OFFICE OF THE COMPTROLLER OF THE CURRENCY

OFFICE OF THRIFT SUPERVISION

BOARD OF GOVERNORS OF

THE FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

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JOINT PUBLIC HEARING

ON THE COMMUNITY REINVESTMENT ACT

REGULATIONS

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TUESDAY, AUGUST 17, 2010

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950 GRAND AVENUE

LOS ANGELES BRANCH

FEDERAL RESERVE BOARD OF SAN FRANCISCO

LOS ANGELES, CALIFORNIA 09915

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BEFORE:

JOHN G. WALSH, Acting Comptroller, OCC

JOHN E. BOWMAN, Acting Director, OTS

THOMAS J. CURRY, Director, FDIC

SANDRA F. BRAUNSTEIN, Director DCCA/FRB

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P R O C E E D I N G S

9:02 a.m.

MR. WALSH: Good morning. I am John Walsh, the Acting Comptroller of the Currency for one day now. And I'm joined by my colleagues, John Bowman, the Acting Director of the Office of Thrift Supervision; Thomas Curry, a Board Member of the Federal Deposit Insurance Corporation; and Sandra Braunstein, the Director of Community and Consumer Affairs, Federal Reserve Board.

I'm pleased to welcome all of you today to this hearing and I would like to thank the Federal Reserve Bank of San Francisco for making these excellent facilities available to us.

This is the last of four public hearings on the regulations implementing the Community Reinvestment Act. This series of hearings is being jointly sponsored by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve

System, the Office of Thrift Supervision, and the Federal Deposit Insurance Corporation. These agencies are responsible for drafting regulations to implement the CRA and assessing the record of institutions under their supervision in helping to meet the credit needs of their communities consistent with safe and sound operations.

The purpose of these hearings is to gather comments from the public, as the agencies consider how to update the regulations to reflect changes in the financial services industry, changes in how financial institutions deliver services to consumers today, and current housing and community development needs.

Today's hearing will be streamed live to the web and the OCC will also post a video recording and transcript of the proceedings on our website.

These hearings solicit a range of views on the CRA. The specific topics for our hearing today are small business and consumer lending evaluations and data, CRA disclosures, and performance evaluations.

Our witnesses represent national community organizations, academics, banks, and regional economic and community development entities. This hearing is also an opportunity to address any issues of concern with how CRA is interpreted and administered and provide us with new ideas for modernizing it.

Most of us here today are quite familiar with the original purpose of the CRA: to expand access to credit and basic banking services on a sustainable basis to home owners, small businesses, and small farms, and consumers in under-served communities in a safe and sound manner. This objective is as vitally important today, particularly given the challenging economic environment, as it was when CRA was first enacted.

Since its enactment 33 years ago, the CRA has encouraged insured depository institutions to meet the credit needs of their communities, including low - and moderate-income neighborhoods consistent with safe and sound operations. And over the years since its enactment, CRA has become an important community development mechanism that brings together banks, their customers, and community stakeholders. These partnerships have helped transform communities, expand sustainable mortgage opportunities, and promote job creation, small business expansion, and economic development.

In addition, despite what the critics of CRA have charged, CRA did not contribute to the financial crisis. CRA in its current form has accomplished much, but it makes sense to consider whether and how CRA can be made more effective. Some of the proposals being discussed require legislation. This point needs to be stressed. We are limited by the boundaries of the current CRA statute.

A number of good ideas that have been proposed during the course of these hearings, of which we have already had three, would need to be acted upon by Congress and are outside the authority of the regulatory agencies at the moment. The regulators do have discretion on flexibility in some areas, but we must be mindful of the statutory limitations.

We have an outstanding group of witnesses today and we look forward to hearing your views on updating CRA regulations, but we will need to adhere closely to time limits for your oral statements so that all the witnesses have a fair opportunity to be heard over the course of the day.

The full text of your testimony will be included in the record. Witnesses in the first three panels have five minutes to speak. And in the last session this afternoon, individuals who have asked to testify will have three minutes to speak.

There is a timekeeper here in the front of the room, Hershel, who will hold up a sign when there's one minute remaining, which gives you notice to wrap up your remarks. And a bell will ring when your time has expired. With apologizes to John Dunn, there's no question for whom the bell tolls, it tolls for thee.

(Laughter.)

So I now would like to turn to my colleagues for opening remarks.

John, please begin.

MR. BOWMAN: Good morning. My name is John Bowman. I am the Acting Director of the Office of Thrift Supervision. Welcome to the last of four public hearings sponsored by the federal financial regulatory agencies that evaluate the performance of the Community Reinvestment Act or CRA.

It is my pleasure to join you here in Los Angeles. I grew up in Southern California before moving to the other coast and I still consider this area to be my home.

So thank you for having me back.

I'm delighted to see the large and enthusiastic turnout today. Thank you for your participation.

These public hearings provide us with an opportunity to evaluate the current CRA regulations and explore possibilities for improving them. Updates may be necessary to make the regulations consistent with the business and market realities of the financial services industry in the 21st century.

Through this process, we affirm our commitment to make the CRA rules as effective and meaningful as possible for the financial institutions they cover and the communities and consumers they benefit.

The CRA plays a pivotal role in encouraging banks and thrifts to meet the credit needs of all segments of their communities, including low-and moderate-income areas. The CRA statute in implementing regulations encourages the expansion of branches in low- and moderate-income neighborhoods, as well as the development of innovative, responsive, and responsible retail products and services for low-income households and families.

The CRA also encourages depository institutions and community-based organizations to collaborate in promoting accessible credit and other banking services to under served communities.

In previous hearings, we heard from interested parties within the financial services industry, consumer groups, and community-based organizations. They have offered us perspectives and recommendations that will prove invaluable during the CRA review process.

Consumer lending is one topic that we expect to focus on today. In previous hearings, some participants suggested that CRA performance evaluations routinely cover consumer loan products, particularly credit cards. However, these participants also observed that the newly created Consumer Financial Protection Bureau, or CFPB, will have broad responsibilities to write and enforce consumer protection rules and policies. In view of the CFPB's formulation, I'm very interested in hearing your thoughts about how the agencies should define CRA performance obligations for depository institutions and their affiliates whose loan portfolios include a substantial percentage of consumer loans.

Another topic for discussion today is lending to small businesses which have been challenged by the economic downturn. What types of incentives should we consider to promote small business creation and growth? Some have expressed the opinion that we should modify the CRA regulations to provide incentives for institutions to assist in green business development. Others have asked us to provide favorable consideration for micro lending and micro credit products and services to help bring these activities to scale. Still others suggest that we foster the strategic use of partnerships to leverage technical expertise in financial resources.

I would be interested in hearing your thoughts about these and other ways that the agencies could revise the CRA rules to assist small businesses, particularly during times of economic stress.

The revision of CRA regulations in 1995, which emphasized data-driven performance by larger institutions, generated concern about the costs and associated burdens of collecting, managing, and reporting such data. Technical advances eased these burdens. Can the types of technology that have become common in today's financial services industry make further strides in reducing or offsetting CRA compliance costs? I would be very interested in your views on these questions.

We have gained much from the thoughtful recommendations and insights of participants in the earlier hearings and we know we will benefit from the perspectives shared today. As noted in the previous hearing some recommendations for CRA reform would necessitate congressional action. We ask participants today to focus on ways in which the agencies can work within their purview to make revisions to the current rules.

We are committed to working with stakeholders and Members of Congress to ensure that modernization efforts continue to fulfill the original mission of CRA while encompassing the providers, products, and services in the marketplace today that would help meet credit needs as fully and as effectively as possible.

I look forward to your insight, comments and recommendations.

MR. WALSH: Tom?

MR. CURRY: Good morning. My name is Thomas Curry and I am a member of the FDIC Board of Directors. I am very pleased to extend my welcome to this final public hearing on the regulations implementing the Community Reinvestment Act.

The purpose of these hearings is to solicit views on whether and how the agencies should revise the regulations to better serve the goals of the Community Reinvestment Act. The CRA was enacted in 1977 and there has not been a comprehensive review of the regulation implementing CRA since 1995.

During the past 15 years, as is well understood, there have been dramatic changes in the financial services industry. We have moved from an industry in which most banks had branches in one state, to an industry in which many institutions have branches in multiple states and a number have deposit facilities nationwide. Some institutions now conduct the majority of their deposit and lending activities using alternative delivery systems such as the internet.

The basic purpose of CRA to expand access to credit and basic banking services on a sustainable basis to homeowners, small businesses and consumers in under served communities has never been more relevant, particularly given the current challenging credit market environment. In light of that, as well as the dramatic changes in banking over the past 15 years, it makes sense to consider whether and now CRA could be made more effective.

These hearings are designed to solicit a diverse range of views on the Community Reinvestment Act. Although they are not limited to particular topics, the agencies have outlined in the Federal Register notice a broad set of issues on which we are seeking public comment.

Today, some of the issues we will be considering include critical topics such as how to consider small business and consumer lending and how to improve CRA public performance evaluations.

We also want to hear about the particular communities, customers, and financial institutions represented by our speakers and to take into account the reinvestment and community development needs that nonprofit organizations, local and state governments, and banks are addressing today.

The specific needs of small businesses and the states in this region are a significant focus of this hearing. We greatly appreciate the interest of all of those who have come today from near and far to provide their views on this important topic. Thank you.

MS. BRAUNSTEIN: Good morning. On behalf of the Board of Governors of the Federal Reserve System, I would like to thank you for participating in our fourth and final inter-agency hearing on CRA.

I also want to take this opportunity to thank my colleagues from the

Federal Reserve Bank of San Francisco and particularly those at the L.A. branch for hosting us today.

As we know, the CRA was enacted to help ensure that consumers and communities have access to financial services and products regardless of location or demographics. While the financial industry has evolved, a method for delivering financial services and products have changed. CRA's mission of ensuring access to financial services and products, regardless of location or demographics has not. That mission remains particularly germane as our nation recovers from an extraordinary financial crisis.

In the previous hearings, we have received comments and recommendations from many witnesses on how the CRA and the regulations that implement it should be updated so that the CRA can continue to be relevant in this changing environment.

We are confident that this reform

process will lead to meaningful change in the CRA regulations that will help to keep it vibrant in these dynamic times. However, we do have to keep our expectations realistic and as my colleagues have noted here, there are clearly changes that the agencies can make to the current regulations that are consistent with the CRA statute and reflect the developments in the industry since the last major regulatory reform.

However, there are some changes that may require legislative action.

There are a wide variety of witnesses here today with a vast amount of experience working with the CRA. I am looking forward to hearing the views on how the CRA regulations are working and your recommendations on how to make them better. With that, I would like to just once again thank everybody for participating today.

MR. WALSH: Well, thank you very much. We are a little bit ahead of time as it happens. We will move to our first panel. I am reminded of one instruction that I forgot to give and that is we would ask everyone to turn off cell phones so that we don't have interruptions during the course of the comments or questions.

So we'll now move to our first panel. We'll be hearing from Gail Hillebrand of Consumers Union; Joe Ridout of Consumer Action; Kerwin Tesdell, of the Community Development Venture Capital Alliance; Tanya Fiddler, of the Native Community Development Financial Institution Network; and Mark Willis of New York University.

Ms. Hillebrand, please begin.

MS. HILLEBRAND: Thank you. I'm Gail Hillebrand, Financial Services Campaign Manager of Consumers Union. You know us as the nonprofit publisher of Consumer Reports. Our mission is to test, inform, and protect. And I'm with the protect piece.

It's been my privilege to work on

Community Reinvestment Act issues here in California since 1986. And as we talk about regulatory improvements today, I want to encourage you to take this opportunity to enhance and fulfill the promise of CRA, that no one gets left behind in the U.S. financial system because of lack of access to capital banking services.

As a consumer advocate, I have a deep interest in CRA because we spend way too much time in the consumer movement trying to stop bad practices, one at a time. And CRA gives us an opportunity working with community groups and with banks to create good products and good alternatives in the marketplace. Everything you do to change this regulation I want to be focused on that question of encouraging banks and communities to work together to identify not only needs in the low-income communities, individuals, families, and people who serve them, but also opportunities for banks to turn that into their main line business and mainstream business.

There are viable business opportunities in low-income America and part of CRA is to nudge banks - it might be the original nudge economics - to find them.

The CRA issue today is not access to credit and services. It's access to quality and safe credit and services. There is unfortunately plenty of access for low-income consumers to what are politely called alternative services, generally at a higher cost and with fewer protections. So as you look particularly at the consumer products, we want you to be looking at whether those products have fair terms, price transparency, and are sustainable loans underwritten and repayable and fully amortizing. And to be encouraging financial institutions to work with communities to create products that enhance and not detract from financial stability.

You haven't done your job if CRA can be satisfied as a regulatory checkbox or as a bean counting game or as by writing a check and saying we've paid.

I'd like to describe what I think ought to be the three stages in a CRA process, that the ratings need to honor, evaluate, and support. The first one you might call the innovative and flexible stage. I call it the negotiation stage. This is where bankers and community groups really get in a room and bang their heads together and try to understand not only the needs of the community, but the limitations of the bank and how to bring those two pieces together into a product that the bank will eventually actually want to take to scale and will be able to take to scale.

We can't learn from each other if CRA can be satisfied without those meetings, without those productive discussions, and without products that actually get put on the street at the end. So that's the first stage, head banging stage.

The second stage is when the bank really takes that product into the business side of the bank and treats it the same way they would any other product, markets it, incents the sales people, and really makes it part of their regular products' speak.

And the third stage, you don't have to give any CRA credit. That's when it becomes a mainstream product and when other banks want to offer it too.

I'd like to mention several of the specific topics in your questions. Consumers Union does support a broader notion of assessment areas. We recommend all geographies where the bank gets deposit or credit business or is seeking that business be included in the assessment area. I think that the tie to physical location is simply out of date. We think it's time to end the choice by the bank about whether or not affiliates' activities count. We think that if you are looking at the impact of a financial institution on low - and moderate-income America, you have to look the positives and the negatives for the affiliates, the subsidiaries, the joint ventures, whatever the business is called. It still has that same impact on communities.

We want you to look at the affiliates the same way you're looking at the banks. We want you to look at whether they're putting products on the street that are needed, wanted, and used by low- and moderate-income communities, whether the products are fair and sustainable, the loans are underwritten, lending patterns are fair, and consumer protection is honored.

I'm going to close on a personal note. I almost never do that. My father once said about my mother, "Here's a woman who could squeeze a nickel until she turned it into two dimes." There's a lot of talent in low- and moderate-income America to take that nickel of capital and turn it into two dimes for our families, for our communities. It involves hard work and sacrifice, dedication, and smart use of resources. But the nickel has to come from somewhere. In my family it came from a fully amortized, fixed rate VA loan. But for many families today it's going to come from a CRA home loan; a safe deposit product that allows building of savings instead of bank fees; a fixed low rent, because a community development agency or nonprofit has built safe, affordable housing; or a small business loan. And the work you do to modernize CRA will bring that to fruition.

Thank you.

MR. WALSH: Thank you. Mr. Ridout.

MR. RIDOUT: Good morning. My name is Joe Ridout. I'm with Consumer Action. Consumer Action is a consumer education and advocacy nonprofit which has been fighting for the rights of consumers since 1971. We offer free publications on topics such as housing, foreclosure, and consumer credit in up to eight different languages and count over 1500 community-based organizations in our network of housing group CBOs. And we appreciate the opportunity to participate in this discussion.

The CRA must keep pace with changes in the banking and lending world in order to ensure that the needs of low- and moderate-income communities are met. We must expand CRA assessment to better reflect the ways in which banking and credit have evolved in recent years.

As new kinds of financial institutions like online banks have grown in importance, the CRA's ability to require banks to serve the financial needs of low-income Americans has diminished. Therefore, the model of using bank branches for assessment, as Gail has mentioned, must be expanded to include all the communities in which the bank actually does business.

As an example, Green Dot, which is a vendor of prepaid or stored value cards, is currently attempting to purchase Bonneville Bank, a financial institution with only one branch in Provo, Utah. If Green Dot's acquisition goes smoothly, it's expected to focus the bank on issuing its reloadable prepaid cards and benefit from improving Green Dot's margins through reduced interchange fees. This repurposed bank would issue prepaid cards all over the country, yet given the current methodology of assessment, it would only be responsible for reinvestment in Utah County. Utah County has only 530,000 people, yet people all over the country would be touched by the activities of the bank.

Given the transformation of banking which is less reliant on brick and mortar branches and more activities conducted on line, it's reasonable to encourage banks to invest wherever they derive a significant portion of their business. Assessment areas should be refined to include any state or area in which the institution has a visible share of the market for loans or other CRA-eligible financial instruments.

In order to best achieve the goals for which it was designed, CRA must also evolve to cover a wider range of financial activities that more accurately represent the credit eco system of a community. Future iterations of CRA should cover independent mortgage companies, as well as other credit actors. We should recognize that securities firms like Charles Schwab and Goldman Sachs, insurers, as well as credit unions, are also vital to the financial well being of a community.

If CRA had covered independent mortgage companies, most of the deceptive or unsound lending practices would have been prevented. Financial scams run by companies like Ameriquest, New Century, and Countrywide, would have been exposed and halted before they could have ensnared so many borrowers.

Expansion of CRA would be a simple, yet powerful way to shield borrowers from dangerous lending practices. According to the Federal Reserve, just six percent of the sketchiest loans originated in 2005 and 2006 that drove the foreclosure meltdown were made by CRA-regulated institutions.

Furthermore, another study by the Federal Reserve Bank of San Francisco found that loans originated by independent mortgage companies not covered by the CRA were twice as likely to go into foreclosure as loans originated by CRA-covered banks in their assessment areas.

In terms of CRA examinations, banks should receive CRA credit for their initiatives in foreclosure prevention which is surely the most urgent housing issue of the present. A bank's efforts at modifying troubled, but salvageable mortgages is an appropriate component of how we should measure that institution's success at meeting the needs of the communities it serves.

Let's say, for example, a bank developed a new balance forgiveness program. This program say would offer borrowers a full principle write down with the tradeoff that upon future sale, the bank would be entitled to three quarters of the property's appreciation. If such a program were successful in creating sustainable modifications, that bank should receive substantial CRA credit from meeting the needs of that community.

Banks which service loans, but did not originate them, should receive CRA credit for modifications as well, whether or not the modified mortgage fell within the service's designated assessment area.

Through our consumer hotline, we at Consumer Action hear frequently from homeowners and former homeowners who are bearing the brunt of the foreclosure crisis.

A woman from San Pedro, California, for example, explained to Consumer Action a familiar story of how difficult it can be to apply for a mortgage modification. Her words, "We have sent the same paperwork at their request over and over again. It is very difficult to speak to a customer service representative, as the recorded message is set to loop and not connect you with a real person. Their customer service for the home retention program is outsourced to India and I have to leave a message. We have never gotten a return call or email. We have emailed and written them several requests for a call or email back, to no avail. We get letters sent certified mail every month telling us we are in default of our loan and that we should think about a modification. I don't understand why the company that is supposed to be handling our modification is sending us that kind of letter."

