data to the general public.[26] After the denials of insurance for victims of Hurricane Katrina, it would seem that the time has come to shed a public spotlight on the practices of

[26] Gregory D. Squires, Sally O'Connor, and Josh Silver, *The Unavailability of Information on Insurance Unavailability: Insurance Redlining and the Absence of Geocoded Disclosure Data*, Housing Policy Debate, Vol. 12, Issue 2, Fannie Mae Foundation 2001.

insurance companies and the distribution of their policies by characteristics of consumers and communities.

Finally, the CRA Modernization Act would require the application of CRA to securities firms. CRA exams would measure the extent to which securities firms are serving low- and moderate-income and minority consumers. Wealth building would be augmented considerably if more people of modest means and more minorities had access to mutual funds and other similar products. In addition if a law channeled more security firm investments into minority and working class neighborhoods, the economic development prospects of these communities would be significantly enhanced.

6. Whether Federal Banking Agencies' Examinations of Institutions are Adequate in Finding Evidence of Discriminatory, Predatory or Illegal Lending

Evidence of discriminatory and illegal lending can result in downgrades of CRA ratings for banks if discrimination and illegal lending were widespread and the lender did not take action to end the practices. There is no evidence to believe that the fair lending reviews conducted concurrently with CRA exams are rigorously testing for abusive, discriminatory and illegal lending.

In most cases, even for the largest banks in the country, the fair lending section of the CRA exam reports in one to three sentences that the regulatory agency tested for evidence of illegal and discriminatory lending and that no such lending was found.[27] There is no discussion of what precisely had been done to reach this conclusion. Meanwhile, excessive high-cost lending pervades financially vulnerable communities, compounding their financial challenges, and making access to the financial services mainstream more difficult.

In one instance, NCRC examined a thrift that specialized in subprime lending. The CRA exam report for that thrift noted that it issued a high percentage of loans to low- and moderate-income borrowers. The CRA fair lending review, however, did not describe if the examiner made any efforts to determine if the subprime lending was conducted in a non-discriminatory manner or was consistent with safety and soundness. In another case, an exam mentioned that a bank specialized in adjustable rate lending, but the fair lending review did not mention whether the examiner assessed if the loans were offered in a non-discriminatory manner and whether they were safe and sound.

Providing more detailed descriptions of fair lending reviews should be straightforward. The agencies used to provide detailed descriptions in the fair lending section of CRA exams in the mid-1990's under the previous "assessment factor" format of CRA exams.

[27] For example, a federal agency had this to say on the CRA exam's fair lending review of one large bank with several affiliates, a number of whom make high cost loans: "We found no evidence of illegal discrimination or other illegal credit practices." That was the only sentence in the fair lending review section.

For example, under Assessment Factor F, which assessed evidence of discriminatory or illegal practices, the Federal Reserve Bank of Richmond conducted matched file reviews of more than 300 loan applications in a CRA exam dated January 1996 of Signet Bank. The exam also described regression analysis, which sought to determine if race was a factor in loan rejections. The analysis considered variables not available in the HMDA data such as credit histories, the stability of employment, and applicant debt obligations. This type of substantive fair lending review provides the general public with confidence that the regulatory agency performed a detailed anti-discrimination analysis. It was after the CRA regulations were reformed during the mid-1990s in an effort to improve the rigor of the exams that these descriptions of fair lending reviews disappeared from the CRA exams.

When a violation of anti-discrimination laws is discovered through fair lending reviews, it is common for the federal agencies to make a bank promise to eliminate the practice instead of lowering a CRA rating. The CRA regulation specifies that examiners are to weigh the evidence and extent of a discriminatory and illegal practice when deciding whether to lower a CRA rating.