We feel the bank's efforts or lack

thereof, I should say, at foreclosure prevention must be included in that bank's CRA evaluations.

We are excited to participate in helping CRA continue to serve our communities and appreciate the opportunity to share with you our comments.

MR. WALSH: Thank you. Mr. Tesdell?

MR. TESDELL: Yes. My name is Kerwin Tesdell I'm the President of the Community Development Venture Capital Alliance which is the association of venture capital firms in this nation that provide equity capital for small businesses in low-income communities to create good jobs for low-income people and entrepreneurial capacity and wealth that benefit low-income communities.

About 40 percent of the capital in our industry comes from CRA-regulated banks, so obviously CRA is very important to us. And in particular, I'd like to focus my remarks on the investment test of CRA and make four particular points.

First of all, I'm concerned that CRA has become overly focused on quantitative measures as opposed to qualitative measures. In the investment test, there are four factors. There's how much -- how many dollars going to deals, but there also some important qualitative factors that I think create the context and the lens through which you should be viewing the dollars that are going into investments. Are these products routinely available from private investors? Are they responsive to the actual needs of communities? And finally to the extent that you have an investment that is highly responsive, that is not routinely provided by the private markets, is the bank going the extra mile and making an extra effort to produce this product through innovativeness and complexity, to make this important source of capital available to communities.

So I would suggest rather than starting with counting up dollars, that you focus on these more qualitative issues and that in each case the dollars be viewed and valued through this lens. Now obviously, this is harder to do than counting up dollars, but I think you folks are tremendously well positioned to undertake this type of inquiry. You have terrific research and analytical ability to understand the broad capital markets of this country and I would request that you train that ability on the low-income capital markets and really work with us to think about how the capital markets can work more effectively for low-income communities, not just the citizens of our nation that have more economic resources.

The second point is the CRA needs to be more focused on producing long-term patient capital for low-income communities. We hear over and over again that is what community developers need, not four-year term loans. The Q&A says that long-term and short-term investments should be treated equally, but from what I hear from bank CRA officers, often when the examiner actually comes in to do the exam, naturally the examiner is looking for new things, not the investment that was made eight, ten years ago. You don't want the bank to rest on its laurels. But that kind of view actually discourages what's really needed which is the long-term patient capital for low-income communities.

The third point is on the investment test. Right now, CRA is focused more on the form of the capital that's exiting the bank as compared with the form of the capital that's actually being used by the end user of the community. So for example, the purchase of a mortgage-backed security is credited as an investment by the bank. In fact, I think if you look at the impact on the community, this is really a loan. It may be bundled loans, but it's lending in the low-income community. And I would urge you to re-examine the CRA regulations and look at ways to encourage the availability of what's really needed which is risk-investment capital.

And finally, I wanted to note the issue that my colleagues here have noted which is the re-examination of investment areas. I'll speak specifically to our issue of community development venture capital funds which are pooled investment funds. So we are not able in advance to identify what we're going to invest in exactly these businesses and exactly these areas. And the problem comes when the CRA assessment area of the bank does not exactly overlap the assessment area, the market area of the fund. And what happens is the fund tries to do some kind of site level which says we'll take your capital and we'll put it in this area rather than that area. If you do that with several banks, you've got this patchwork of requirements and for the next ten years you're trying to worry about whether you've got exactly the right dollars in exactly the right places instead of running your fund effectively.

So I would suggest that if there is significant overlap between the market area of the fund and the assessment area of the bank that the inquiry end there.

And finally, along the same lines that if a fund is a certified CDFI that, just as with minority-owned banks and low-income credit unions that an investment in a CDFI be accorded full CRA credit no matter where that investment may exist.

Thank you.

MR. WALSH: Thank you. Ms. Fiddler.

MS. FIDDLER: Good morning, my name is Tanya Fiddler. I'm an enrolled member of the Cheyenne River Sioux Tribe. I've served as Executive Director of Four Bands Community, a nationally-recognized native CDFI located in Eagle Butte, South Dakota for the past ten years. I also serve at the national level as a founding co-chair of the Native CDFI Network, and have been involved with National Rural Assembly which is a movement of people and organizations devoted to building a stronger, more vibrant rural America. Because of the support of the National Rural Assembly it made my presence today here possible.

I'm going to say thank you for the opportunity to appear before you on behalf of Four Bands, the Native CDFI Network, and Native Communities. I also testify today as a passionate advocate for the effectiveness of Native CDFIs connecting Native people to financial services they so desperately need. These institutions are critical partners for the agencies to engage in assessing bank services as part of our CRA exams.

I also testify as a long-term resident of Cheyenne River Sioux Reservation. The issues you are considering are not theoretical to me or the communities I serve. These are matters of financial life and death. Dewey and Ziebach Counties are the counties we serve and they're two of the poorest counties in the country. When we started Four Bands, 80 percent of the reservation population was Native American, but less than one percent of the businesses were Native-owned. So while our products and services have clearly enhanced the skills of Native clients over the past decade, there is still significant barriers to working with banks to revitalize our communities.

While these realities provide a clear rationale for why I sit here today, in another respect I don't belong here. In many Native communities we are worlds away from the conversations going on at these hearings. The Native American Lending Study which is the most comprehensive study of lending needs in Native communities was conducted more than ten years ago and didn't even mention CRA. It identified unmet capital in Native American communities of $44 billion. It also underscored the fact that Native people aren't thinking about the quality of bank service so much as whether banks serve our communities at all. Eighty-six percent of Native communities lack access to a single financial institution and 15 percent of our community members need to travel over 100 miles to access financial institutions.

So with those challenges in mind, I have ten recommendations and I'll go through them very quickly.

The agencies should develop specific strategies for on-going engagement with Native communities in order to ensure CRA effectively promotes financial services.

Given the unique challenges of Native communities, we urge agencies to carefully review the written testimony given throughout this period from Native communities. I know that leading national organizations like the National Congress of American Indians and the Native CDFI Network would be pleased to help facilitate more conversation.

Number two, enhance small business data to include race and gender of the borrower, Census tract data of community development lending and investing and bank deposit and consumer lending. On the question of revising small business and consumer lending data, the answer from Indian Country is simple, we need it. You need to collect it. The HMDA data has been used effectively to increase responsible lending by holding banks publicly accountable. We need a comparable small business community development and consumer lending data set to bolster bank lending and basic services.

Number three, collect pricing information on lending products. You would be surprised of what we pay out in mainstream or on our reservation communities for bank loans.

But for both small business and consumer loans.

Number four, develop tools that make the data more accessible.

Recommendation number five is to use the data to hold banks accountable. In mid-1995, when the discrimination review became lighter, we actually were having some success in Indian Country having some of the bank performance move up into the justice system. It's not that discrimination doesn't exist anymore, it's just that it's not really looked for like it was before. So that should be considered.

Number six, engage community-based organizations -- I heard that mentioned earlier. Our perspective from Indian Country is that it's essential for agencies to find more effective methods for facilitating engagement between banks and community-based organizations. We have one bank whose lawyers refuse to help us open individual development accounts because they're unclear that they are CRA-eligible activities. So the real rural effect is our clients are forced to travel an additional 20 miles to get to a bank. Banks in my community are also not held accountable to offer products that meet the needs of our customers. Absence of competition and interest rates above 20 percent are not uncommon for loan products.

Recommendation seven, recognize innovative practices.

Number eight, impose meaningful consequences for noncompliance. We have a bank located in another reservation in South Dakota that's had needs to improve grades since 1996 and have had no changes since then, so I think it's important that there should be some consequences for noncompliance.

Recommendation number nine, add a specific community development test for large banks and remove exemptions for small and intermediate banks. It's well known in our res. communities that we fly under the CRA radar and banks don't necessarily have to perform. They tell us that it's just out of the goodness of their hearts that they deal with this at all.

Last one, include long-term unemployment as a criteria for accessing distressed communities. Thank you.

MR. WALSH: Thank you. And Mr. Willis?

MR. WILLIS: Good morning. Thank you for inviting me to share with you today my thoughts on ways to make the CRA more effective in helping to stabilize and revitalize low- and moderate-income communities.

I'm a Resident Research Fellow at the Furman Center for Real Estate and Urban Policy, NYU. I speak today solely in my personal capacity and based on my years of experience as head of community development for J.P. Morgan Chase and as a researcher and urban economist.

I commend you for holding these hearings. The CRA can benefit greatly from changes that are within your power to make. My submitted written testimony outlines a number of options including balancing qualitative and quantitative measures, establishing a community development test for large retail banks, creating a safety valve to guard against any risks to safety and soundness and unnecessary duplication of the efforts of others, increasing responsiveness to variations and local needs, and ensuring that all communities can benefit from the CRA.

CRA is an exceptional legislation because at its core it establishes an affirmative obligation, rather than a prohibition on certain behavior or actions. However, an affirmative obligation also presents certain challenges. It requires continual adaptation to changes in markets, industry structure, and community development best practices. Examination procedures also need to be adjusted regularly as lessons are learned as to which tests are working well and which are not.

The CRA has many stakeholders with widely varying perspectives. You are no doubt hearing a broad range of opinions, not all of which seem reconcilable at least on the surface, thus making your job particularly difficult. So I want to suggest that you consider in addition to hearings, encouraging forums to convene diverse groups of stakeholders specifically for the purpose of exploring possible common ground.

Last year, in my role as a Visiting Scholar at the Ford Foundation, I twice convened a small group encompassing a cross section of stakeholders offering a forum to allow the participants to get to know and better understand each other and each other's perspectives. The reactions were very positive and I believe these sessions have already borne fruit in opening up new lines of communication between the parties and in helping to build consensus.

Let me now use my limited time to say a few things about the two topics which are the principal focus of this hearing. With regard to the data for small business and consumer lending, the first question should be what type and quality of data are needed for your examiners to be able to assess impact in low- and moderate- income communities without imposing unreasonable data collection costs on banks. This is not a simple question as it may seem initially, since it begs the question as to what should be the scope of the exams. In that regard, I suggest caution in trying to do too much through CRA.

The challenges faced by L and M income communities cannot be solved by a single regulation, exam procedures, or limited group of institutions.

A separate question is how much of

the data should be made public? The answer requires finding the right balance between the benefits of public disclosure and bankers' concerns about borrower privacy, proprietary information, etcetera. CRA has and should continue to benefit from public participation in monitoring banks' performance and highlighting issues for more regulatory scrutiny, especially given the likely decrease in the number of public meetings triggered by CRA-related mergers and acquisitions. It is critical that the public have at least enough information to be able to shift the burden of proof to the banks or to the examiners where the data suggest areas of concerns. I also recommend that you have annual forums to review the new data as it is released.

With regard to performance evaluations, a major problem is that these publications lag far behind the time period they cover. For banks, this delay limits their ability to adjust the CRA business plans until well into the next exam period. For the community, the information is so dated that it can be of only limited use for identifying any issues for the current or future performance effect.

New exam protocols are needed to facilitate faster exams, at least for the larger banks and more timely release of the results.

Let me end with a note on the need not just to update the CRA regulations, but to institute a process to keep them current. I believe the more regular updating is not only essential for regulation based on an affirmative obligation, but also makes change easier by allowing for smaller steps, more rapid mid-course corrections and for time to promote efforts for the stakeholders to find common ground.

Stakeholders rarely find themselves in a meaningful dialogue with each other, even when they appear at the same hearing or participate on the same conference panel.

I again urge you to promote modest size forums which allow all the participants to speak and be heard and have proven to be successful in improving communication and building consensus on critical issues and potential changes to CRA regulation.

I'd be happy to answer any questions you may have and again, thank you for the opportunity to be part of this process.

MR. WALSH: Thank you very much. Thank you all. Our timekeeper is falling asleep there because everyone has been so disciplined in staying within their five-minute allotment. You've obviously testified before, I think.

We'll now have ten minutes of questions from each of the agency representatives and I would ask John to begin.

MR. BOWMAN: Thank you, John. I

hope Hershel stays asleep when I ask my questions because I have lots of them.

First of all, I'd like to thank you all for your compliments regarding the regulators' ability to work through some of these issues. And I would tell you that your confidence and your compliments are respected, but are not always well placed, which is why we have hearings like this.

But I'd like to turn it back on to your side of the table. In a number of these hearings that we have participated in, the discussion of assessment areas and the outdated nature of that concept continues to come up. As many panelists have tried to probe further with those people raising the question, we don't get a lot of bite. People sort of step up and they step back.

This is your chance. This is your chance to sort of step up there and give us some of your ideas in terms of what we do with the assessment area, what are the kinds of things that might be acceptable or more challenging, first for the institutions we regulate, but more importantly for the communities in the areas that might receive service.

Ms. Fiddler talked about Native American communities. We've had other participants talk about various natural disasters, Katrina, being the most obvious example where the regulators have provided credit for certain services and loans. We've had participants from rural areas who talked about some of the challenges that they face versus urban communities. And we've heard people from urban communities talk about the competition that is engaged in by many, many institutions or services, or providing services in those communities and some of the risk that results from doing that.

Mr. Tesdell, why don't I start with you and I'll ask the panelists, realizing that we've got ten minutes and Hershel will throw things at us if you go too much longer. So some ideas, concrete ideas.

MR. TESDELL: Sure. Yes, I would suggest that rather than think in terms exclusively of where banks take deposit, take a practical common sense business view of what makes sense to be asking a bank to do. So for example, if you have a local bank in Oklahoma, it doesn't make sense for that bank to go national, invest in a CDC in New York City. That bank should be investing locally in the community that it knows and where it has the capacity to service.

On the other hand, if you have a Citibank or a Goldman Sachs, that bank, I think, should be charged with looking nationally and thinking innovatively about how it can serve the broader credit and capital needs of this nation. And in fact, I think a national bank such as those should be focusing more of their resources on very low-income communities. One unfortunate result of the current assessment area system is that capital is actually driven into more economically active areas. So I'll use an example from before the crash, but our funds in Florida or California found it relatively easy to raise capital as compared with a fund in Appalachia or the Delta Region of Mississippi. The reverse should be true, at least with respect to those national level and regional level banks.

And in addition, I think not only in terms of geography, but also in terms of product, I think it would be a real waste if with Goldman Sachs and Morgan Stanley sort of joining the fold here, if the regulators would sort of push them into the same kinds of activity that an average bank would undertake. Push Goldman Sachs and push Morgan Stanley to use their capacities, use the things that they do best to serve the capital markets in low-income communities.

I'll just make one final point

since you mentioned the disaster areas. I guess I just caution using CRA to address every problem that occurs in our nation. I think CRA should be focused on its core responsibility which is low-income people and low-income communities and not to sort of answer every problem that comes up, although certainly the national disaster like Katrina was tied in that case to economic issues.

MR. BOWMAN: You mentioned large national banks, how about the community bank that wants to take advantage of or look beyond its immediate assessment area to provide services or products?

MR. TESDELL: Sure. I think to the extent that it is interested in doing that, to the extent that it has the capacity to do that in an intelligent way, I think that makes a lot of sense.

On the other hand, to take the example of the Oklahoma bank, I think to the extent that what's happening is it's sort of getting into this syndicate of everyone is investing in this fund off in New York City and it's relatively easy to do and it's set up by somebody else. I don't know that that's the role that the local Oklahoma bank should be playing. I think the local Oklahoma bank should be serving the needs of its community that it knows the best.

MR. BOWMAN: Ms. Fiddler?

MS. FIDDLER: Conversation on the assessment is hard because I come from rural and frontier world so I would recommend convening the rural bankers. There's reasons, I understand, in the markets that they're working within. The community-owned banks do fairly well and would do a lot better in their assessments or their CRA reviews if you could consider the community development activities, that kind of thing. We have another bank that has a product that is credit cards, so when they go to test in, the assessment area is a large national, but they're performing on the local level. I think you need to talk to the bankers, the rural community bankers to understand because they are challenging markets to work within, period and meet everybody's needs, you know; hence, the high pricing and the lack of access and all the other stuff. So assessment areas are just out of my league to think of it that way.

MR. BOWMAN: All right. Mr. Willis?

MR. WILLIS: Yes, thank you. I think part of the problem that you are probably facing here in these discussions is should you expand them or not expand them in some broad sense. And I think it is really important to think about it in a nuanced way. And Kerwin gave some thoughts on that.

So for example, internet banks or ILCs that have limited number of headquarters, I mean limited deposit taking, maybe only in the headquarters, I think we need to rethink whether that's the assessment area they should be involved in. I think you should also think about whether strategic plans is something that could be more appropriate for that situation.

With regard to large national banks that have lots of branches, the idea that they get credit for investing in a national or regional fund only to the extent it's in their specific assessment areas doesn't make a lot of sense from an economic point of view, or whatever. But it does raise the issue of mandatory versus voluntary and so I think in the case of those banks, you may want to consider allowing full credit for investing in national funds that may not be in their assessment areas, but not mandating.

And the reason not to mandate here is again how many assessments can we examine and look at it in a serious way? And if we're talking about looking at more qualitative issues than just quantitative, expanding - - doubling, tripling - I don't even know what the numbers are, but large expansion of the number of assessment areas will probably hurt the quality or the ability of the examiners to do a quality exam, to look at qualitative factors there.

And the exams will get even longer which I think is also something that you don't want to have.

One of the concerns people have is that some communities are under served, so that you have national banks serving local communities. The bank is small, but subject to a small bank test, that whole set of issues. I think you should seriously give consideration that maybe banks should get extra credit for serving those communities. You could identify, I think, which communities are truly under served and provide some mechanism here by which they get -- the larger banks or regional banks -- could get credit for investing in what could be identified as CRA under served communities.

MR. BOWMAN: So you would have the regulator identify an under served area and then sort of allow all comers to fill in those gaps?

MR. WILLIS: Right. I use the word CRA under served, because you have identified in general what you view as under served or the regulation does. So just what areas maybe aren't getting addressed because they're just small banks there and probably the reason those are small banks is because national banks are offering products there, but not taking deposits, for example.

MR. BOWMAN: Good thinking. Thank you.

Ms. Hillebrand?

MS. HILLEBRAND: Yes, thank you. I think this is a question that calls for some balance and nuance. It is difficult because we don't want to say you're a national bank, the whole country is your assessment area and if you did something in New Jersey you're done. You had the numbers and you did it in one place. Clearly, that undermines the very idea of getting banks to open their eyes to the opportunities that exist in all of our low-and moderate-income communities.

But if you think about -- I think maybe the reason that deposits were chosen in the first place is deposits and lending needs to match up.

MR. BOWMAN: Right.

MS. HILLEBRAND: So if you think about it that way, we think about what's the bank's core business? If their core business is deposits and lending or deposits or lending, then you ought to be covering both of those things when we look at their assessment areas. And it's important in doing that not to look at whether the particular geographic area is significant in terms of the bank's loan because there are a lot of communities where there's very significant bond to the community, but instead whether as an active participant in a marketplace in a local geography.

So if we look at that, I think that might give us something closer to large regions or probably are going to have to cover the whole region. Large national banks that cover five out of six regions in the country are probably going to have to cover those five. But it becomes even more important as assessment areas get bigger for you to be as regulators providing some quantitative and qualitative information and signals to the banks that you really have to serve the whole community, and not only serve some low-income people and some moderate-income people in some areas, and I think that's the challenge.

And one thing we did ask you for in our written comments was to provide transparent information so that not only you and your examiners can evaluate how banks are doing, but the public, the media, institutional depositors, institutional investors. Consumers call me up and say who has a good record? Who should I bank with? It's very hard to answer that question on the publicly-available information or else you have a huge amount of homework even then. So in addition to what you did to modernize the regulation, we'd like to see the bank regulators put up a searchable on-line database of the information that you have of who is performing and how so people can draw their own conclusions and bring it to your attention if we don't think this bank is doing the job in our area.

MR. BOWMAN: Good. Mr. Ridout, I think my time has expired, but hopefully we'll have a second round.

MR. RIDOUT: Okay, fair enough.

MR. BOWMAN: Okay. Go ahead.

MR. RIDOUT: I'll be brief. I echo a lot of the sentiments that were expressed earlier. I guess this is an example of how the tools that CRA has were a lot more powerful in 1977 than they are today. I mean not only did they not anticipate some of the problems we're experiencing in the present, I mean in 1977 they didn't even anticipate Smiley versus Citibank which upended our conception of what it means for a bank to be chartered in a given location. There are a lot of things that have changed. And I think when you're looking at how to modify an assessment area, you can look at wherever a bank derives a significant portion of its business or if it captures a certain percentage, even be it one or two percent of the credit market for CRA regulated financial instruments, that should with a reasonable degree of flexibility be included in how that bank is assessed.

MR. BOWMAN: The only difficulty I have with that goes to Ms. Fiddler's points where business doesn't always track exactly the CRA needs. And whether or not there's an opportunity here for banks to fill that need in a way that works from a quantitative/qualitative side.

MR. RIDOUT: I agree. But that flexibility should include pre-operative incentives that will help communities and at the same time shield communities from being under served.

MR. BOWMAN: Thank you.

MR. WALSH: Tom?

MR. CURRY: Thank you. I'd like the panel to explore the level of innovative consumer lending products such as small dollar lending and how we treat it under the CRA. Specifically, should there be some type of retail services test or community development test that incorporates the extent to which institutions provide or develop innovative products? And is there a role for the banking agencies in terms of identifying what the range or scope of those quality products should be?

And the flip side of that is if an

institution does not offer those products, but I think Ms. Hillebrand used the term engaged in adverse activities, how should we take that into account in terms of ratings, whether it should be a negative impact or to what extent should we be looking to develop incentives to have institutions develop safe quality products which would be used? If we might start with Ms. Hillebrand, I'd appreciate it.

MS. HILLEBRAND: Thank you. Of course, we're very pleased to see the FDIC safe deposit account template which was released quite recently. I think that there is room and it's appropriate to give banks credit for moving forward in pioneering and then really marketing up to scale and putting on the street products that are safer.

We shouldn't be having this conversation, right? We shouldn't have to have a Federal District Court tell us just this month that a major California, not so California-based bank gamed the system and changed the rules so that it would cost more for people to hold deposit accounts with them if they have low balances. But that's the world we live in.

So ideally, community groups will be coming to banks describing what a safe product is. We've been doing that for 20 years and if it takes the regulators to describe what it is in a way that gets banks' attention, then we're happy to have the FDIC do that.

I think there ought to be credits for those. I think it's a closer question whether it should be a negative for not stepping up in one particular area if a bank is stepping up in other areas. If they're making small business loans and they're making the deed restricted community development loans, but they're not doing the consumer piece, there definitely should be a plus if they are doing it. If they're actually engaged in activities that are adverse, that drive the low balance customer out of the bank, that's a different question. No one should be getting an outstanding CRA rating who's engaged in those kinds of practices.

MR. CURRY: Thank you. Mr. Ridout.

MR. RIDOUT: We also think there should be a place for that in the overall composition of how you evaluate banks. I guess the danger is that some of what we'd call innovations in small dollar lending haven't necessarily been to the benefit of consumers and when you see, for example, pay day lending and quasi-pay day lending being offered even by large financial institutions that can charge 120 percent interest, some of these innovations aren't necessarily going to benefit consumers, but we feel that there is a great way to help consumers if it's done right.

You can see in California here there are a number of initiatives like Bank On

San Francisco, Bank On California, Bank On Los Angeles where they're trying to get small depositors into the financial mainstream and are doing it effectively and I think banks that step up and offer something like that internally should be rewarded.

MR. CURRY: Thank you. Do you see in that particular area in the problems you've identified that there is a role for the banking agencies and the community groups in consultation with them to develop standards, overall standards for products that can differentiate between what might be done in a more advantageous fashion?

MR. RIDOUT: I think that's an excellent way the regulators can help the banks and help consumers establish fair practices across the board. Especially when you're looking at the phenomenon of pre-paid cards, for example. There are some pre-paid cards offered by say MetaBank. They're attaching a loan product that functions very similarly to a payday loan. It's very disturbing for us to see this looking at how they can pry an extra $10 per paycheck out of people that just have a very small paycheck being loaded on to these cards in the first place. But I think a more explicit understanding of what fair, small loans would be would be very beneficial.

MR. CURRY: Thank you. Mr. Tesdell.

MR. TESDELL: I'll just make one comment. I think this is a great opportunity to use CRA in a way that we've just gone through this whole process with financial regulatory reform of what we're going to permit and not permit. And I think there's -- one question is, "Are certain kinds of loans going to be permitted?"

Another question is do you get CRA credit for making those kinds of loans or providing those kinds of products. And I think the CRA hurdle should be much higher than the is it permitted kind of hurdle. It's a terrific opportunity for you folks, I think, to really think through what kinds of products are really responsive to the needs of low-income communities.

MR. CURRY: Thank you. Ms. Fiddler?

MS. FIDDLER: In light of the few banking institutions located on reservation, within reservation boundaries, I would say that the biggest thing or the best thing we have going for us is the Native CDFI movement. So banks that are able to work or move into reservations or other definitions of Native community could be encouraged, get points to work with the CDFIs. I'm worried I come from this place that is going to promote that, but it's the community banks on our reservations that are actually moving money, getting access to the innovative products and now we're developing the relationships with mainstream banks, although they don't invest in us either because we're not in the footprint. But it's so important that banks that are looking to perform within those areas and regions or come up with new products work with the community development financial institutions, because we can help coach, guide, and often deliver and pipeline up a test customer that finally moves up into good credit worthiness and that kind of thing. Thanks.

MR. CURRY: Thank you.

MR. WILLIS: I would think about again a number of different pieces. The consumer protection piece and what role CRA should play I think fortunately CFPB maybe clarifies this a little bit and allows that mechanism to ban or deal with certain products or come up with vanilla products, whatever it is. And so take that burden off of CRA which it has tried to do at times. But I think better handled in its own sphere.

I also think that going beyond

credit to savings and transaction I think is really important. I think we think about stabilizing and revitalizing communities. It's all about -- it's not just about credit. It's about health and safety and jobs and I think savings accounts and transaction accounts, checking are important.

The important thing once you decide if you think that's a public good is whether banks should be cross-subsidizing this. So if the product makes money and it can be done mass market, hopefully they're doing it, maybe they're not. I know of some examples from the '90s. We learned how to make mortgage loans much more sensibly to low- and moderate-income communities. In my opinion, that worked very well, separate from the toxic stuff that developed in 2000. So the dialogue is important and there may be areas where banks could do things that they didn't realize they could.

But to the extent that it requires

a cost subsidy, then you've got to think about what are the incentives, what are the rewards and sanctions that you want to put in place here and are appropriate in CRA. You have very limited room, I think, within the law now to do that. And maybe likely we'll skip through what seems different multiple housing tax credits and new market tax credits, the government ought to get directly involved in the subsidizing of these products and provide -- make these products so that they can help the community, but also make good business sense for banks.

MR. CURRY: Thank you.

MS. BRAUNSTEIN: You're done?

MR. CURRY: Yes.

MS. BRAUNSTEIN: Okay. I have several questions. We'll see how many I can get to. So I'd like to ask a question that is related somewhat to Mr. Willis' testimony, the written testimony and something he mentioned today.

So I am sensitive to the fact that a lot of times the CRA evaluations that come out, especially when you're talking about the larger banks are very dated. It's true. By the time you roll up all those assessment areas and you get the information out, it's a year old, many times longer than a year old, data. And that's a problem.

So in the meantime, though, what I've heard, not just today but at the other hearings we've had, there are a lot of very good recommendations about additional things we need to look at, new ways of looking at things which frankly are more complicated even than the ways we look at things now, and one of those was brought up by Gail today which is the qualitative versus quantitative which I think is a very good point. But you have to admit that it's a lot faster to count loans than it is to get into the quality of those loans.

So I'm trying to reconcile all

this.

While we have all these suggestions about all these additional factors we should be looking at, at the same time we have a concern about the time we look at all that, the information is already dated and we need to somehow streamline this process and try to get things to be more timely.

So any suggestions you might have as to how we reconcile all this I think would be very helpful. And if you want to, Mark, I can start with you and I'd like to hear what others have to say about that.

MR. WILLIS: You've highlighted very clearly, Sandra, the dilemma here of the tradeoffs potentially.

One idea which is probably not thought through is some more -- for at least the largest banks, some more ideas of continuous exam. And it would have two things. One is it could get more regular feedback if something is not making sense and the bank can then incorporate what change in direction they need to take in their business plans in a much more rapid fashion.

And my idea of annual public discussion when the new data comes out I think is also important because I think public participation is important to the CRA process and they need more current information. So I think that could also help deal with some of the issues of these sort of outdated PEs.

Another advantage of the continuous exam in my mind is one thing that is a little strange, to be honest, about exams when examiners fly in from all over the country They may or may not know the bank or the local communities. They have to learn that as part of the process.

Inherent in my notion about something more continuous is where the examiners know the community, as people have talked here and mentioned, I know, in other hearings, how well a bank is doing. Part of the way to evaluate that is understand what's going on in the community and get feedback from the community -- who the community is and how to assess that. Those are all tough things, but I think there needs to be some more continuity than we probably get in this every three or four years, flying in a group of people who suddenly have to figure all this out and then write this up. There's got to be some ways to make that process a little bit easier.

And as I mentioned in my testimony, I always say more examiner training and more examiner empowerment is really important for the examiners to be able to make those assessments on the group.

MS. BRAUNSTEIN: Others? Gail?

MS. HILLEBRAND: Sure. You raise a fair question. But if we have a choice between fast, poor, incomplete information and slow, good quality information that will help to shape the decisions banks and communities make going forward, I think we have to choose slow and more complete information.

I like the idea that just like large institutions have on-site examiners for safety, they might have an on-site CRA examiner kind of like when the gentleman was speaking. But who knows if that will ever happen.

Another way to address the currency of information problem, we all have this problem everywhere in the world. At Consumer Reports we have it. Information is out of date almost the moment that you receive it, no matter what it is and when you receive it, to make that information publicly available in a database with a comments page for the bank. If the bank is doing something newer and better since the ratings and evaluation, they're going to want to put that up. And if you see an old rating with out-of-date information, evaluation with out-of-date information and there's no update, that might tell the public nothing has really changed. So that's another way to partially address this issue.

MS. BRAUNSTEIN: Yes, Kerwin?

MR. TESDELL: One way to maybe think of this is to engage in sort of a business planning process, rather than seeing this as a discontinuous periodic exam. That's the way banks, that's the way businesses work. They create business plans and then they carry through those business plans. And if the regulator is sort of involved in that process, maybe on a continuous basis, the business plan has been blessed. The four-year project to do a particular thing in a community has been agreed upon and in subsequent exams then you don't have to sort of rethink all of that. There's the business plan that's in place. The regulators have blessed it and it's a matter of carrying it forward.

MS. BRAUNSTEIN: Did you have

something?

MR. RIDOUT: Yes. I would just say that I'm not convinced that there must be a tradeoff between those two activities, but it really -- it harkens back to some things that I saw at the HMDA hearings in San Francisco a couple of weeks ago. If you want more data, must it be slowed down? How do you reconcile these two things? How much more leeway should someone have? It's a very legitimate question and if there must be a tradeoff, I would agree with Gail that it's more important to capture the data that's going to represent the full range of someone's lending activity.

But I'm not convinced at the same time that there must be a tradeoff. There's plenty of ways that technologically we can make things move smoother and Mr. Willis' comments about a more continuous exam is one way in which we can do it.

MS. FIDDLER: Like I said, getting

feedback from tribal leadership and getting good, accurate data, this is again reservation challenges for distressed community definitions that whatever -- in South Dakota, we have a 4.5 percent unemployment rate, but on the reservations it's closer to 50 to 70 percent. So if there was a priority placed on the distressed communities in America because I'm also speaking from the perspective of the poorest counties in the country, six of them are in South Dakota and they are on reservations, so I think that there's got to be some portion. And I know Appalachia and other rural places have the same challenge. I think there has to be a priority in looking at the most distress that we have, the economic conditions, and coming to understanding them especially from the native perspective, getting tribal leadership involved to help make some determinations, and then go in and look at performance, the business planning process, what are the goals, how do we plan to alleviate, but take it from a logical perspective of setting goals and meeting those and evaluating that way.

MS. BRAUNSTEIN: Quick, because I want to ask another question.

MR. TESDELL: One other quick point. If there's a way for the central research capacity, analysis capacity or the Fed to be able to do some of the sort of big picture work that then can be fed into the individual examiner, that would be helpful for the examiners and improve the product.

MS. BRAUNSTEIN: So you must have been reading my mind because my next question actually was in several of the previous hearings we heard a lot of discussion about needs assessments and the importance of doing good ones and that a lot of them aren't so great and the banks don't always do a great job of this, frankly.

And there was some discussion

about whether the regulators should be doing the needs assessment work and kind of take the banks off the hook for this, but do a more thorough kind of economic analysis of the different areas. And as you were talking, your last comments, but also Tanya, what you were talking about, in terms of native communities. So I was wondering, I wanted to get some indication from you as to your thought about needs assessments and whether we should be doing them. Should the banks still be held responsible? Should the regulators be doing this kind of assessment? Who should be doing them?

MS. FIDDLER: I'm going to pipe in and just say regulators versus the banks, because my local community banks, and I love them very much, but they'll protect their information or protect their perspective. They can't be as objective as they need to be to continue to deliver high interest rate products or whatever. So not that I want to shoot them in the foot, but this data should not be there in rural, remote areas or in Indian reservations.

MR. WILLIS: One problem with the current system where it relies on the banks through their performance -- what is it -- performance context, thank you, context, is that until the exam is over, you don't know whether the examiner is going to accept that. So part of the issue is certainty and as Kerwin pointed out, there's business plans. This whole process has to be built into. So I think there is a huge advantage with all of the regulators playing a role here, and collectively so that everyone doesn't -- each of them don't have to go to community groups themselves to get that input. It would then, as I said, give more clarity and predictability.

MS. HILLEBRAND: I want to agree and disagree, mostly disagree, but I do agree with Ms. Fiddler's point that there are some areas that are so important we can't leave behind. And certainly high employment areas fall in that list. The regulators could say very low-income areas, distressed areas, high unemployment areas. We are going to ask you in your exam what you did in these areas, so get ready to tell us and that's not exactly the full needs assessment. It doesn't replace the performance context and I think it's important to hold the banks to the obligation to actually know the communities that we're asking them to serve under CRA. And if that piece has already become a little too formalized, a little too check the box. We had meetings and if it becomes even less of the bank's responsibility, we have missed that opportunity for the light bulb to go off.

I was in a room once where a banker finally realized for the first time that a single room occupancy hotel should be underwritten as housing and not as a hotel with a high vacancy rate. That was 20 years ago, but that was a breakthrough at the time and that became a very successful piece of business for that bank.

Those light bulbs can't go off unless people get to know each other and the needs assessment is part of that.

MR. WALSH: We have a bit more time so we may get to come around for some further questions. But I would follow up on that thought, I guess. There was a comment made, I think, by you Gail, and further to the thought you just expressed about kind of a head banging that went into all of this that you really need people to get in there and bang some heads to figure out what needs doing.

And another comment was made maybe by Mr. Willis about understanding the local context, various people kind of echoed that thought. But if you look at some kind of regulator-based assessment, national thought process of kind of measuring and monitoring and laying out some strategies, that seems to get you pretty far away from really understanding the local context, really being inside the local community and that kind of head banging thought.

And is there some way to reconcile those thoughts of achieving meaningful direction to the process, but also making sure that things are happening, where the rubber meets the road?

MS. HILLEBRAND: I think it's going to be very hard to do, but the signals that you send as regulators that we are looking for actual products, not just pilots. We're looking for things that actually -- there's take up, real marketing within the bank and real take up by the users. It's not sitting on a shelf somewhere. It's a business product, not a product to make the regulators happy. I think that will help.

I do think that you can say here are our expectations, but that you also need to be saying to the bank, where is the new product? Where is the different delivery system channel or marketing effect for the existing product that's essentially making it work for people who weren't using it before? Because it's getting harder to bang heads together. The person who makes the decision is in Charlotte or is in New York or is someone other than where the people are who have the needs.

If CRA can be satisfied by the person in the bank who wears the CRA hat going around holding a lot of meetings, that's not going to get us anywhere and it's not opening the bank up to these business opportunities. It's not going to help low- and moderate-income communities. So that's a way that CRA could help.

MR. WALSH: I would add into that thought the sort of internet bank issue that you raised, Mr. Ridout, where the service is provided in the ether and yet you would like that bank to meet the needs of people that it's having only electronic contact with, kind of adds to the complexity.

MR. RIDOUT: Indeed it does. But we really think that there's a wonderful opportunity for regulators to play a role in how this changes. I mean there's no better moment than right now for regulators to demand more from banks. It's really an opportune time to rethink some of the rules that were not in place that allowed some of the catastrophic lending environment to take shape and how to prevent that from happening in the future.

In general, we really welcome regulators adopting a much more active role than until recently we had been accustomed to seeing in many areas. We think it's a wonderful opportunity.

MR. TESDELL: I don't know that it really has to be an either/or thing of whether the regulators do the assessment or the banks do the assessment. I think the banks shouldn't be off the hook. I think they need to do the assessment, but you as regulators doing an intelligent, involved job need to do your own assessment, and there's also I think some sort of division of labor here. So for example, to take an example of my field in community development venture capital, I think it would be terrific for the bank regulators to do an overall study about the availability of patient equity capital for small business development and job creation in the United States. Individual banks shouldn't have to replicate that for themselves.

On the other hand, when it comes the exact strategy and how to make the investment and how to structure the functions and that sort of thing, a Goldman Sachs or a J.P. Morgan Chase is very well placed to do the head banging to work all that out. It's sort of intelligent engagement, I think, between the regulators and the banks and the community organizations would be very happy and excited to take part in that kind of assessment.

MR. WALSH: Ms. Fiddler?

MS. FIDDLER: More of the same, engaging with community organizations and leadership. The tribal leadership that we had in place, all of it coming together, otherwise, no comment.

MR. WILLIS: I would reemphasize and agree with what Kerwin said here. It is both and I don't think it's an either/or situation.