Some discretion in requiring corrective actions or lowering ratings is appropriate, but guidelines should specify when discrimination will lower ratings. Isolated instances of discrimination can be corrected through promised reforms. On the other hand, widespread discrimination should result in failed ratings. Discriminatory underwriting, including prohibiting loans to row homes redlines entire communities. It is ineffective and insufficient to rely on the banks' promise to reform. A failed CRA rating provides a significant deterrent against discriminatory behavior because a failed CRA rating prevents a bank holding company from acquiring a non-depository financial institution as long as the rating remains in place.[28] The punishment can be removed at the time of the next CRA exam, provided that the bank can undergo a thorough fair lending review and demonstrate that it has eradicated all discriminatory practices.

7. Other Factors that Impair Effectiveness of CRA: Less Frequent Exams for Small Banks

The Gramm-Leach-Bliley Act reduced the frequency of small bank CRA exams. Under GLBA, small banks with assets of under $250 million are examined only once every four years if they have a Satisfactory CRA rating and once every five years if they have an Outstanding rating.

When small banks are examined that infrequently, they have little incentive to affirmatively and continually adhere to their reinvestment obligations. They will have reduced incentives to make sufficient numbers of loans to low- and moderate-income borrowers during the entire four or five year time period between exams, and may only focus their efforts during the last year or two before exams. It is commonsense that

[28] The Gramm-Leach-Bliley Act instituted the "have and maintain" passing rating requirement.

infrequent examinations lead to infrequent commitments to reinvestment, while more frequent examinations lead to more consistent commitments to reinvestment.

In the survey in the appendix, NCRC's community organization members have reported that less frequent exams have reduced the amount of lending and reinvestment activity by small banks to low- and moderate-income borrowers.

This reduction in exam frequency responded to industry complaints about the "burden" of CRA exams. The lack of a careful cost-benefit analysis is readily apparent in the GLBA stretch-out of the small bank CRA exam schedule. The small bank exam is a quick and straightforward exam that focuses on lending and dispenses with the investment and service test of the large bank exam. For any small bank that is true to the mission of a community banker, the small bank CRA exam is a relatively easy exam, usually of ten pages or less.

Despite the brevity of the exam, its importance cannot be under-estimated. In too many poor rural communities, the CRA exam process is the only mechanism that holds small banks accountable for serving low- and moderate-income borrowers and communities. Smaller banks do not merge nearly as often as their larger counterparts, rendering the merger application process a seldom-used avenue for holding smaller banks accountable. Community groups are also not as prevalent in smaller rural communities as in large cities. Thus, the major mechanism for holding small banks accountable is the CRA exam.

In their analysis on small bank burdens, the federal banking agencies have found that CRA regulations "impose a modest information collection burden on small institutions – an average of 10 burden hours per institution per year."[29] In addition, the relatively few trade articles on small bank CRA exams also reveal few complaints about burden. In fact, an American Banker article shortly after the CRA regulation reform in 1995 is entitled "Small Banks Give Thumbs-Up to Streamlined CRA Exams." In this article, small bankers are quoted as saying that the exams were not burdensome and that CRA examiners took less than one day of their time.[30]

Conclusion

In light of the present day lending crisis and its disparate impact on minority and low and moderate income communities, CRA must be modernized and enhanced to apply to non-bank financial institutions, as well as secondary market institutions. CRA has been effective in bringing trillions of dollars of loans, investments, and services to low- and moderate-income communities. Too many LMI and minority communities still remain left out of the financial mainstream under the current construct, however. In order for America to truly become a financially inclusive society, the federal agencies' application of CRA to

[29] Federal Register, May 28, 1999 (Volume 64, Number 103), pages 29083 through 29086
[30] Small Banks Give Thumbs-Up To Streamlined CRA Exams, Jaret Seiberg of the American Banker, Thursday, February 1, 1996.

banks needs strengthening, and CRA must also be applied to non-bank financial institutions.

CRA has great potential to act as an antidote to the foreclosure crisis by requiring all financial institutions to safely and soundly serve minority and low- and moderate-income communities.