With regard to head banging, an interesting term, one that always promotes smiles, but serious conversation between people is really important where they're listening to each other, learning from each other. And I think part of the '95 reform in moving from process to production performance, we lost something there. There is something about process. There is something about making sure that the right people are talking to each other and if someone is in Charlotte, well, maybe you ought to look and see whether the person in Charlotte went to Cleveland to meet with a group. I think there's some process elements under what we call qualitative factors that ought to come back and have more weight and more significance in the examination process.

MR. WALSH: We are running a bit ahead of time. Does anyone else have a burning question on their list that they'd like to --

MR. BOWMAN: I actually do.

MR. WALSH: Burn on.

MR. BOWMAN: I will. I will. I actually have a couple of them, but I'll stick with one - foreclosure prevention. A couple of panelists mentioned CRA credit recognition. I'll let you use the appropriate term for foreclosure prevention on the part of institutions. I'll open it up to anybody who would like to expand on their thoughts.

MS. HILLEBRAND: Clearly, there's a need now. It's a little tricky because if you caused the problem, should you now get some credit for solving it? But we're here, we need to solve these problems. I would look at whether the financial institution is actually achieving the ultimate goal of either keeping that family in the house or getting that house back into home ownership in another way. So I know in Cleveland the folks asked you to give specific credit for donation of real property. I think that's very sensible -- a little piece, but a sensible piece.

On the modification and foreclosure prevention, we need effective programs. And we're not getting them so far, not getting enough of them so far.

MR. WALSH: How can you give credit for them is really the question?

MS. HILLEBRAND: I think you give credit for them depending on whether the loan is being done. It might be under the lending test. It might be a service test. It depends on what the outcome is. But I think you can and should give credit for performance which is better than the industry average or which meets some higher standard that actually results in people we're meeting staying in their homes with loans that they can pay going forward. That's a big challenge.

MR. WALSH: Yes, it is.

MR. RIDOUT: I would add, too, that what they need to do also is allow modifications to count for CRA lending in community development loans. Right now, they don't because there are changes to an existing loan rather than a new loan. But you can incorporate to give credit where credit is due to those lenders that are modifying in a way that keeps people in their homes.

MR. WALSH: Anybody else?

MR. WILLIS: I think the idea of

keeping again, as I said before, CRA up to date with recent market conditions, this is an excellent example. And I hope you can do something fast here. Unfortunately, we're already a couple years into the crisis. But it also points up the fundamental problems that you need to deal with, and I think while you're holding these hearings, which is when stabilization efforts come under as community development loans or community development services, they don't get enough credit. So even going to all this effort to make sure that it gets credit within CRA, it's getting credit in the things that I think are not being valued enough. And so I don't know if you've heard about community development tests. We could talk more about that.

So I think that part is really fundamental here to change the rules under the way examinations proceed.

And one way to think about the value of what the efforts are - if a bank is doing something that is selling to a not for profit for less than what would be the market value, I think there are ways to do that without rewarding them for or getting into -- I shouldn't refer to this -- without getting to the issue of who created this in the first place. Right now we need to do things dramatically, I think, to help our communities and look for what the bank would be doing relative to what the market solution might be.

MR. WALSH: Good thinking.

MR. CURRY: You mentioned this issue of community development test for large institutions, could you expand on that? I mean that's an issue that I'd like for you to explore.

MR. WILLIS: To me, and we can probably spend a whole session on exactly what CRA is about or what's the intention, but to me, it was about stabilizing and revitalizing communities. And in that regard, community development activities, community development lending to CDFIs, particularly, for affordable housing, construction loans, that's really critical to rebuilding, stabilizing, and revitalizing communities.

Controversially, grants which move over into patient capital, those things should get a lot of attention. I think they are making a real marginal impact and not just doing something that banks or other financial institutions might be doing, but something that is having an incremental impact on the community.

And as you know, those things give very small relative weight in the investment test.

MR. CURRY: A ratio of what the relative weightings should be if there were to be a community development test for large institutions?

MR. WILLIS: I'm not sure I'm ready to say a ratio. I would just definitely say that I would give them separate prominence from the rest of investment, so they don't get lost in that number. And community development services, counseling, or foreclosure prevention, these are really important issues. In the existing exam, they get almost no credit. And so if you want CRA to have an impact on this particular issue, you've got to give them more. And I think the opportunity to do that in a community development test is a lot better than the way they're kind of broken up now into pieces.

And they are, in some ways, interchangeable or mutually supporting and so should be looked at as a group.

MR. WALSH: One question. I was trained as an engineer, so I tend to think sometimes about these systems and how they work, and it seems to me there's a tendency to keep adding pieces, but the notion of updating, streamlining is also one of trying to make the model work better. And so if we just keep adding tests and factors and regions and models and assessments and the rest, the machinery kind of gets heavier and heavier and it gets harder to keep it working and kind of well oiled.

And I wonder, The notion of the folks at interest having a meeting to think about how to make some of these tradeoffs, I think, is quite an interesting idea. But in this concept of updating and streamlining, are there things that go away as things are added, or are there things that morph into new models and new measures in lieu of what was there before, because it is a world in which someone has an interest in each element of the test. And I'm just wondering whether in this notion of updating streamlining are there some things that would change or would actually fall away as we move to a newer model?

MS. HILLEBRAND: It's our hope that things will fall away as the -- the CRA actually does what it should do. Products are developed that the bank -- they're assisting them for the bank as well as for the customer. If they're sustainable or not, we'll have to see other banks coming in. I mean there is some point at which people start to compete because they finally realize there's money to be made on a low- and moderate-income customer. And if we get to that point where everybody is doing it, where it's not patient capital, it's just sort of regular old, plain loan made to someone low- and moderate-income, maybe we don't need to count that any more. Maybe we'll take that one off the list. When that product is fully integrated in the bank and has sort of graduated to be equal with the rest of the banking products, it's dangerous to take things off sooner than that because we could lose the momentum, but that's what we hope for.

MR. RIDOUT: I think it's always important to keep in mind what's become outmoded or irrelevant, but when you're looking at, say for example, what the original purpose of the CRA was intended to address is there still redlining? Of course, there is. Is there still urban decay? Absolutely. But more recently, we're seeing in this foreclosure crisis suburban ghost towns in great communities and that was wholly unanticipated when CRA was initiated.

So I think we ought to be cognizant of what can be taken away, but I think the much more salient problem is what's been added that we must continue to add because the list of problems is not diminished.

MR. TESDELL: A couple of thoughts. I think this concept of continuous business planning streamlines things for everyone. You sort of look at it once, it's set, it's blessed and you go forward then carrying out your business plan rather than sort of having to marshal your evidence every year.

And second, I think it would be interesting to look at the idea of specialization that not every bank has to do everything. Not every bank has to be sort of examined equally on every thing and if a bank is really good at doing a particular thing, then maybe another bank is the one that fills in someplace else. I think that puts a little bit more onus on you, Sandra, your background research, whatever you're going to do, then you're going to have to sort of connect the dots among the various banks and saying overall, capital markets for low-income people in communities are being served, not necessarily that every single bank is doing all the serving.

MR. WILLIS: I share your concern and that's -- I don't think I have anything to add, to say specifically to subtract, but I think the adding on here definitely has risks. I think the ability of regulators to do the job that they need to do and making something way too complicated, and we've talked about that.

But let me just come back to the other notion. I think in a world where there is more continuous updating of the regs, where this becomes a regular process, things can be added and subtracted without everybody sitting in a room worried about if I let this go and there is a financial crisis again in ten years, I'm going to want to make sure it's there. So I better not let up here.

I just think that is there now just because the moves are so separated and I think people are fearful of losing forever something that seemed important and might be important again - that we've created a system here that is much harder to subtract things from, and could be easier -- well, we may do that for a few years, if it comes back. We're perfectly prepared to add that back in.

So I think this idea of a more continuous updating of the regulations also could help here a lot.

MR. WALSH: Yes, I mean if the notion that has been suggested of kind of a menu of things that are expected to be done within a plan is the thought and not that everyone has to hit every point and every feature. That may sort of square that circle to some extent.

Do we have any --

MS. BRAUNSTEIN: Yes, I just want to follow up on that a just a little bit. In concept, I think this idea of continually updating the regulation is a good one. But I'm just wondering, practically speaking, considering requirements and comment periods and all that, how realistic it is? And one of the things I think this also gets to the thing -- some of the things you were just talking about -- is in addition to trying to stay current, one of the things about CRA that I have to admit has always bothered me, and I'm speaking for myself, now, not the

Fed, is when we get those phone calls which we do all the time saying that somebody has a really good project, but the bank won't do it unless they know for sure they're going to get CRA credit for it. And I have to say that those phone calls make me crazy.

How do we address this concept and I was going to ask the bankers this question. It's like if there's a good project on the table, it's good for the community. It's not going to lose the bank money. How do we get away from this thing of I'm not going to do it, your regulator promised me that I'm going to get X number of points of CRA credit for it.

How do we get away from that? Do you guys have any ideas?

(Laughter.)

MS. HILLEBRAND: That's a tough one, but one thing is you can give them credit for being first or for doing it before you have seen it and approved it. That might help a little bit.

I do like this idea not so much of continuous update of the regulation because it's a challenge as you mention, but that the regulatory process should encourage banks to be continuously updating their CRA business plans. They should have a CRA business plan, whether it's a strategic plan option, or just an internal business plan. And they ought to be updating it. Bankers don't wait around for three years to develop a new product for any other type of customer. And they should be doing that for low- and moderate-income customers either because they'd be out of date. They'd lose the business for any other type of customer. Those products need to be continually updated and we need that same kind of business focus on how we're going to get, keep, and make money on low-income and moderate-income customers.

And the alternative sector is doing it. They're not doing it in a way that we think is useful or that builds family stability. But they're certainly doing it. And there has to be room between those pricing models and banks not being there at all, to come in, make a profit, and still serve low- and moderate-income communities in a way that enhances family stability for those communities, economic stability.

MS. BRAUNSTEIN: As a former banker, Mr. Willis --

MR. WILLIS: I'm not going to answer the question. I'll leave it to the bankers. But I will say I equally am frustrated. Either other parts of the bank would call or community people would come in and say well, I want a CRA loan. I'd say we don't have CRA loans. We have good loans.

So part of your frustration here is what really is the conversation that's behind there? And when other parts of the bank would come and say you know, can we get CRA credit here? That's how I'll get it approved. I would say I'm not going down that road because if you can't get it approved as a business proposition, then there's something wrong here and CRA should not be the excuse for somebody to do something that they're not otherwise comfortable with.

So it's hard for you as a regulator, but it was a little easier for me. You need to get behind the question. Why are they asking the question in that way? Is it just an excuse to not do it? What are they really trying to accomplish? So I'll leave it to you, the bankers, to give you more insight on that.

MR. WALSH: In thinking about this notion of continually, continuously updating CRA. I'm sort of looking at some of our staff people here who are already assigned to one of the 75 task groups we have to implement the Dodd-Frank bill and adding a continuous process on top of that might trigger mass suicide.

(Laughter.)

MR. BOWMAN: Or retirement.

MR. WALSH: That's right, or retirement, for those of us in that range.

(Laughter.)

MR. WALSH: But with that happy thought in mind, we'd like to thank all the witnesses for their thoughtful remarks. We will take a break for about -- just under 20 minutes. We ask you to return promptly because we will begin promptly at 11 and would like to have the witnesses in their seats at 10:55 so that we can start on time. Thank you very much.

(Off the record.)

MR. WALSH: We need a one minute warning out in the lobby. There you go. We didn't hear the bell the whole first panel because everyone was so disciplined.

We now welcome our second panel to the program. We will be hearing from Lisa Glover of U.S. Bank speaking on behalf of the

Consumer Bankers Association; Robert Manuel of Wells Fargo & Company; Tish Secrest of Bank of America; Barbara Boone of Alliance Bank; Andrew Gordon of Arizona MultiBank Community Development Corporation; and Fred Mendez of Rabobank, N.A.

So Ms. Glover, why don't you lead us off?

MS. GLOVER: Thank you. Good morning. My name is Lisa Glover and I'm the Director of Community Affairs for U.S. Bank which is the fifth largest commercial bank in the United States with assets of $282 billion.

I am testifying today on behalf of the Consumer Bankers Association and I appreciate the opportunity to present the views of CBA on the CRA and the prospects for improving them.

CRA was established to encourage banks to help meet the credit needs of their entire communities, including low- and moderate-income households and neighborhoods.

While the Fair Housing and Equal Credit Opportunity Acts, among others, were designed to provide comprehensive safeguards for consumers and minority groups, CRA remains the only federal law focused on the needs of the population that are not considered protective classes, but may be historically under banked or under served.

We believe the focus needs to remain solely on those households and neighborhoods. We hope the agencies will try to avoid trying to make CRA all things to all people which would stress resources too broadly and dilute its effectiveness.

The agencies have asked if the evaluation or data requirements for small business, small farm, or consumer lending activities should be changed and we offer the following. In the evaluation of small business data, it is the experience of CBA members that while some examiners consider demographics, market conditions, and product mix, the amount of consideration examiners seem to give these vary with demographics often getting the most weight and attention.

We feel the demographic measure does not comprehensively reflect whether a bank is helping to meet the credit needs of a community since it does not take into consideration important factors such as credit risk or demand. We recommend that the agencies take a broader view and place greater weight on parity with the industry and a bank's product mix rather than emphasizing only demographics. We feel these measures provide reasonable proxies for demand and credit risks that are missing in today's current analysis.

The mandate that small business lending be tied solely to low- and moderate-income geographies needs to be reconsidered. Small businesses are not like individual consumers or families that are demonstrably low- or moderate-income. A small business may be located outside of a LMI community, and provide services that help stabilize a LMI community or employ individuals who are LMI.

In today's world, it needs to be recognized consistently that loans to small businesses outside of LMI areas can equally benefit LMI individuals. Under the Dodd-Frank Act, the Equal Credit Opportunity Act will now require small business data to be collected on all those -- by all those covered entities providing credit. Many of those entities also report CRA small business data.

The Consumer Financial Protection Bureau will be writing the regulation to implement the new ECOA requirements. However, the Bureau does not have responsibility for the regulation or oversight of CRA. We are concerned that the new reporting requirements may conflict with CRA, creating unnecessary burden for the industry, raising costs for consumers and small businesses and creating confusion for the public. We encourage you to coordinate with the new requirements with the CRA so there are consistent reporting requirements.

Finally, we feel it's important the consumer lending remain optional. If it were mandatory, it would shift the focus away from the products where the needs are the greatest, namely, mortgage, small business and community development to products where there is no evidence of a shortage of needs particularly in low- and moderate-income communities.

The agencies have also asked if we should consider changes to CRA disclosures performance evaluations. We offer the following comments. Currently, the emphasis in the examination process is on full-scope areas. These are areas within the bank's market where the examiners focus the most attention, and tend to be the bank's largest deposit market within a state. These full-scope markets are the same for many banks and with multiple banks competing for the same opportunities, some of these markets can overheat.

Conversely, rural areas and smaller markets are shortchanged. More resources are driven towards the full-scope markets. To bring resources to more markets, we recommend banks be able to select markets with demonstrated needs in which to have full-scope examinations. We feel this would bring resources to smaller, more under served markets.

In recent years, performance evaluations have reduced the level of detail. As a result, they have declined in value and it's harder for the public to determine why an institution received the rating that they did. We feel less generic narrative and more detail about specific activities undertaken by the bank in a given market would be more beneficial to the public.

Currently, exams are timed so the

next exam assesses performance for a period that begins before the last performance evaluation has been finalized. Often, the performance evaluation will be issued for the prior period when a bank is more than half way through its current evaluation period. This makes it impossible for banks to change their performance based on the results of one exam before being subject to the next exam. We would urge the agencies to establish a minimum period of time between the publication of performance evaluations and subsequent examination.

CRA has been a catalyst for improving the lives of LMI people, however, CRA can be improved. As the regulations are reformed, it's important to ensure that CRA remains focused on its core purpose while ensuring a strong link to safe and sound practices.

Thank you for giving us the opportunity to be a part of this process.

MR. WALSH: Thank you. Mr. Manuel.

MR. MANUEL: Good morning. My name is Robert Manuel and I'm Director of CRA at Wells Fargo & Company. We are a diversified financial services company with $1.2 trillion in assets and more than 278,000 team members across our 80 plus businesses. We provide banking, insurance, investments, mortgage and consumer and commercial finance through more than 10,000 stores and 12,000 ATMs and internet across North America and internationally.

I appreciate the opportunity to provide Wells Fargo's perspective and how the CRA regulatory process can be enhanced.

We commend the agencies for their continued efforts to develop regulatory guidance for CRA compliance. Wells Fargo supports the CRA and strongly believes that it has been an effective law to revitalize local communities and under served populations consistent with safety and soundness.

Our comments stem from the goal to promote increased sustainability, CRA programs in a volatile and challenging economy and within dynamic, regulatory and business environment.

We believe that this goal can best be furthered through greater flexibility in how the CRA exam procedures are applied. We believe there needs to be more consideration for activities that have high community impact and are most responsive to critical needs in local communities.

There also needs to be more consideration for the opportunities and challenges of the environment in which the institution does business. We believe that the CRA is most effective when there is a strong link between a depository institution and the local communities that it serves.

Our obligations under CRA should be tied to our capacity to reasonably ascertain and service specific needs of our communities. This tie is strongest when the institution has a physical presence through traditional deposit-taking branches and key members in communities.

CRA public performance evaluations should be an opportunity to reinforce this connection between an institution's activities and the local communities it serves. The basis of an institution's performance should meet the needs of local communities as determined through community contacts as well as institutions' efforts in working with community-based organizations. This should be described in the performance evaluation before CRA performance is assessed.

There should be a balance between quantitative and qualitative factors considered when assessing performance. The recent trend of streamlined evaluations has focused on standardized quantitative comparisons such as lending and branch distributions to demographics. As a result, qualitative elements such as performance contexts and CRA highlights are not emphasized and therefore a complete picture of an institution's performance cannot be obtained.

Oftentimes, the best examples of how an institution collaborates with community-based organizations to find the most impactful ways to address the most critical needs in its communities can provide the public and the industry with innovative and creative approaches to CRA. These activities can also differentiate CRA performance among the institutions.

The performance evaluation should also provide an opportunity for the institution to highlight its efforts in the communities that it has identified as having most critical needs regardless of their aggregated deposits. This is particularly critical for rural or historically under served markets. As recently demonstrated, several markets impacted by high foreclosure rates outside the large metropolitan areas such as in California's Central Valley had greater needs with fewer resources to meet those needs. If their efforts were given appropriate consideration in the CRA examination and acknowledged in the performance evaluation, the institutions would likely do more to meet the credit needs of these communities. In short, these qualitative efforts need to be given more weight.

With regards to enhancing the data collection and reporting of disclosure requirements, the agencies should require any reporting for the number and dollar amount of community development lending aggrevated at the county level. This will provide more detailed community development lending by geography and allow for market and industry comparisons. The regulatory agencies should also coordinate with the new Consumer

Financial Protection Bureau for any new data collection requirements for small business loans under ECOA as referenced in the Dodd-Frank Act.

There should be a uniform standard for small business data collection consistent with data collected, reported, and examined under CRA currently. With regards to small business lending, we believe the CRA evaluation of this activity of the lending test can be enhanced. Its weight for an institution's performance should be determined by how much it has been identified as a critical need in an institution's communities.

This differs from the strictly quantitative approach of weighting performance by lending volume. For example, Wells Fargo is one of the largest originators of both mortgage and small business loans and historically has originated a greater percentage of mortgage loans than small business loans. However, given the high level of unemployment in most of our communities, job creation is an even more critical need at this point in the economic cycle.

As small business lending is a primary means of addressing this need, should be weighted more than its percentage relative to mortgage lending on the CRA examination and acknowledged in the performance evaluation. In addition, there should be more balance between the quantitative and qualitative factors considered when evaluating small business lending performance. The geographic distribution of institution's small business lending to small business demographics is still a relevant quantitative measure for performance. However, qualitative factors such as market conditions, credit demand, tighter underwriting requirements and competition that may impact performance likewise need to be considered.

Finally, small business varied activities such as providing technical assistance and tools to assist small businesses that may not necessarily directly generate a large volume of loans, but are designed to be very responsive to the needs of local communities should also receive significant qualitative CRA consideration.

Once again, we commend the agencies for their continued efforts to provide staff guidance for CRA compliance. Wells Fargo appreciates the opportunity to provide additional recommendations to enhance the CRA regulatory process. We believe these recommendations can be implemented with minimal burden, but maximum benefit for financial institutions and community-based organizations to develop and participate in sustainable CRA programs for years to come.

MR. WALSH: Thank you. Ms. Secrest.

MS. SECREST: Good morning. I'm Tish Secrest, Chief CRA Officer for Bank of America. We have always been and remain a proponent of CRA. Nevertheless, we advocate for reform because the spirit of CRA should be restored by adopting new rules that reduce the immense complexity that has evolved over 30 years.

You have asked that we provide comment on three areas and we offer the following. Bank of America is the largest provider of financial services to small business owners in the United States with more than four million customers.

The statutory directive of CRA is to ensure that banks meet the needs of its entire community including low- and moderate-income neighborhoods. This two-prong view for encouraging, assessing, and recognizing the full impact of a bank's lending should be preserved.

To this end, we suggest the following changes. Inclusion of all loans to businesses with revenues less than $5 million. If the intent is to support small businesses, the size of the loan and location should be irrelevant. Inclusion of all business loans within LMI areas. These loans are economic engines and anchors that provide stability and jobs within the LMI neighborhoods. Inclusion of all SBA or other government-guaranteed lending.

Additional credit for small loans to businesses less than $100,000. Inclusion of all small business loan modifications. Inclusion of products, services, and technical assistance for a holistic view of small business. Exclusion in the analysis of businesses where revenues are unknown, consistent with HMDA analysis. And consistency in data collection and reporting requirements between the CFPB and CRA.

With regard to consumer lending, Bank of America recommends that it remain optional based on a bank's business strategy. Requiring it would further over emphasize lending and shift focus for needed banking and community development services.

With respect to performance evaluations, we have several recommendations and I'll touch upon two. First, community development activities are at the heart of CRA, yet they are under valued as additive. They should be elevated in importance and carry more weight within the three performance tests or they should constitute end-use stand-alone tests.

Secondly, performance context is an immensely important factor to meaningful data assessment. It should be taken into account in all geographic markets. And if context is truly valued, there should not be expectations nor evaluations based on year-over-year over exam-to-exam increases. The past three years underscore that economic cycles do occur and performance may be adversely affected.

Now turning to CRA data collection reporting and disclosure, Bank of America supports the continued CRA focus on income, however, we would recommend that CD lending be reported at state or MSA levels to provide peer and industry analysis; that quantitative data tables be separated from the qualitative narratives so that a full assessment of impact and results are not lost in the numbers; and that qualitative assessments should clearly describe impact in all markets, not just in the full scope areas.

Briefly, I'd like to address another area and that's access to bank services. The headline here is that customer behavior has changed dramatically, but banks are not receiving CRA credit for the creative and innovative ways that they are responding. More transactions are done by all of our customers through our ATMs than in our banking channels. Telephone and online banking usage is approaching parity with the market demographics. And while mobile banking is still emerging, we expect this to be a game changer for all customers with U.S. cell phone penetration reaching upwards of 90 percent.

Banks receive virtually no CRA credit for providing state-of-the-art options for access. Regulatory emphasis on banking centers is limited and outdated.

Similarly, there should be substantive credit for products and services that benefit rather than specifically target LMI customers. For example, we were the first bank to join the Bank On California program for the unbanked. However, because we used a low-cost, mass-market checking product, we received negligible CRA credit despite our leadership.

Earlier this year, we introduced an industry-leading overdraft policy. Yet, we will receive no CRA credit for its profound positive benefit to LMI customers. It is time for a broader view of access. And redistributing service test weightings will help promote greater access.

In conclusion, the end result should be the mutual gains that come from maintaining a strong banking industry and creating strong communities. As the agencies consider ways to increase impact and reach, safety and soundness must be kept in balance. This is the linchpin to having CRA continue to be relevant, viable, and impactful for the next 30 years.

Thank you for the opportunity to be part of these discussions.

MR. WALSH: Thank you very much. Ms. Boone?

MS. BOONE: Thank you for the opportunity to be able to speak at this CRA public hearing.

My name is Barbara Boone, and I represent Alliance Bank of Arizona. We are a community bank and we've just reached over $1 billion in total assets. But I have been with the bank from small to intermediate and next exam we will be a large bank.

I've been a CRA officer for many years at different banks. Most of them have been community banks.

So my first recommendation is to increase the size standard for the definition of a small business from $1 million or less in annual gross revenues to $7 million or less in annual gross revenues. I also am going to address how I think we should standardize the performance evaluation for banks.

Defining a small business as a for-profit organization with gross annual revenues of $1 million or less is too restrictive and does not properly reflect the nature of small business lending that is occurring for CRA purposes. The Small Business Administration has a broader sized standard definition of a small business and should be used as a reference in determining the definition of a small business for CRA purposes.

The SBA, Small Business

Administration, refines the size standard of a small business every five years. The measure is defined by either the employment size of the firm, or the gross revenue figure. In general, the size standard can be measured by the concerned average employment for the preceding 12 months or the basis of annual gross receipts of a business of a period of not less than three years.

For example, the SBA has adopted 500 employees as a standard for manufacturing industries and $7 million in annual gross revenues for non-manufacturing industries. It was in 1954 that the SBA first adopted the figure of $1 million in gross revenue size standard. And the standard has been periodically adjusted by the SBA to account for general inflation of the economy, start up costs, competition, entry barriers and size distribution of firms. And currently the size is $7 million.

Moreover, the $7 million revenue

continues to capture the size of business typically to use the SBA's financial assistance program as a source of credit. Therefore, to properly account for the majority of the SBA loans and a more current size definition of small business, it would make sense to increase the CRA's small size standard of $1 million or less to be more in in line with the SBA's anchor-sized standard.

A lot of times, when we do our evaluations, we do quite a bit of small business lending in low- to moderate-income areas, but because of the revenue size standard, it does not get counted for making a small business loan.

My second recommendation is to take affirmative steps to promote consistency in the performance evaluation. Over the years of my CRA experience, I have worked with different agencies in doing a performance self-assessment. And I have learned that there's different standards and a different way of calculating requirements to meet CRA effectiveness. For example, for small business lending, some agencies have adopted the FFIEC tables to do your evaluation, whereas some of the agencies are not using the FFIEC table. So there's different forms of measurement. So depending on which agency is doing your performance evaluation, you could reach different standards and different conclusions.

And for years, in addition to the FFIEC tables for the banks' mortgage loans and small business lending not only does there seem to be in consistency between the agencies, and also between the field examiners and how they actually look at it and what the measurement used.

Likewise, the same is true for investments. For example, some agencies measure investments compared to total assets and some measure it to peer one capital. So again, you can reach different results.

And finally, the other is the service test and how many service hours that you actually do perform. Some agencies, it's really ambiguous how we really come up with what is an adequate amount of service hours, and some agencies will criticize you because senior management is not performing those service hours. And then some examiners will criticize you because you're not doing enough service hours in your remote areas.

So I want to thank you for listening to my recommendations of increasing the size standard of a small business loan and also in making consistency. It would be more effective if we could understand and take the mystery out of what a lot of the benchmarks are in an evaluation so we know how to receive an outstanding, satisfactory, or need to improve in certain areas.

Thank you very much for the

opportunity.

MR. WALSH: Thank you. Mr. Gordon.

MR. GORDON: Thank you for the opportunity to testify on modernizing the Community Reinvestment Act. My name is Andy Gordon and I'm speaking with you today not as a student or an expert on CRA, but as a practitioner of community and economic development. I have over 30 years of on-the-ground experience in community development and lending from rural Nevada as a Vista volunteer in the '60s to the late '80s doing urban development action grant lending in New York City to the last 20 years as the founding president of Arizona MultiBank Community Development Corporation.

In many ways, Arizona MultiBank, its customers and I are beneficiaries of CRA. It is from this viewpoint that I wish to share some of my observations. Arizona MultiBank is a nonprofit community development financial institution. We have provided 400 loans totaling $43 million throughout Arizona serving urban, rural, and Indian Country.

In 1991, the OCC, the Federal Reserve Bank of San Francisco, the FDIC all played a very important role in guiding us and our prospective bank investors, in structuring a strong organization and financial platform so that we could be proactive over the long term and I emphasize long term in our mission of responding to legitimate unmet credit needs in our Arizona communities.

Valley National Bank of Arizona, along with Arizona Bankers Association, led the charge in the banking community to establish Arizona MultiBank. At the time I knew little about CRA, but Valley National Bank, the largest bank in Arizona, soon to be Bank One and J.P. Morgan Chase was obviously motivated to take the lead on this initiative with the regulators, primarily the OCC.

I experienced firsthand how the

combination of the iron fist and the velvet glove of CRA and the deep and sincere commitment of the pre-interstate banking executives and local bank board members can encourage innovation. We pioneered an equity equivalent investment instrument that to this day provides the financial footing for Arizona MultiBank's effective community development lending.

Regulators, banks, and the community came up with a viable and lasting capitalization structure for a nonprofit corporation.

I provide you this background because I believe it provides a context for the regulators as CRA is revisited and refined. Arizona MultiBank enjoys great support from our 18 investing banks, but I think now less so because of CRA and more so because of the personal commitment of local leadership at those banks.

Arizona MultiBank's current chair

from Bank of America has volunteered with us for over 19 years. This bank executive approves $20 million and up loans there and $20,000 loans here. Because of the thoughtful process in our founding capitalization, strong management and board leadership and ongoing understanding and refinement of our business model for community development lending, Arizona MultiBank has and will continue to serve the community over the long term.

Current CRA regulations undervalue the enormous bank involvement we enjoy and from which the community benefits. The CRA should have greater emphasis on and hence provide a source of encouragement for an investing bank's role in sourcing community development loans that they can't do on their own in whole or in part; their involvement in underwriting of these loans, their share of the actual loans, excuse me, originated; their utilization of Arizona multi-loans is a credit enhancement for their own loans; their refinancing of Arizona MultiBank loans and participation when a business or project reaches its stride and becomes fully bankable. And especially as Arizona MultiBank continues to develop and provide creative and innovative products, their leadership of the board and community level is essential.

A bank's initial investment in Arizona MultiBank and many other CDFIs and opportunity finance organizations is the gateway to expressing a fuller, tangible commitment to sustainable investment in our communities.

It seems that CRA in practice really doesn't assign enough value to the significance of the whole package. From my vantage point, it's not difficult to see they don't want a bank's activity in the community as a check-the-box entry into the market when it is actually a studied, long-term commitment to reach further into the community with lending products and services. Community development is local. It is patiently proactive. And success requires a solid commitment in all the areas I mentioned and more.

My sense is, however, that the heavily rated elements of CRA exams measure more discrete, quantitative activities of the bank in silos rather than looking at the whole farm. In my mind the whole farm approach encourages and ensures sustainable investment lending and services in difficult to serve target markets.

Finally, CRA measurements of tangible progress in small business lending and housing encourages meaningful financial support in these areas for impact in our communities. Banks get this and are very good at this for their exams. And the benefit for the community is significant. The basis for these measurements grows from what is known and what exists in terms of historical characteristics of borrowers and communities.

The cutting edge of community development in reaching under served target populations in a meaningful way often comes from what is not fully understood today and lending products that require special partnerships that need to be nurtured and developed over an extended period of time.

With success, these customers and products are mainstreams and we can say with pride that we are systemically connecting financial resources to persons and communities that would not otherwise share the full potential of the American dream. Engineered financial products should be for the good and not the greed. And CRA is one way that this outcome is encouraged and rewarded.

Last, I would be remiss if I didn't mention that today's economy requires not just the focus on community reinvestment, but really affirmatively stemming the tide of unintentional disinvestment. Sweeping actions have been taken because banks are too big to fail. Now it is time to take some courageous action because our communities are too important to fail. Thank you.

MR. WALSH: Thank you. I would note a finally or last does get you off the hook with the timekeeper, but you only get one.

(Laughter.)

Mr. Mendez.

MR. MENDEZ: Good morning. My name is Fred Mendez. I wear two hats this morning, the first as Senior Vice President of Rabobank, N.A., with responsibility for CRA compliance, community development, finance, and community affairs; the second as Chairman of the California Bankers Collaborative.

My comments, except where noted, represent the collective views of local CRA executives from California Bank and Trust, CitiBank, Comerica Bank, Rabobank, and Union Bank. Therefore, these views may not represent the formal views of each institution at the highest level.

The format of my comments will roughly follow the topics and questions as published in the Federal Register on June 23rd, specifically those centering on geographic coverage, bank asset thresholds, the activities of affiliates, data collection and the definition and role of community development.

As it relates to geographic coverage, the same bank can differ from one area to the next. For example, it can be heavily reliant on its branch network in a major metropolitan area and find innovative ways to make its products and services accessible to non-metropolitan areas without relying on a large branch presence. As such, a bank's market share of deposits and loans should serve as a primary determinant of its CRA obligation more than the size of its physical branch network.

A bank with limited or no branches

in a market where it has substantive market share should be allowed to focus on lending and investment activities to compensate for its limited capacity for community development services.

Regarding CRA asset thresholds, the current asset thresholds that apply to institutions and tests should at least align with how the FDIC differentiates the industry for asset concentration purposes. To illustrate, as of March 2010, the 105 FDIC insured institutions with assets over $10 billion represented 77 percent of total industry assets. The 575 institutions that are considered large banks under the CRA regulation, not including the 105 mentioned previously, represent less than 8. These two groups should not be considered equal. While all banks with assets greater than $1 billion should be examined under the large bank tests, those with assets less than $10 billion should not be compared to those with more.

Additionally, given the enormous capacity and scope of banks with assets of over $100 billion, some collaborative members feel strongly that those institutions should be compared to each other for CRA purposes and not with large institutions below that threshold.

The following comments regarding affiliate activities are those of Rabobank and not representative of the Collaborative. For institutions like Rabobank, who are committed to proving that CRA can align with the business strategy and financial success of a bank, it's difficult to compete with institutions that have separated community development activities from banking by using foundations to underwrite their equity investments and philanthropy. As such, the regulatory standards for CRA activity through bank foundations should be different from those that come from a bank. While bank foundations have made a truly impressive impact throughout low- and moderate-income communities, it is not banking.

While CRA-related activities channeled through bank foundations should continue to be considered under the CRA regulation, the agencies should separate the CRA activities of banks from those of bank foundations and ensure that peer comparisons are conducted in a manner that takes a separation into account. The investment test activity of two similarly situated banks within a particular market should not be treated equally if one of the banks uses a foundation and the other does not. Additionally, a bank that does not use a foundation for its CRA activities, yet comes close to, matches, or exceeds other banks in the market using a foundation, should be given additional consideration.

As it relates to CRA data collection, the Collaborative suggests eliminating Schedule RC-C Part II and enhancing, if necessary, the CRA data collection requirements for small business and small farm lending in a manner that maintains its relevance to supervisory function. While I'm at it, you can add CRA Sunshine to the kill list while you're at it.

(Laughter.)

Finally, regarding the role of community development, in addition to impact, community development loans and investments should be reviewed on the basis of sustainability. While each bank has a right to underwrite community development investments and loans as they see fit, the agencies should consider whether these well-intentioned transactions may be counter to the goal of long-term economic and community development or damage the brand of community development finance within the industry itself.

Examiners should understand the business strategy behind a bank's community development finance program, be confident that it fits within safe and sound banking practices, and recognize the difference between CRA credit grabs and a mutually beneficial and sustainable community development finance program. One way to gather this information is simply to include bankers and community contacts during exams. Thank you.

MR. WALSH: Thank you. Since we have a somewhat bigger panel and the same amount of time to talk to them, we're going to shorten the question period just a bit and we'll begin with Mr. Curry.

MR. CURRY: Thank you, Mr. Walsh. I'd like the panel to elaborate a little bit more on the treatment of community development lending and community development services under the CRA for large institutions.

It's been recommended to us by other commenters that we apply community development tests similar to the small, intermediate small banks to large institutions. I would like the panelists' views on how they would fashion that test and what differences they would recommend if we pursued that path.

Let's start with you, Ms. Glover.

MS. GLOVER: Here's the issue I think with the community development test as a stand-alone test. If you remove community development lending from the current lending test, then you're looking at small business lending and home mortgage lending as the primary components of that particular test. Those are really very quantitative in nature in terms of how they're being examined right now. So you're losing that sort of qualitative component to balance that out. Of course, there is performance context. That can be considered for small business lending and mortgage lending, but it's really the community development piece that really shows and highlights a bank's efforts in certain activities that the other two categories can't.

So our recommendation would probably just weight the community development test or the community development lending portion of the lending test more, rather than creating a stand-alone test for community development.

Similarly, with regards to community development services, once again, stripping that out of the service test and focusing solely on branch distribution, you're looking at a comparison to demographics for the most part. And so you really do want to temper that a little bit with more of the qualitative aspects of community development services that really give you a sense of what outreach the bank does in its communities in that particular test.

MR. CURRY: Thank you.

MS. SECREST: I would echo much of what Robert had to say. We have to think very carefully before creating a separate community development test about what that would mean to the lending test and the service test specifically because that would leave the small business and HMDA lending as a very quantitative test for lending with nothing to show exactly what was the entire farm on the lending test, as well as just the retail branches on the service test.

With that said, we do feel that community development activities, lending, and particularly community development activities in the service test are under valued at this point in time, that there needs to be, especially in this economy and the changes that have happened since the examination procedures were put in place, an increased emphasis on community development lending and community development activities

One way would be to create that community development test. Other ways would be just to change the weighting and how they're looked at in the individual tests as they are today.

MR. CURRY: Thank you.