As described in detail above, the following steps must be taken:

1) Extend CRA to cover non-depository institutions. CRA must be extended to include:

A.) Credit Unions
B.) Securities Companies
C.) Mortgage Companies
D.) Insurance Firms
E.) Investment Banks

2) Agency Oversight:

- Federal agencies must work with banks and community organizations to further develop best practices and models for replication in the areas of small business development and foreclosure prevention. NCRC's survey of its member organizations revealed less success using CRA to encourage financing for small business development and foreclosure prevention than other activities.

- CRA's scrutiny of illegal and predatory lending practices must become more transparent and rigorous. Evidence of widespread discriminatory practices must result in downgrades in CRA ratings.

- The agencies must hold more public hearings on merger applications and issue more conditional merger approvals.

- Low scores for any assessment area must trigger regulatory enforcement, including the submission of improvement plans and heightened attention during the merger application process

- The stretch-out of the small bank CRA exam cycle should be eliminated. Small banks should be examined as frequently as large banks.

3) Reform CRA Assessment Areas and Affiliate Procedures:

- Assessment area procedures must be reformed so that a great majority of a bank's loans are on CRA exams.

- All non-depository affiliates of banks must be included on CRA exams.

4.) Refinement of CRA Examination criteria:

- CRA exams must explicitly consider lending, investments, and services to minority borrowers and communities

- Federal agencies must enhance the rigor of the service test and increase data collection of bank deposit accounts, at least by income level of neighborhood.

- The community development test of mid-size banks must do a better job assessing the provision of bank branches and services in low- and moderate-income neighborhoods.

- CRA exams must separately consider purchases and loan originations.

- CRA exams must also separately consider prime and high-cost lending.

- The quality of CRA small business data needs to be enhanced through the disclosure of the race and gender of the small business owner.

- CRA grade inflation needs to be counteracted by increasing the number of possible ratings.

Appendix

NCRC's CRA Survey conducted in the fall of 2007 follows

NCRC CRA Survey

Survey Objective

Thirty years since the implementation of the Community Reinvestment Act (hereafter CRA), banks have been motivated to provide over four trillion in loans, investments, and services for working class and minority communities.

This National Community Reinvestment Coalition (NCRC) survey assesses how the CRA has assisted non-profit community based NCRC member organizations in carrying out their mission of revitalizing predominantly minority and low- and moderate-income neighborhoods. The survey was conducted in the summer and fall of 2007.

Survey Results

Characteristics of Survey Respondents

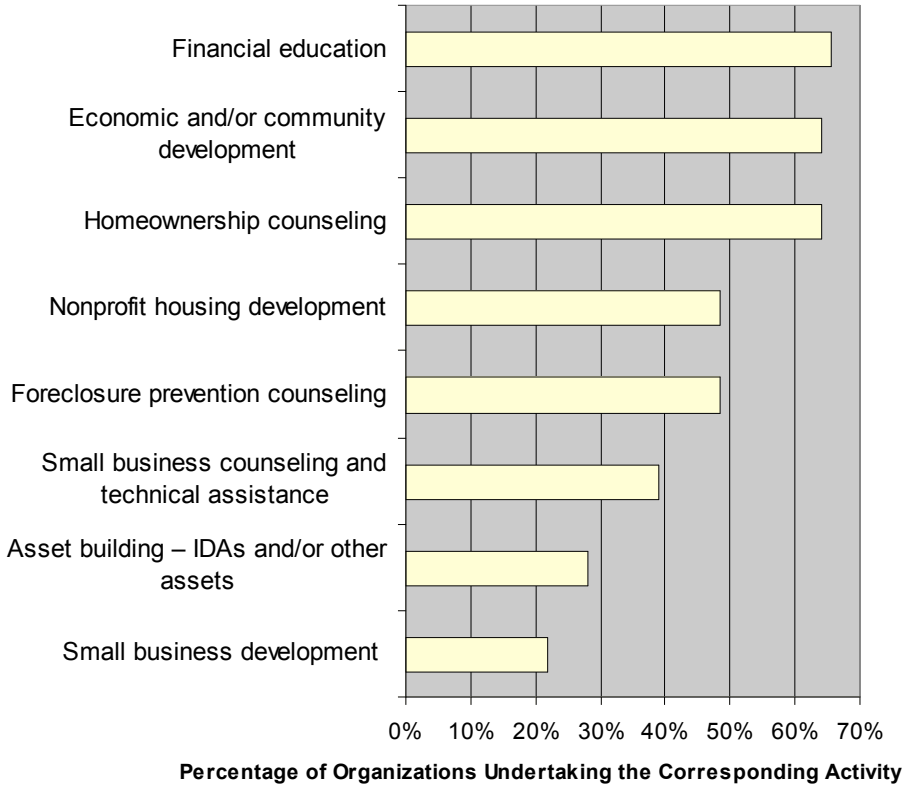
In an effort to advocate for a strong Community Reinvestment Act, the NCRC survey generated responses from 66 of its member organizations from 25 different states.