MS. GLOVER: I would say that certainly taking a look at re-weighting the tests is a good viable option to take a look at as long as it's creating maximum impact. Clearly right now, community development lending is very under valued as I stated in our comments, as well as a lot of the services. I think the services are being very under valued in the sense that they are extremely innovative and responsible in actually addressing the needs of the LMI customers and they're not receiving the credit.

So we would support possibly taking a look at a community development test either in lieu of or as an option to the investment test. But you would have to consider re-weighting all three tests considerably. I think if you leave it as an optional tests there are some institutions that, of course, do not have a heavy emphasis on community development lending since right now it is considered just additive.

The one point that I would make on community development lending is that right now it is additive, but sometimes it could only have a mutual effect and all CD loans should have a positive effect, so again I think there is a lot of merit in taking a look at it and considering re-weighting the tests.

MR. CURRY: Thank you. Any other comments?

MR. MENDEZ: I think it is a good idea to get more emphasis on it and particularly with a robust CDFI and up through the finance world where we see our banks are very much choosing between investment and lending to the CDFIs and organizations. My point is or was requires a good combination of capitalization and finance to be successful over the long term.

I guess really the point of my comment was it's the combination of these things over the long-term that work and I think to Mr. Manuel's part is they change over time. An organization may say well I'm emphasizing this today but the world and the market today needs a different type of emphasis. So I definitely believe community development lending requires much more attention. And right now, as I understand, it's more frosting on the cake.

MR. CURRY: Thanks.

MR. GORDON: What I would add to that is it seems odd that the CRA does not treat all loans equally. All loans seem to have a very important role in each community and that role may be different according to the product and what's needed in each particular community. As such, the idea that structured finance has as its primary purpose community development should be only given a positive, neutral, or negative impact to the overall lending test when it may be more important than a small business loan or a home mortgage lending in that particular area. The infrastructure already exists in the examination procedures and the regulation to just throw community development as well as consumer into the mix to be treated equally as small farm, small business, and home mortgage. I don't think a new test is needed.

MR. CURRY: Thank you.

MS. BRAUNSTEIN: I want to go back to the question I asked the last panel that I said I wanted to ask the bankers. I want to put it this way, in redoing this regulation, is there a way that you can suggest to us that we can structure incentives such that banks will not feel that every time they consider a new project from somebody they have to first call the regulator and ask if they're going to get CRA credit for it?

How can we structure incentives to make that process go away or make that not happen?

MS. GLOVER: Want me to start? Okay. I think that part of the problem with that, and I listened to the last panel, and what you said about people calling you and asking you if they could get CRA credit, goes to the definition of community development. And I think what has happened in the past is that it's such a tight definition that we have to remain within that. There's a number of projects that are out there that we know have impact on our communities; we know are going to benefit our communities, but for some technicality in the definition have been thrown out in the past. And I think that that drives a lot of the hesitancy of banks to take on the projects that may not have CRA credit because they're trying to fit within a little box of a definition of community development.

MR. MENDEZ: I made a comment in

the back of the room when you asked that question the first time to just fire that person and hire somebody at the bank that knows how to figure it out. It's not that complicated. I think the rules are very clear. I think unfortunately what has happened is that there are some folks within financial institutions that make it more complicated than it needs to be.

As such, the issue of training and education of bankers is key. I'm in front of Mr. Bylsma here who has his name on 80 percent of interpretive letters. You don't want to get back into that business.

MS. BRAUNSTEIN: No.

MR. MENDEZ: So it's like really I don't think this is necessarily a regulatory--

MS. BRAUNSTEIN: And 20 percent you signed.

(Laughter.)

MR. MENDEZ: Without permission, if I recall correctly.

MS. BRAUNSTEIN: Yes.

MR. MENDEZ: But I don't really see this as a regulatory issue. I really see this as an industry issue to make the case internally and have the right people doing these deals to be able to sell to the examiners why it does fit community development and if they disagree to go through the proper process up the chain of command to make that case.

MR. GORDON: I think it's an absolutely critical issue because I think CRA in most parts is looking in the rear-view mirror and it's not being proactive as it can be in the community. And so today, let's say if a bank said I want to make sure a loan that I have foreclosed on or have made a short sale, I want to make sure that goes to a family. That will be community development in my opinion. But they're not doing any new lending. They are taking a new step. They are building, hopefully keeping communities sustainable and stable, but how do you get recognition for that?

I think you need a way to respond to what the current environment is and it's very hard for CRA, in my view, to be nimble in today's economy. And I think it requires, as I mentioned, the courage today to take these big strides and maybe the mechanism is how to evaluate them if they are more global? I mean there may be some small ones that need to be done, but if there are some courageous steps that can be made today, how does everyone get together on it quickly to make that type of more important decision in my opinion.

MS. BOONE: I have an answer to that. Because I get asked that a lot from lenders and I think there's really two reasons why that question comes up and it's because of pricing. Usually, those types of deals will be lower pricing and so there has to be more justification why we want to do lower pricing on a transaction. And the other is because they are a little bit more complex. There's a lot more underwriting and there's a lot more due diligence that has to be done on a community development loan and I think everyone needs to understand we are going this extra mile and we want to do this type of loan for our community. Are we going through this knowing that we are at least going to get the CRA credit at the end? And I think that's where it comes from.

MS. BRAUNSTEIN: There are factors in there now for complex deals. I just wonder, are you saying those don't work? To get CRA recognition for deals that are more complex.

MS. BOONE: I think the CRA officer understands that and I think they know okay. I know this is going to be a CRA-qualified loan, but I get questioned all the time because I don't know that the lenders always understand that that's going to be a CRA-qualified loan. And it's a matter of training.

MS. SECREST: What I would add is that I think there needs to be a recognition that banks do have some constraints, certainly capital constraints and it's not so much that they're not trained or that they don't understand what qualifies for CRA, because they do. But when it comes down to it, sometimes you do need to make decisions and it is based on where you're going to get the maximum impact and one of the things that is sometimes viewed is where you are going to get CRA credit. Currently, the way that it's structured I think, as you well know, you've got full scope and limited scope areas and in some markets you need to have a lot more lending and/or investment so decisions are made.

And then the other point that I would make is that certainly what may sound like a good deal when somebody calls you after being reviewed by risk and other parties may not be such a great deal from a risk parameter's perspective.

MR. MANUEL: Sandra, can you ask the question again? I just want to make sure I understand how you posed it the first time around.

MS. BRAUNSTEIN: So basically what I'm asking you is what kind of incentive system could we put in place in revising the regulations. What happens now a lot of times is that we get phone calls from lenders who will say somebody brought in a deal and I'm thinking of doing this, but I'm not going to do it unless I know for sure you're going to give me, as my regulator, CRA credit.

MR. MANUEL: We don't make the distinction between the CRA loan and one that's not. I think there can be incentives in how the guidance is applied. Sometimes there's too much detail in the minutiae of what counts and what doesn't count for CRA, that there's a lot of time and effort lost in those discussions internally to try to qualify something as CRA.

One of the areas which came up recently in the Q & As was the interpretation around investing in multi-investor funds. And in terms of trying to find the best way to receive optimal CRA credit for those investments that we do, we're actually going the route of the side letter since it's the easiest to document for CRA purposes on the exam.

MR. BOWMAN: Ms. Secrest, during your testimony, you mentioned perhaps a desire for and I'm using my words, not yours, greater credit be provided for innovative approaches to providing services in different communities. You mentioned ATMs.

What other sorts of delivery channels are you thinking about or are you considering?

MS. SECREST: Currently, at Bank

of America, our ATM and our online banking
really, as I mentioned, is at parity,
certainly from a LMI perspective at parity
with the demographics. So narrowing those
channels significantly would be important.
Mobile banking has completely
taken off for us. Right now we have greater
than three million customers and we're
beginning to see more and more as we do
geocode all this data that it is heavily being
utilized by LMI customers.
So in addition to getting
innovative and responsive access to the
options for delivering banking services, we're
also asking for consideration for the
innovative and responsive means of delivering
products, be they deposit products or credit
products. And as I said, savings products,
checking accounts, wealth creation.
As you may know, back in 2005,
Bank of America led and launched the Keep the
Change Program. And the Keep the Change

Program is a way to actually have savings built where once you have a debit card transaction it's rounded to the nearest dollar. That difference is placed in your savings account. Bank of America matches it for the first three months and up to $250 a year. Those types of programs are really literally catalysts and linchpins to actually creating wealth. That program is nearing close to $1 billion of savings for LMI customers over the five years. About $3 billion in savings for non-LMI customers. We would like to see those types of products also be given credit for the innovativeness and responsiveness.

Our overdraft policy that we just launched is also one that we're seeking credit for. So I think going back to the question that was asked on community development, making sure that community development services such as lending are given a lot more emphasis going forward is something we're seeking as you consider reforming CRA.

MR. BOWMAN: Part of the reason for my question is that at our hearing in Atlanta now a week and a half ago, the discussion of innovative provision of services sort of ran up against the wall which was the ability to deliver to a particular LMI community - the availability of broad band services for instance, the availability of cell phone technology or other services. And thirdly, I'll call it financial literacy required in terms of the training that's required to get a customer, or potential customer a banking service or a product, to bring them together in a way other than walking into that brick and mortar facility.

Is this something your institution is looking at?

MS. SECREST: We are looking at it and we are actually very heavily involved in financial literacy and financial education. I think in some cases we do try to outsource some of that education to third party providers and that unto itself is also something that we're seeking. Additional credit, sometimes it is viewed that seeking a third party provider to provide that education, even though they are the most skilled to do it and that's what we've learned, especially those parties in working with the LMI customers receive less value than if a banking associate delivers it. So we are taking a look at holistically all of the different channels. We're tracking all of the usage of those channels and providing a full holistic view of the education that follows with it.

MR. BOWMAN: Thank you. I don't know how much time I have left, but this is a practical question for all of you and maybe one or two suggestions would be helpful.

As we evaluate CRA performance, how do we properly attribute credit for affordable and sustainable lending products?

Ms. Glover, I'll start with you.

MS. GLOVER: Affordable and --

MR. BOWMAN: And sustainable. The emphasis as much on the sustainable part as the affordable part.

MS. GLOVER: Right. Well, right now as you're going through the performance evaluation it's very quantitative. We don't see a whole lot of discussion in the performance evaluation of the sustainability or the affordability product. I think you need to look at it over the lifespan. You need to look at it how it performs. Right now, we're concentrating very much on originations only. You need to take a look and see how long those loans perform, come back and look at them as prior period. In lending and investments, you'll look at prior period, but in lending we never do look at anything that happened in the prior period. So I think that that may be one way to afford credit.

MR. BOWMAN: Mr. Manuel?

MR. MANUEL: Rather than looking at it from a product standpoint, I think you really do need to look at it from the sustainability of the community. I think this is where we go back to the holistic approach as to how does a bank make an impact within a given community. And during the time period exam, it should be able to demonstrate to what extent those activities in tandem work to promote long-term sustainability within a given community.

MS. SECREST: You know, I would echo what Robert is saying about making sure that you're looking at the viability and the sustainability of a community. Having said that from a product perspective I would encourage more of long term view, whether you're looking at the long-term nature of lending and/or investments. And I think someone on the first panel talked about that. We look at it sometimes as just making sure that we've got current period activity, but taking a look at some of those long-term investments that are really catalysts in those communities and providing that credit.

And then the other thing from a product perspective is that right now we do look at, especially from a lending side, mortgage originations, valuing rental housing equally. There are -- you are providing affordable housing and there are many folks in today's economic cycles that really cannot afford a home. So as we continue to develop community development affordable housing, multi-family rental homes, that type of housing should be given as important a weight in serving the needs of the community.

MR. BOWMAN: Ms. Boone?

MS. BOONE: I agree with both Robert and Tish in that it is the sustainability of a community and of a neighborhood. I think we also need to be looking at the sustainability not just of low-and moderate-income neighborhoods, but also the middle income neighborhoods that are getting slammed because of the clusters of foreclosures.

When CRA originally started, it was because people were fleeing the urban areas and going into the suburbs. And as they left, so did the services. And I think we're seeing the same thing happening not just in low- to moderate-income areas, but we're also seeing them now in middle-income areas where the services -- people are fleeing the neighborhoods. They're walking away from homes and there's clusters now of foreclosures. And foreclosures breed foreclosure. As foreclosures happen, so does crime come in and you see people now fleeing neighborhoods.

So sustainability, I think we need to look at and I think we need to redefine it and I think we need to do more outreach into neighborhoods.

MR. BOWMAN: Okay, Mr. Gordon?

MR. GORDON: I think we maybe look at it in a different way because we're seeing more and more. I'm kind of focused on the CDFI and opportunity finance world and investment and lending in an affordable way to them creates sustainable organizations to serve the communities at a local level. So the way to look at it possibly is where is the retreating of lending in CDFIs and opportunity finance, our organization.

What I mean is I'm seeing out there, yes, we've supported them while they're okay, but when they really need support, operational support and investment, when they need, in fact, additional lending, they're a little concerned because they're not immune to the real estate problems. There's retreating of lending. So the question is if you're asking about sustainability, one way to measure it is if I'm pulling out of a relationship that I've had for a long time, what does it take to stay in that relationship? And it's another way to look at it in my opinion.

MR. BOWMAN: Mr. Mendez?

MR. MENDEZ: This relates a little bit in two parts to what Mark Willis talked about earlier this morning with regard to the composition of the examination team that sometimes comes in, not being from the immediate area or maybe even the state and not really knowing the communities.

The issue of affordability and sustainability sometimes goes into needs to be tested in two different ways. One is the product stress test, what's the environment in which you're providing the product? Is it an environment play? Is it only a product that's good for a few years because of the current environment? Money is cheap. If you're going to create products that are within that vein, you have to be up front with the examiners about whether or not this is going to be a product they're going to see if the environment changes.

The other one is whether or not it's a long-term sustainable product, something that's core to the business plan of the bank. And the third is whether or not there are external factors involved, say I've read a few different studies and that's actually in the Central Valley, have seen examples of redlining, but not by banks, but local municipalities. You go into a community that haven't had its roads paved in 15 years. They shut down the fire station. They close down the police station. And I'm getting hit over the head for not making real estate loans there? There has to be an education there.

And you see the examiners' eyes open wide and all of a sudden they're like they're in school. You need to be able to make case, but I think having a certain basis of information into the context and the environment in which they're going in is important.

And then finally, one of the most important things I think the examiners need to take into consideration, it's not the deals he did, but the deals he lost and why. Particularly in the early 2000s, my head of community development finance, Frank Bravo, actually started coining the term predatory borrowers in the community development area because we were competing on underwriting standards that bordered on safety and soundness. And I think it's important for examiners to understand the fact that there's a line that some banks are not willing to cross in order to get a community development deal. And that impacts whether or not that money is going to be available if the economy turns in five years. And that is no longer an affordable product for that bank to offer and the community really relied on the cheap money.

So those are stories that both the

industry needs to tell, but the examiners need to be prepared and have a context from which to assimilate into the CRA exam process.

MR. WALSH: Thank you. A couple of things, both in the testimony and some of the comments about small business lending and also foreclosure prevention and neighborhood stabilization. They point to issues that clearly affect community cohesion, sometimes community development stabilization and certainly in the small business area it's very much a focus of attention in Washington these days, how do we encourage credit for small business as a means both of promoting economic recovery, but also community development?

But in a number of ways the suggestions and ideas that have been put forward seem to wander away from the sort of low- and moderate-income focus in the interest of achieving a kind of broader objective, if you will. I think the same objective, but kind of breaking that link to some extent. So increasing the size definition of small businesses or removing LMI area only designation for a small business or including a number of specific elements as was in your testimony, Ms. Secrest, I think, of specific things to add.

And on the foreclosure prevention and neighborhood stabilization, that there are clusters of foreclosures that occur that become -- seem to become kind of endemic or systemic or something like that and shouldn't we be doing something about that?

I just wonder if we head in directions like that that seem to break the link to low-and moderate-income, we're not asking this system to do more than it is intended to do. I mean should we be kind of heading off outside the boundaries of where we have been, even in the interest of pursuing a very worthwhile objective?

MR. MANUEL: I think on that point, CRA when it was written, the institutions were to serve the financial needs of all of its communities include low and mod. So I think given the environment today with the need for job creation regardless of income level, I think institutions should receive favorable consideration for all of the small business lending that they're doing.

In addition, just because a small business is located in a low- and moderate-income area doesn't necessarily mean it's attracting employees within that area. Likewise, if it's in a middle and upper, it's not necessarily just getting employees from that particular area -- so I think given the needs of the current environment, a broad definition in terms of responsiveness as to what's most critically needed in the communities is in line with the spirit of CRA, even though the definition may not be in sync.

MR. WALSH: Others?

MS. SECREST: I would echo what he's saying. I think a broader definition as we provided in our testimony where you're looking at -- we stayed within the $5 million revenue size. We're basically saying all loans with less than $5 million again to broaden that definition. And going back to the loans in LMI communities, we're actually asking for any loan size within the LMI community because again, it is providing a catalyst there for that community as well as helping create jobs.

I think making sure that we've got a rounded definition where you are including all of the technical assistance that's being provided to small businesses, it's not just about the loan itself, but all the small business technical assistance is provided, could obviously be something that should be addressed.

And then lastly would be if you're considering size and if you're wanting to really focus on the loan size, less than $100,000, again, you could take a look at that and that was one of the options that we mentioned as possibly looking at that. We do provide that data, but looking at that for extra credit.

MS. BOONE: I agree. I believe we're in a different environment than we've ever been in before. Individuals have lost disposable income. They've lost value of their assets. And I think because of that we need to react differently and expand our scope to not just include low and moderate, but also middle income only in certain areas. And I emphasize those areas would probably be financial literacy and also in neighborhoods that are faced with foreclosures, have cluster foreclosures.

I'm not saying we should expand every avenue for middle income. I think we should limit it, but I think we should expand the scope.

MR. GORDON: I think you raise a really good point. On any day you'll see

100,000 foreclosures in Arizona and that's steady with new ones coming on and other ones moving off. And we have beautiful subdivisions that have been built with high foreclosures that have $235,000 mortgages on houses. Houses are now going for maybe $125,000, maybe less. Affordability today, the house is done. We don't have to subsidize someone buying a house that's affordable. So what we're saying is it may not be a low- and moderate-income community, but don't we strive for mixed income communities?

It seems to me that the opportunity that we may be missing is connecting people to the houses that are affordable today, which was to my previous point.

So I think it's vast and in Arizona, in particular, we feel it. What frustrates me probably the most is the biggest problem is the biggest opportunity we have right now to, I think, build affordable communities for people who are most in need of those. It's a good question.

MR. MENDEZ: This goes back into two different issues that were raised. One is giving community development a more prominent role, particularly for lending in the exam and the other one is how hard some of us as bankers are willing to work within the definitions and footnotes of the regulation.

The flexibility exists for us to be able to consider loans to businesses that meet the size parameters of the SBA, SBIC and SBDC program and satisfy the regulatory definition of the size and purpose test to increase or attain, retain, attract employment for LMI communities or LMI individuals. That's a big loophole to be able to capture a lot of information as community development loans.