The survey asked NCRC members for the extent to which they provided the following services:

- Homeownership counseling
- Foreclosure prevention counseling
- Small business counseling and technical assistance
- Nonprofit housing development
- Economic and/or community development
- Small business development (e.g., providing infrastructure such as incubators)
- Asset building
- Financial education

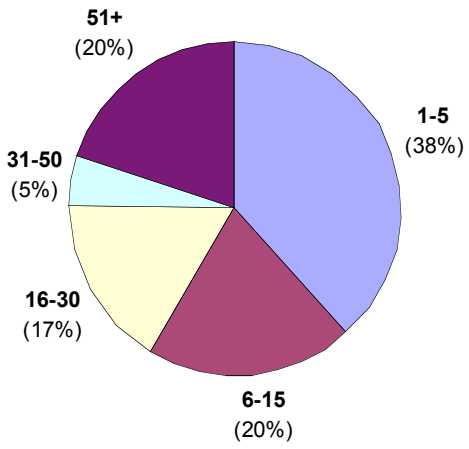
Of the above, activities most commonly provided by the surveyed organizations were homeownership counseling, financial education, and economic/community development (over 60% of the organizations provided the three corresponding services). Furthermore, almost half of all organizations provided housing development and foreclosure prevention services, whereas small business development was among the activities least commonly provided. (see Figure 1)

Figure 1. Activities of Participating Organizations



The majority of studied organizations were small with a total of 1-5 full-time employees (38.5% of all observed organizations) and 6-15 employees (20%). A significant amount of the studied organizations (20%) were large (i.e. 51 employees and above). (Please refer to Figure 2 for more detailed information on the size of the studied organizations)

Figure 2. Number of Full-time Employees in Participating Organizations

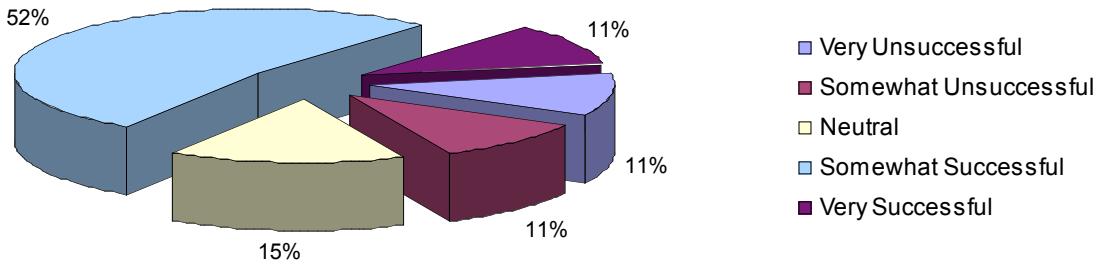


Success at Using CRA

We asked NCRC member organizations how successful they have been at obtaining financial support from banks (i.e., loans, grants, and investments) for projects and programs that benefit low- and moderate-income people.

While more than half of the surveyed member organizations reported success in obtaining funds from banks for their projects (52% reported being somewhat successful and 11% reported being very successful), 11% of the surveyed organizations reported being very unsuccessful and as many reported being somewhat unsuccessful at doing so. (Figure 3)

Figure 3. Success in Obtaining Financial Support from Banks for Projects Benefiting Low- and Moderate-income Communities



Moreover, the member organizations included in this study have been most successful in obtaining funds from banks for two of their activities, namely, homeownership counseling and financial education. Around 61% of all organizations responding to this question were very or somewhat successful in obtaining financial support for their homeownership counseling activities, and 63% were able to obtain funding for their financial education programs. A moderate success at obtaining funds for economic and community development, as well as asset building projects, was also reported. Foreclosure prevention counseling and small business development, on the other hand, were among the activities that were financed by banks less frequently (i.e. barely 30% and only 23% of the respondent organizations were very or somewhat successful in obtaining funding for foreclosure prevention and small business development projects respectively). (see Figure 3.1 at the back).

We also asked member organizations to assess how CRA has helped them to secure financing of their projects, and to provide us with some specific examples of CRA success stories.

Out of 33 organizations that responded to the above question, 21 confirmed that the CRA has been indeed helpful in their efforts to obtain aid for projects from financial institutions. Common

success stories include financing anti-predatory lending training sessions; projects that build, rehabilitate, or preserve units of affordable housing; mortgage default counseling and first time home buyer education; financial literacy training; obtaining small business loans; as well as micro-enterprise loan programs for women.

The following featured stories provide some insight into the CRA's potential to motivate financial institutions to support community development projects.

The Housing Development Fund (HDF), CT, has enjoyed huge success in capitalizing funding pools from banks that receive CRA credit for their participation. To date, HDF manages almost $50 million in funding from banks. HDF has deployed that funding in an array of financial assistance to developers of affordable housing and to individuals purchasing their first time homes. To date, HDF has financed almost 600 units, and helped an additional 600 households purchase affordable homes of their own.

Nueces County Community Action Agency, TX, benefits from a Community Development Corporation made up of several banks which have made available a zero percent loan for the CDC to use in developing 20.24 acres of land for 99 housing units for low-to-moderate income families. The zero interest loans by the Bank CDC made it possible to keep the costs of developing the lots at affordable prices to the homebuilder.

ACCORD Corporation, NY, has a pool of funds totaling $6.85 million from 8 banks, an additional $1 million line of credit from Bank of America, and over a million dollars of direct investments in another lending pool. All of these investments are directly related to banks addressing their CRA requirements. As a result of the bank pool resources alone, over the past 12 years, ACCORD Corporation has made $24.5 million in loans for projects that have created, rehabilitated or preserved 722 units of affordable housing.

The Community Action Services, UT, receives funding every year from several financial institutions through their CRA grants program. This funding comes from about 4 banks each year and the grants range between $1,000 and $18,000. This funding is critical to the organization's program and helps to match its request to HUD for the Housing Counseling grant. The CRA funds are for the provision of the following vital services: mortgage default counseling, first time home buyer education and counseling, predatory lending counseling in lending, reverse equity mortgage counseling for seniors, case management for the Utah IDA Program, and in-depth financial literacy training (in partnership with Utah State University Extension).The Home Buyer and Mortgage Counseling program specifically targets low and moderate income families, seniors and minority groups (especially Hispanic residents). Without the CRA funding, the organization would have to cut this program in half.

The Fair Banking Coalition succeeded in pressuring Citibank, San Diego National Bank, and Washington Mutual into creating a special no fee, no overdraft, banking account with free money orders to address the needs of families represented in an organization of former welfare mothers called SPIN (Supportive Parents Information Network). In addition, the organization designed and launched a new cooperative market for micro business owners who are SPIN members. Discussions with Wells Fargo and US Bank, to establish this basic bank account, are currently in progress.