Well, the work required to be able to gather that information and then be able to report it and provide it to examiners is not necessarily worth neutral, positive, or negative impact in the overall lending test. So there isn't really an incentive, but if community development lending were given a more prominent role, similar to that of other lending products, then I think that issue would take care of itself.

Obviously, when you come up with a number like $1 million of fiscal year revenue and you came up with that in the mid-'90s, it would probably be a good idea to tie it to something that moves. So the idea of tying it to a SBA definition or something else you guys find would probably be a little bit more relevant.

MR. WALSH: We are within a few minutes of the end of our program. I do take note in both of the panels that there has been reference a couple of different times to the obligation that we as regulators and others in government are under to make sure that as the new Consumer Bureau is created we make sure that there's coordination of the sort of rules and procedures put in place there to things like CRA and many other areas of the work that we do will have to be mindful of coordinating those things so that you don't have conflicting or an accretion of requirements in the same area.

I would just mention one personal anecdote. I've done some work in Africa over the years to the question of service delivery and having gone to one area in Kenya some years ago, communication was impossible. You'd have to drive 20 miles into town to find a phone to do whatever you were going to do and a few years later talking to someone in the area about, what should we do about communication? And the answer was well, why don't you just get a cell phone, because there was cell service now in the place that was completely off of any network that one could possibly imagine. And then a few years after that I was reading an article that said the penetration of cell phone-based banking into those areas of semi-rural Kenya was now quite high and growing. So it is certainly the case. I think Africa is often the case where they kind of leapfrog by just adapting to new technologies and in fact in sort of surprising ways. It may be that we will be seeing more of that.

With that, let me thank the witnesses for your remarks. We will now break for lunch. You're free to eat in the cafeteria here at the Federal Reserve and there are signs outside to direct you. It's on this floor, the other side of the elevators. If you do choose to go outside the building, you'll need to leave enough time to re-enter through security because it is a secure building. We will reconvene promptly at 1:30 and I ask our witnesses to be here at 1:25 so we can begin on time. Thank you.

(Whereupon, at 12:12 p.m., the hearing was recessed, to reconvene at 1:30 p.m.)

A F T E R N O O N   S E S S I O N

1:34 p.m.

MR. WALSH: The third panel that we will hear from today consists of Ceyl Prinster of Colorado Enterprise Fund; Roberto Barragan of Valley Economic Development Center; Clarence Williams of California Capital Financial Development Corporation; Alan Fisher of the California Reinvestment Coalition; Preeti Vissa of The Greenlining Institute; and Joan Ling of the Community Corporation of Santa Monica, presenting for the Low Income Housing Institute.

And with those brief introductions let me ask Ms. Prinster to begin.

MS. PRINSTER: Thank you very much. On behalf of Colorado Enterprise Fund I appreciate the opportunity to engage in a discussion on modernizing the Community Reinvestment Act. Colorado Enterprise Fund is the CDFI that has been helping small businesses across the State of Colorado for nearly 35 years. We provide access to affordable, flexible loan capital and offer advisory services to build the management capacity of business owners and entrepreneurs.

Our goal is to provide economic opportunity to low- and moderate-income individuals by catalyzing business formation and growth as the economic engine for healthy communities in our state. The CRA overall has fostered community and economic development well supporting countless organizations, strategies and initiatives in additional to lending. It has helped create economic opportunity by connecting under served markets with financial capital and services.

I will be discussing CRA as it relates to the needs of small business since this is the area in which I work and which I believe needs increased focus.

The current economic crisis, which started as an implosion in the home mortgage market has now become a calamity for small businesses, which are the mainstay of jobs and economic vitality in this country. And I believe CRA can do more to help address this calamity.

In addition, these conversations about CRA should dovetail with the findings of a series of over 40 meetings held across the country this year by the Federal Reserve on addressing the financing needs of small business, which identified issues that have impacted the supply of credit to small business.

When the bar for safety and soundness of lending to small business is raised so high as to make it impossible to get a loan, economic development is halted.

Both sides of the house need to be talking to each other so that different government stakeholders are not sending conflicting messages, as has been experienced in the current environment.

The Federal Reserve small business

meetings identified credit gaps that updated CRA policies could help, such as the need for lines of credit and working capital, refinancing maturing loans, small dollar loans under $200,000, patient capital for business needs that take time to generate revenues for debt service, and loans to distressed industries like construction, retail, and service businesses. Also, start-up capital is almost impossible to obtain but in high demand as unemployed workers want to launch new businesses.

One possibility for addressing some of these credit gaps is to give CRA credit for SBA 7A loans of any amount in the same way that SBA 504 loans over a million already are eligible for CRA.

Checking data on all SBA 7A lending and incorporating it into CRA evaluations would foster increased business lending for working capital, business startups and acquisitions, and certain debt restructures.

The SBA guarantee provides safety for the bank while helping the business obtain loan capital.

Nevertheless, there will still be gaps. Businesses that are denied credit or perceived that they will be denied will turn to alternative sources of capital that are not optimal for sustained economic development, such as using credit cards and retirement accounts, adjusting terms on receivables and payables, and using expensive factoring.

CDFIs present the option of patient, responsible, and flexible business capital, successfully executing loans perceived as high risk, and providing access to capital in times of economic turbulence.

Colorado Enterprise Fund has numerous successful bank partnerships with national, regional, and small community banks that have provided us with the investment capital for loans to small businesses for many years.

Our bank partners see these investments as an efficient means of reaching markets or populations that are difficult for them to serve due to various economic and regulatory constraints, especially in limited scope markets where they have a smaller presence.

While banks have been a critical partner of CDFIs, a modern CRA would encourage financial institutions to expand their investments in CDFIs by giving these partnerships more weight through data collection and factoring CDFI relationships more heavily into performance evaluations.

A new CRA should also promote innovative approaches to CDFI partnerships by giving banks CRA credit for new financing strategies while still continuing their long-term investments in CDFIs.

An example of an effective new strategy that could be adapted in this context is the Colorado Credit Reserve, which is a capital access program that has provided a resource to fund loan losses and has helped us leverage these dollars by a factor of over 15 to 1 for the benefit of small businesses.

This impact could be replicated as a CRA strategy for banks to employ more broadly in support of CDFIs.

The need for technical assistance and business advisory service is an area that could use more emphasis in a revitalized CRA. Home ownership counseling is an accepted and widely supported service identified in CRA recommendations. Technical assistance to businesses will help them prepare for bank financing and long-term viability, thus promoting sustained economic development.

CRA could develop mechanisms to support CDFIs and other community resources who provide business TA.

Thank you for holding these meetings and for allowing me to comment from my perspective as a CDFI supporting small business. I believe that there's great potential for enhancing the CRA regulations to provide sustained economic development, and I look forward to the discussion. Thank you.

MR. WALSH: Thank you. Mr. Barragan?

MR. BARRAGAN: My name is Roberto Barragan. I am President and CEO of VEDC, the Valley Economic Development Center.

On behalf of VEDC, I appreciate this opportunity to provide comment on strengthening and modernizing the Community Investment Act.

VEDC is the largest small business development organization in metropolitan Los Angeles, serving over 6,000 businesses annually with direct lending, technical assistance training and workshops.

VEDC is a certified community development finance institution with an existing $15 million small microbusiness loan portfolio. And we recently secured capital from the City of Los Angeles and Goldman Sachs to support another $21 million in small business lending.

VEDC has been a Small Business Administration micro lender for over 12 years and operates the largest Economic Development Administration revolving loan fund in California.

We are also the sponsor of a federally chartered loan fund credit union with $2.4 million in assets that ranks in the top 75 of SBA lenders here in Los Angeles.

And lastly, VEDC is an affiliate that does SBA 504 lending.

For the last 24 months, VEDC has been at the epicenter of the worst small business credit crisis since the Great Depression. SBA lending has dropped 50 percent over that time and large national commercial banks that led small business lending for loans below $100,000, and who suffered millions of losses due to steady income loans have walked away from the market, leaving huge gaps in credit availability.

At the same time, small business watched as the home equity lines, credit lines, and lines of credit that we depend upon were terminated. Finally, here in Los Angeles, regional business banks, those responsible for supporting small and medium businesses, are facing millions of losses due to commercial real estate failures.

After two years of recession, start-up capital is non-existent, and existing small business lending by national banks is limited to business credit cards and loans above $200,000. With 50 percent of California banks under some type of regulatory control, many banks cannot make small business loans, or have to limit them to relatively risk-free real estate financing at 50 percent loan to value.

Just as we now see the long-term

unemployed stop looking for jobs, we also now see small businesses stop looking for capital. As existing businesses come out of the recession and seek to become part of the sputtering recovery, they have given up looking for capital, tired of loan denials. And while they have real expansion possibilities, rather than borrow to support growth, they grow organically from profits. So rather than job creation in the desperately needed tens and hundreds, we have job creations in the ones and twos.

Finally, federal efforts to encourage small business lending either depend on those same banks who are under regulatory control or have suffered huge credit losses, or safe banks that have -- or seek to have -- banks borrow from them at low rates, seemingly unconscious of the fact that capital is at risk when the loans are made. Sheet money does not tempt more small business lending. It funds additional large business and real estate lending.

To strengthen and modernize CRA to the benefit of small business, I would ask, eliminate regulation B and the bank's ability to meet CRA small business lending benchmarks through credit cards and other revolving debt. Loans below $100,000 and to businesses with revenues under $1,000,000 are no longer adequate indicators of either small business lending or lending to minorities.

Doctors, dentists, and other professionals with net incomes much greater than most small business have benefitted from this loophole, not small business, which provides in every economist's forecast -- will be the source of jobs to come.

Transparency should be the minimum requirement of all lending, not the exception. We must accept the fact that bank-based solutions to our small business credit crunch ignores their own plight and encourages rhetoric rather than action.

Accordingly, federal as well as bank support to direct lending mechanisms such as CDFIs must receive continuous and higher support. In addition, the regulatory agencies should work with the CDFI fund to target support, not to just national intermediaries, but to the communities suffering the brunt of this credit crisis, such as California, Arizona, and Nevada.

Over the last five years, 75 percent of CDFI's financial assistance has been awarded east of the Mississippi, blind to both the growth of these communities, as well as the downturn they have experienced. Banks should also be challenged to make real and transparent investments in distressed communities as opposed to capitulating to CRA extortionists and for-profit wolf funds masquerading under CRA sheepskin.

CRA investments should result in jobs credit for low-and moderate-income residents, not for real estate investment corporations that use CRA to garner investments they can't raise otherwise.

These for-profits should not be allottable community investments given the current ability of small business to grow and hire and our critical and current inability to do so without capital.

We have waited over two years for a recovery to come and small business lending to come back. By all indications, we have another 12 to 18 months before we see some new normal.

With 14 percent unemployment here in L.A., we cannot wait that long. We need capital now. We need small business growth now. And we need new jobs now.

Thank for the opportunity to provide testimony on the future and importance of the CRA.

MR. WALSH: Thank you.

Mr. Williams?

MR. WILLIAMS: Good afternoon. My name is Clarence Williams and I am President and CEO of California Capital Financial Development Corporation.

California Capital is a nonprofit CDFI organization located in Sacramento, California. We have provided financing, business development, training, financial literacy education, and technical assistance for small and micro enterprise bases since 1983.

With a 27-year history of aiding under served communities we enjoy an exemplary reputation throughout Northern California and the Central Valley. Historically, the Community Reinvestment Act has attempted to address discrimination in loans mainly to individuals in businesses from low- and moderate-income communities.

Today, I am here to advocate for the immediate promulgation of regulations adopting the provisions of the Dodd-Frank Bill of 2010 that requires lenders to report race and gender of borrowers of small business loans; the census tract location of the business; action taken with respect to the application, approved or rejected and the revenue of the business.

With a fast-growing minority population that will approach 50 percent of the nation's population by 2050, and a highly-competitive global market, America's competitiveness will increasingly depend on the innovation and strength of minority-business enterprises. It is in the best interest of the health of our economy that regulators require financial institutions to collect data that will tell the story of lending activity to small, minority, and woman-owned businesses. This will serve as the catalyst to mitigate disparate lending outcomes to those businesses.

As an example, we know that entrepreneurs who use credit cards to start and acquire their businesses may be exposed to higher operating costs because credit cards tend to charge on average higher interest rates compared to other sources of capital. Firms started by using credit cards for capital are usually at a cost disadvantage compared to firms that were started with other sources of capital.

Accordingly, a national study completed in 2007 by the Insight Center for Community Economic Development found that entrepreneurs of color are more likely to turn to credit card debt as a way to finance business start up, an expensive and risky financing mechanism. Their data shows that 19 percent of white males receive business loans from banks as opposed to 9 percent Hispanic and African-American business owners.

Furthermore, regulatory agencies need to collect the following data: loans less than $250,000 and between $251,000 and $500,000 to businesses with revenues, of $1 million or less annual; loans that compare overall small business lending to the proportion of lending to small, woman-owned, and minority-owned businesses in low-income neighborhoods; as well as the overall amount of lending; annual percentage rate of loans, identification of term loans, and lines of credit, as well as interest rates.

It is also important to emphasize the access to business advisory services including technical assistance in financial literacy education for low- and moderate-income individuals and business owners is severely lacking. Small and micro enterprise businesses have an enhanced opportunity of realizing success and sustainability if there is greater access to these services.

Finally, attention and resources should be directed to the needs of the high growth immigrant, refugee, and limited non-English proficient business market. These recommendations as I have set forth today are an attempt to correct for past and present discrimination and to prevent such from reoccurring in the future.

Thank you for your time and consideration.

MR. WALSH: Thank you. Mr. Fisher?

MR. FISHER: Thank you. Is it possible to borrow some of his time? No.

(Laughter.)

MR. WALSH: He can negotiate it.

MR. FISHER: Good afternoon. Thank you for inviting me. I am Alan Fisher, Executive Director of the California Reinvestment Coalition. CRC is a statewide membership organization of more than 280 nonprofits, public agencies working around CRA and banking and finance issues for more than a couple of decades.

And CRA has really opened the door for community organizations. I think that is one of the things that really needs to be put out there. I mean, I have friends, not close friends, but friends who work for bank funds and they can't meet with the CEO. We meet with the CEO and that is something that only could have happened with CRA.

But at the same time, I really want to speak to the four of you and your agencies because you let us down in the last five or ten years. You could have stopped some of this. We asked you to look at subsidiaries and affiliates. We asked you to look at small business, all of these things. We really need you to be regulators, to not let this happen to our country again. So I hope that you hear that.

I think one of the things that we hope is that you will really listen to the community more than you have before. We may be biased in this but it seems like the banks spoke louder than we did at any of the agencies.

I think one piece of this is

community contacts. Just to give you an example, we met once in Washington, D.C. with the OCC, maybe 12 or 15 leaders from California, and we were talking about community contacts. I just happened to ask unrehearsed. No one in that room had had a community contact from one of your agencies to ask about the banks. And these are leaders in the community.

So I really hope that can change. I hope that you will listen to the community more. I hope that we can avoid having another crisis like this.

I am going to try not to repeat things that others have said, my colleagues, about small business but I have got a couple of quick things on geographic coverage.

One is, if there is a bank that has one branch or a few and it lends across the country, they need to be responsible in the area where they do significant lending.

My favorite example of this was Countrywide Bank that in my neighborhood said they had no responsibility for deposits that they collected. No responsibility in San Francisco which probably is not an under-served community in great part.

The other thing is that non-metropolitan and rural areas are too often overlooked. I mean what banks are telling community groups is that these areas are not in their "CRA lending areas." And I think you bear responsibility for that as well. Not all of it. But we need to not do sampling. We need to look at rural areas. What is happening is that areas that already have very little are being even further left alone.

To me if a bank is too large to fully evaluate, maybe it presents systemic risk and shouldn't exist at that size.

So the CRA performance test, CRA's goal, is equal access. Banks should be evaluated on how closely they approach equality in their lending, investments, and services. I mean, are they providing products that serve low-income people and people of color? Too often what we see, and my staff tells me this is a dated reference, but one-size - fits - all would be great for Ozzie and Harriett, and looking at this audience many people do know Ozzie and Harriett, but not for people with less income. Not for people with different cultures.

Secondly, does the proportion of lending service investments match the proportion of the population? I mean, I would say it never does but are they approaching that? Is it getting there? Are the branches matching the population? Because managers of branches get judged on where they serve their area. If there is no branch, there is nobody worrying about that neighborhood. And it is clear from every study that color prejudice is alive and well. And CRA examinations need to have a greater evaluation of disparate impact.

We agree with a recent report from the California Small Business Task Force convened by this bank and its recommendation that any acquirer of regulated financial institutions agree to honor any existing publicly announced community reinvestment agreement or plan. We think it is a great disservice to communities that one bank after nother has merged and there is no public comment.

You know, we now have four banks in the State of California that have 60 percent of the deposits in the State of California. That means that it is very difficult to control those banks.

I want to support what my colleagues said about Dodd-Frank. We wish that you would implement those features immediately and about entities, businesses with less than a million dollars, they ought to be looked at.

We hope that you will use the community in terms of community development. We sometimes think that the examiners really don't understand that. My favorite example from a few years back was an evaluation where they said it was okay. The branches were closed in low-income areas because E-Banking was being offered.

So just to close, I think that there needs to be public hearings for any merger but also I hope that if there are some folks who didn't make it five days ahead of time in their request for public comment, that they could be added. The last time this happened in the '90s, there were two days and it wasn't so rushed. So, I appreciate this. We are looking for continuing dialogue. Thank you.

MR. WALSH: Ms. Vissa.

MS. VISSA: The Greenlining Institute thanks the federal agencies for this time and their review of CRA and for the opportunity to contribute to those discussions of such an important issue.

As I speak, we are witnessing an unprecedented loss of wealth in communities of color across the nation. A leading reason for this loss of wealth is the growing loss of home equity. According to the Center for Responsible Lending, widespread foreclosures have drained an estimated 350 billion dollars from communities of color. For every 100 African American homeowners, 11 have either lost their homes or are at risk of foreclosure. For Latino families, the figures are worse. It comes to 17 of every 100 homeowners who are touched by foreclosure.

While foreclosure are, of course, a key part of the picture, they are certainly not the whole picture. Beyond losing their homes, people in our communities have been the last hired and first fired, and have lost a disproportionate number of small businesses, which has led toward a growing racial wealth gap.

For every dollar of wealth owned by a white family, an African American or Latino family owns just 16 cents. And I would love to show you that the same trends exist for the Asian-American community but of course we don't have the desegregated data for that.

The modernization and enhancement for CRA has the potential to address many of these inequalities. Yet as it is written today, it lacks the power to truly do so. Despite the strengths of CRA, we know it can't be effective unless it is embraced and promoted by regulators and financial institutions. We are, therefore, pleased that the federal regulators are proactively seeking input today for these hearings.

Given the magnitude of the crisis facing communities, Greenlining recommends the following for immediate implementation.

Number one, immediately place diversity front and center in the application of CRA. First and foremost, we must embrace the fact that diversity matters. CRA ratings must take into account the extent to which a financial institution commits to diversity in the workplace and among executive management.