For the past two years, the San Diego Fair Banking Coalition has also received support from Citibank for its Women Entrepreneurs program (WE). WE is a 54-hour entrepreneurial training for women starting or operating a small business. Along with the training, participants are provided individualized and confidential business consulting. Citibank's support has been key to maintaining this program.

Over the last 15 years the number of bank braches in Hartford has decreased by 50%. As bank consolidation has increased, the larger banks left in the market have had less interest in inner city small businesses. Community Development Financial Institutions (CDFIs) are tying to fill the service gaps left by the closed banks. CDC Small Business Finance is a state funded CDFI that has created formal partnership agreements with five area banks through which funds are partnered on a subordinate basis with a bank's senior debt to provide loans banks could not provide on their own. The banks want to partner with this CDFI because of their CRA requirements. In ten years, the organization has provided more than $16 million in loans to nearly 70 small businesses.

While most organizations included in this study reported a positive impact of the CRA to their ability to sustain projects benefiting underserved communities, a handful of other organizations experienced no direct benefit from the CRA to their activities. Namely, 5 out of 33 organizations responding to the question about specific CRA success stories failed to observe a direct link between the CRA and their success in obtaining funding for development projects. The reason most often cited for not being able to develop a funding relationship with a bank was that the organization operates in areas populated with predominantly small banks that undergo CRA exams rather rarely.

In sum, while the CRA has been an essential step foreword in motivating financial institutions to meet the needs of low- and moderate-income communities, much remains to be done in responding to the credit needs of underserved communities. In particular, this survey suggests that NCRC members have had the least success in financing small business development. Furthermore, foreclosure prevention counseling has received relatively few resources as of the fall of 2007, when this survey was completed, but we expect this to change quickly given the national foreclosure crisis. Moreover, to further stimulate banks' support for community development, it appears that CRA exams and coverage need to be expanded.

Figure 3.1. Success at Obtaining Funds

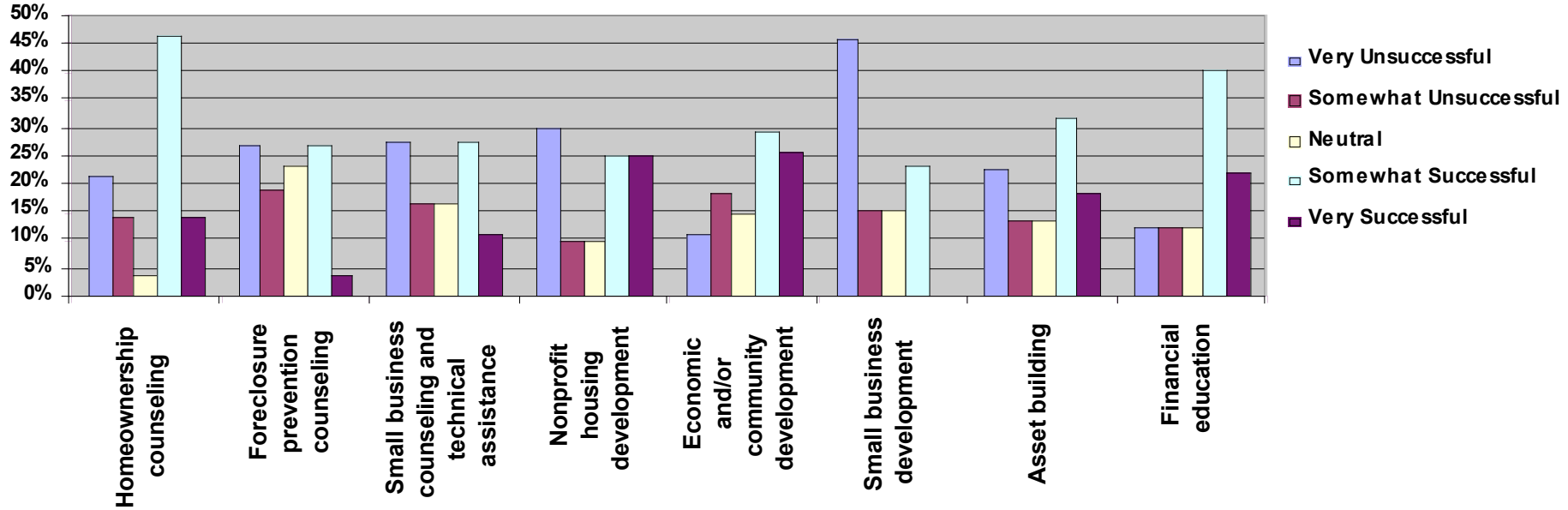


Table 1. Activities Undertaken by NCRC Member Organizations.

Please identify the activities undertaken by your organization. Check all that apply.		
answer options	**Response Percent**	**Response Count**
Homeownership counseling	64.06%	41
Foreclosure prevention counseling	48.44%	31
Small business counseling and technical assistance	39.06%	25
Nonprofit housing development	48.44%	31
Economic and/or community development	64.06%	41
Small business development (e.g., incubators, or constructing/rehabbing properties for small businesses)	21.88%	14
Asset building – IDAs and/or other assets	28.12%	18
Financial education	65.62%	42
answered question		**64**
skipped question		**4**

Table 2. Size of Surveyed Organizations.

How many full-time employees does your organization have?		
answer options	**Response Percent**	**Response Count**
1-5	38.46%	25
6-15	20.00%	13
16-30	16.92%	11
31-50	4.62%	3
51+	20.00%	13
answered question		**65**
skipped question		**3**

Table 3. Success at Obtaining Financial Support for Developmental Programs and Activities.

Please rate how successful you have been at obtaining financial support from banks (i.e., loans, grants, and investments) for projects and programs that benefit low- and moderate-income people in the following areas. Use "N/A" when the category is Not Applicable.													
answer options	**Very Unsuccessful**	**Very Unsuccessful (%)**	**Somewhat Unsuccessful**	**Somewhat Unsuccessful (%)**	**Neutral**	**Neutral (%)**	**Somewhat Successful**	**Somewhat Successful (%)**	**Very Successful**	**Very Successful (%)**	**N/A**	**Rating Average**	**Response Count**
Homeownership counseling	6	21.43%	4	14.29%	1	3.57%	13	46.43%	4	14.29%	11	3.18	39
Foreclosure prevention counseling	7	26.92%	5	19.23%	6	23.08%	7	26.92%	1	3.85%	12	2.62	38
Small business counseling and technical assistance	5	27.78%	3	16.67%	3	16.67%	5	27.78%	2	11.11%	18	2.78	36
Nonprofit housing development	6	30.00%	2	10.00%	2	10.00%	5	25.00%	5	25.00%	13	3.05	33
Economic and/or community development	3	11.11%	5	18.52%	4	14.81%	8	29.63%	7	25.93%	7	3.41	34
Small business development (e.g, incubators, constructing/rehabbing properties for small businesses)	6	46.15%	2	15.38%	2	15.38%	3	23.08%	0	0.00%	21	2.15	34
Asset building – IDAs and/or other assets	5	22.73%	3	13.64%	3	13.64%	7	31.82%	4	18.18%	14	3.09	36
Financial education	4	12.50%	4	12.50%	4	12.50%	13	40.63%	7	21.88%	7	3.47	39
Your activities/projects as a whole	4	10.53%	4	10.53%	6	15.79%	20	52.63%	4	10.53%	1	3.42	39
												answered question	**42**
												skipped question	**26**

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About NCRC

The National Community Reinvestment Coalition is an association of more than 600 community-based organizations that promote access to basic banking services including credit and savings, to create and sustain affordable housing, job development and vibrant communities for America's working families. Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, local and social service providers from across the nation.