The 2009 Greenlining annual board diversity report shows that in California, people of color represent 60 percent of the population, yet corporate board structures are nowhere near that level of diversity, despite research from California that shows that diverse boards produce higher performance on metrics such as return on equity, return on sales, and return on the invested capital.

Unless and until the boards and executive management teams at financial institutions reflect the diversity of the customers they serve, we truly cannot have a safe and sound banking system.

Number two, immediately add supplier diversity to the CRA evaluation process. The rapid hemorrhaging of jobs and assets in our communities can at least partially be addressed through better attention to the needs of minority owned business. Small business are among the top job creators in low-income communities and communities of color but many small minority owned businesses face difficulty accessing the contracts and enabling them to grow.

An incredibly successful model in California, General Order 156 or GO 156, has placed California light-years ahead of other states and minority business contracting. GO 156 has moved the diversity in major utilities and telecoms in California to as high as 30 percent, where they have around five percent in other states, through simple goal setting and transparency and without any quotas or mandates. This model should be replicated by the financial regulators.

Under an enhanced CRA, banks should be required to submit annual reports on their supplier diversity numbers and to participate in an annual hearing to discuss their reports.

Number three, create positive incentives for innovation. The current CRA system has never figured out to reward unique leadership efforts, as was mentioned in the previous panel. Either we see satisfactory ratings for occasionally extraordinary leadership, or outstanding ratings for mediocre efforts.

Banks should be able to receive CRA credit by meeting the needs of communities through responsible innovations. A return to conventional lending products should not preclude creative, innovative and safe products that have less conventional terms and respond to new trends in building community economic strength. Such innovation should be highlighted as best practices and rewarded with credit from a revised CRA.

And fourth and finally, make CRA matter again. The world has changed since CRA was enacted in 1977 and its failure to keep up has diminished its effectiveness. We can make CRA matter again. The financial sector of that era would be unrecognizable today and many financial services critical to wealth creation are now provided by institutions not covered by CRA.

A modernized CRA must be expanded to cover these other industries, including investment banks, insurance, hedge funds, private equity firms, and of course any troubled institution that benefits from federal intervention.

Former Chairman Greenspan himself recently acknowledged that federal regulators were not proactive enough in protecting consumers from fraudulent practices by these industries. Given this new perspective, we urge the regulators to take initiative to expand the purview of CRA to these institutions.

Once again, I think you for the

opportunity to show Greenlining's views on the future of CRA and I welcome your questions. And I am very glad I didn't hear that ding.

(Laughter.)

MR. WALSH: Well, you spoke fast enough. Ms. Ling.

MS. LING: Good afternoon. My name is Joan Ling, Executive Director, Community Corporation of Santa Monica. I am presenting this testimony on behalf of Sharon Lee of the Low Income Housing Institute in Seattle, Washington.

LIHI is a nonprofit housing organization. It has developed over 3,800 units of affordable housing in six counties in the Puget Sound region from supportive housing for the homeless to for sale condominiums for moderate-income families, as well as it advocates on housing policy, housing preservation, and homeless issues. For over 15 years, it coordinated activities of the Washington Reinvestment Alliance to ensure that CRA commitments are honored in Washington state.

Modernizing and improving CRA is sorely needed. The federal agencies must revamp the evaluation tools to clearly quantify the CRA benefits to low- and moderate-income communities and people of color. The system is flawed if 99 percent of the banks pass their CRA exam, yet low- and moderate-income consumers and communities of color are not being adequately served. This is evidenced by the subprime loan foreclosure crisis, the proliferation of payday loans and the lack of community development financing for nonprofit affordable housing developers.

I would like to address four issues related to small business and consumer lending. In the State of Washington in 2008, there were 250,000 small business loans made with a dollar amount of 6.6 billion dollars. The banks need to collect information separating out dollar volume and number of loans made to minority and women-owned small businesses, as well as identifying those loans made in distressed areas.

Number two. Banks should offer a range of consumer loan products that serve low-income and moderate-income borrowers. The federal agencies should establish benchmarks to assess the quantity, quality, and affordability of these products and ensure that low cost banking accounts, financial education and services to the unbanked are offered in the assessment areas.

Number three. Today payday loan offices are prevalent in low-income neighborhoods and they outperform mainstream banks in serving low-income families and individuals. The federal agencies must require banks to recommit and expand their operations, including locating branches, ATMs, home mortgage and business centers in low-income and minority communities.

Number four. In the State of

Washington, an increasing number of Latino families with children are living in mobile homes. These families are in needs of an affordable loan product to purchase their homes, or otherwise, be subject to usurious high interest rates in the double digits.

In the area of data collection, reporting disclosure and performance evaluations, we have three points that we would like to make. First, the HMDA information must include a sufficient amount -- provide information on the quantities of the loans with reasonable terms to minority and low-income households. LIHI recently completed 48 town homes for first-time buyers with modest means in the Seattle area. Some immigrant families, many with extensive savings and no debts, were put through the ringer in qualifying for home loans because they had no credit cards, no car loans, paid the bills on time and, therefore, had no credit rating. They were initially rejected for loans. It is not acceptable for minority households with alternative credits to be treated this way.

Number two, financing of affordable multi-family housing should be given as much, if not more weight than single family loans because the bulk of the low-income people are served by rental housing. Nonprofit developers in the Pacific Northwest are in particular need for fixed-rated long-term debt. In addition, we ask that land acquisition loans, working capitals, and EQ2 investments for affordable housing be a requirement in order to achieve CRA satisfactory rating.

In the process of assessing a bank's performance under CRA, the assessment should be open to community input, including an appeal process for the community to go through and that such appeal should allow for conditions to be required of the bank to improve their performance in key areas over a limited time frame.

Thank you very much for hearing me.

MR. WALSH: Thank you. We again have a large panel and we are going to go with an eight minute round of questions. We will start with Ms. Braunstein.

MS. BRAUNSTEIN: Thank you. My first question I wanted to address first of all to Alan and then if anyone else wants to comment feel free. It is kind of a two-parter.

Alan, in your testimony, your written testimony, and you mentioned it briefly in your statement, you talked about the assessment area definition and you put forward an idea that has been put forward in other CRA hearings we had previously where banks should be responsible for areas where they do, and I think you used the term, significant amounts of business.

I was wondering, the first part

is, could you put some sort of definition on what you mean by significant. How should we define that, if we went in that direction?

And then, the second part is, do you have any concern at all or anybody up there, that if we went in that direction that it would cause banks to pull back from some areas where they are currently doing business because if they get close to that threshold where all of a sudden they are responsible for the area, they may pull back from that area all together because they don't want that responsibility.

So are you concerned about unintended consequences about moving in that direction for assessment areas and what do you consider significant are the two parts.

MR. FISHER: I, I think it is a very complicated question and I put in significant because I don't know the answer to that. It seems like we need to look at some examples and really see.

For the one-branch bank or the internet bank, I was thinking the unintended consequences you were asking about was different. Maybe for a large retail bank there would be such unintended consequences because they gave less where their branch areas were and gave more outside.

But I think all of those things are good questions that really need to be examined by looking at practical examples and seeing. I think it is clear that branches are not the place that banking takes place in the way it did in '77.

And I think the other thing is, we would really like to be part of the discussion that looked at examples and tried to be better at assessing that. And I am sorry for not a good answer.

MS. BRAUNSTEIN: Well you know, it is difficult and that is why I am asking you to put it forward if you had some idea. Well I guess what you are saying is that we are all smarter than you are so we can figure it out.

(Laughter.)

MS. BRAUNSTEIN: No, just kidding.

MR. FISHER: Well, I think that goes without saying. But I think we really need to investigate it and we haven't, and really work at it and not kind of throw out some number. Because I think the end of it that deals with retail banks, like you are saying, could have unintended consequences in a number of ways.

MR. BARRAGAN: If I might, just as years ago branches and deposits are going to be an indicator of investment in the community. As Alan has said, that is completely true with technology.

Now let's move to the question of business services and lending being done in the community. And I think that any bank that is lending more than ten million dollars should be part of a bank's assessment area.

In addition, to your second question, the fact is a bank, an institution, is lending in an area within a community because it is profitable. Now they have assessed there because it is profitable and it would be profitable to the next bank who might be able to do the same bit of business.

So you know, as long as there is profitability, those banks are not going to back away from it simply because now it becomes part of their assessment area.

MR. WILLIAMS: And I think Alan's answer at the end was quite appropriate. I do think this lends itself to more discussion. I think within your response is that you recognize that institutions will game the system, no matter where you draw that line.

And to the extent that California Reinvestment Coalition and other entities recognize gaming the system when one has one office in state and one assessment area and serves the rest of the country, that to the same extent, a certain amount of gaming is going in terms of the business plan.

The regulators we believe should also be able to recognize this. And I think people sitting around the table and honestly pursuing this will be able to come up with some way to address the concerns that we have about banks being able to escape any type of accountability by gaming the systems in such a blatant manner as has been described.

MR. BOWMAN: I have heard a couple of people on this panel and we have heard a number of persons on the previous panels talk about something called an innovative product.

I have a very limited period of time and I am going to ask each one of you to give me an example in your opinion of an innovative product. And then the follow-up question after you have all gone through it is give us some suggestions as to how we, as regulators, can greater incentivize those we regulate to offer those kinds of products.

I'll start with you, Mr. Barragan.

MR. BARRAGAN: I think EQ2, equity equivalent investments, was an innovative product. It has become less so as fewer institutions are doing. It provides for less strain and obligation on a nonprofit organization. I will give you an example.

U.S. Bank last year in the midst of the credit crunch made two million dollars available to us to do micro lending throughout Southern California.

MR. BOWMAN: To small business --

MR. BARRAGAN: To small businesses and microbusinesses. And at that time, back in October of last year if you can remember, you could not find those dollars in particular, and also talking about small businesses. The fact is it was a very short process. It was supportive interest rates and responsibility and today, the Commission have lent the entire two million dollars out to small businesses throughout the territory.

Well, at this time equity-like investments have taken on different definitions. And at the end of the day, what it should be is a long-term, below market interest rate, nonrecourse loan to a nonprofit CDFI to make loans if their branches for whatever reason cannot make them.

MR. BOWMAN: Mr. Williams.

MR. WILLIAMS: I think by definition, an innovative product is something that is very effective. I think all too often, we are looking for bells and whistles.

To me, as I begin to look at the data and the needs in low-income communities in order to access financing, access credit from financial institutions, I find that one of the major impediments going forward are low credit scores and terrible credit behavior.

It would seem to me then that the ability to implement effective financial education is innovative.

I was glad to hear Bank of America say that they are sending out loan officers. They are sending out bank personnel just to show up to various classes to talk about financial education. It is not necessarily effective, as it is when they use financial intermediaries in the community.

To the extent that we want to make capital available in low-income communities, communities of color, unless we deal with the issues of credit behavior and credit scores, we are not going to overcome those barriers. Therefore, something as simple and executed well as financial education can be extremely innovative, without necessarily having all the bells and whistles that we usually come to see as being innovative.

MR. BOWMAN: Mr. Fisher.

MR. FISHER: Yes, thank you.

So I think of an innovative product as something that brings more people into the financial mainstream. One example of that, one California bank in Oakland has an essential bank account. It is a checklist checking account. You get free money orders and you have a card that can be used at point of sale and ATMs. So it is very difficult to overdraft. And it kind of replaces and competes with the check casher.

So I think that is a good example. Incentivizing, I am a little uncomfortable in some ways with that. There ought to be recognition but many of things I think are the things that should be a matter of course and not seen as a huge change.

MR. BOWMAN: I am suggesting incentivizing in terms of incentivizing institutions to perhaps spend the kind of time that you have with coming up with these products identifying the community, identifying the product, the service, whatever it is they want to provide, and to then carry it out. That is where the incentive comes from.

MR. FISHER: Okay.

MR. BOWMAN: Yes?

MS. VISSA: Sure. I've got two points. One is a quick example of many of the partners in the room today from financial institutions who can tell you about loan products that they had for home mortgages, prior to about two or three years ago, that were specifically tailored for low-income families with reduced FICA scores, and reduced down payment assistance, that kind of a thing.

MR. BOWMAN: The kinds of things Mr. Williams is referring to or --

MS. VISSA: Exactly.

MR. BOWMAN: -- perhaps not as far?

MS. VISSA: Perhaps even further, really.

MR. BOWMAN: Okay.

MS. VISSA: I think that there

were quite a few that no longer exist today but the record shows that those homeowners did not default at a higher rate than most others.

So it would be a return back to really finding a way to make sure that those people who are not accessing products today can access them.

The other thing is really making sure that you are ahead of the curve today. We know that green investments are sort of at the top of everybody's mind and yet we want to make sure that we are not coming back to the table five years from now and saying something else is where all the money is coming from and all the investing that is coming in, and we need to rewrite CRA to allow for that kind of adaptation from the banks.

MR. BOWMAN: Thank you. Ms. Ling.

MS. LING: I'm not sure if it is innovative but it is asking the bank to take a leadership role in addressing the borrowing needs of nonprofits with affordable housing developers.

I think the banks could take a lead in coordinating with foundations, doing a program investment in local cities to provide acquisition loans, working capitals and other risky loan investment up front to cover the cost of starting these projects. Because one of the most challenging aspects of trying to get this early money is that the banks are only willing to put in 60, maybe 70 percent and then the rest the nonprofit has to cobble together from other sources. To have a one-stop shop where different partners come in to cover different tranches of risks would be a service that is much needed.

MR. BOWMAN: Thank you. Ms. Prinster.

MS. PRINSTER: I did mention one thing in my testimony.

MR. BOWMAN: Right.

MS. PRINSTER: But before I go to that, I would like to just piggyback on what

Roberto was saying about EQ2s and actually the two items are related in terms of the lost reserves.

One of the issues that has seemed unfair to me is the expectation that, and it is a reasonable expectation, that those EQ2s, that those banks would always be whole on those EQ2s, and yet they are out. By virtue of the relationship, we are being asked to make loans that are more risky than a bank would make. And so there needs to be some recognition that at some point there would be some sharing or breakdown of those EQ2s that would be acceptable and that wouldn't prevent us from, well prevent the bank from, having any kind of criticism or from us even having the hope of getting another one in the future.

So the whole issue of loan losses is a concern for a nonprofit. You mentioned cobbling together the resources. Here we are asking to having to go out and try to raise contributions for equity to cover loan losses. Who wants to give money for that?

The program that we have in Colorado has included CDFIs as part of this loan loss preserve program, Colorado credit reserve, and as we look forward and project in the future and how it is going to help us to be a more financially sustainable organization for the long-term by helping us to cover the losses, it seems to be a great program. It has really done a lot to leverage resources. We have to still be responsible because we don't want to use up our whole reserve on a few loans. And it seems like a great thing that putting together a variety of resources to build up these reserve pools would help CDFIs greatly.

Would you like to take the second round?

MR. CURRY: Thank you, John. I would like to ask about the panel's views on CRA performance ratings and incentives.

Ms. Ling, in your written testimony you recommended more grades, I think you specified an outstanding plus rating. I was wondering if you would elaborate on that and any other ideas you may have in adjusting our rating system and as part of your response, to what extent. This picks off of what Director Bowman was talking about.

What are the appropriate incentives we can use through the rating system to encourage lending and other commitments by bank?

MS. LING: Well, I think that Sharon Lee and the Low Income Housing Institute in Washington would like to see more weights be given to multi-family housing lending over single-family loans. So that is one area where that the Pacific Northwest is looking to weigh the performance, this are a of performance differently.

That is it.

MR. CURRY: Thank you. Ms. Vissa?

MS. VISSA: Sure. I think part of the concern comes from the fact that as community advocates 99 percent of all banking institutions pass the CRA exam and a large percent are receiving outstandings, it is hard for us to differentiaite between good, better, and the best. And I think that is where the outstanding plus rating comes into play. It is really differentiating between those extraordinary efforts that have been taken and just meeting the bar.

We would recommend that there actually be sort of like a curve in school, where only about the top five or top ten percent can receive an outstanding plus and then there tends to be more of a collaboration and/or competition among the field as well.

I think a lot of the discussion in the earlier panel about the community development test comes into play here when we talk about incentives. Merely allowing for those opportunities for new ways to meet community needs, to get to that next level, one aspect that cannot be forgotten is what Alan mentioned, which is the community itself and their voice, trying to find a way to have their assessment be part of the program.

MR. CURRY: Thank you. Mr. Fisher?

MR. FISHER: These are great questions.

You know, we used to have a section of our newsletter, the bad dog section, where anyone that got less than a satisfactory was in there. And there has been no one in California for years. And I think we have had a lot of conversations with some of you about grade inflation. And so I do think that maybe one possibility is just to add. I have always liked the idea of a curve, after not liking it too much as a student, but to bring community development up to a higher level, not as sort of extra credit but as an intimate part of what happens. So I would think that.

And I go back and forth on the issue of incentives because certainly incentives help but this is supposed to be the business. But maybe there are rules or something like that that recognize without doing more than that. And I do think that banks of a certain size should be expected to get an outstanding. You know, if they don't, there ought to be some negative aspect to it because they should be able to.

MR. CURRY: Thank you. Mr. Williams?

MR. WILLIAMS: Yes, I think this question somewhat overlaps with the discussion this morning.

I think the area of evaluating banks ought to be how well they play together in regards to the CRA. All too often the issue is banks unwilling, unable to come together to work on placed-based, community-based needs, as identified under the performance context, hurting a lot of nonprofits and the work that we do.

All too often, a bank is only interested if they have their name on this project. They get to brand it. They get the credit. They are the lead. Whereas, we are likely to get better results if we could find them working in a collaborative manner.

Now the only way that is going to happen is that you are going to have to give them credit and you are going to have to incentivize them in working together in an environment, other than just multibank CDCs.

So to the extent that you can bring more resources together working on some of these problems, where it is not necessarily looked at as being competitive or proprietary, I think the communities will be far more -- they will benefit far more.

MR. CURRY: Thank you. Mr. Barragan?

MR. BARRAGAN: Actually, I have a unique position here. I serve on community bank board of directors. It is about a 500 million dollar bank located in Encino that was just into their CRA exam with the FDIC. I also serve as the chairman of the CRA committee. So I have a very unique position looking at how you evaluate us.

This is a bank that did receive an outstanding rating. It commits ten percent of net income to charitable contributions. It provides significant small business development lending to moderate- and low-income customers. It makes investments in low-income credit unions and in minority-owned banks. It has significant participation in government lending programs and it relies little on mortgage-backed securities and tax credits for CRA credit. That I think is an outstanding rating. I don't see that with many banks.

MR. CURRY: Ms. Prinster.

MS. PRINSTER: Well being the last

in line again, this is great. I like that. I guess I was just kind of taking some notes here and I came up with four items from previous commenters that start with a C. So maybe this will just summarize the comments here.

Community development test I think is a great idea. Conversation with the community, having that discussion in an open and transparent way when there are exams with community stakeholders. Collaboration with each other is a great principle to try to evoke as part of the process. And I like the idea of contributions, just be ten percent or whatever percentage, some kind of percentage of profits contributing to things that will help community development, such as the technical assistance that we have been talking about and other types of services that CDFIs for example. But other resources and nonprofits could also contribute to building up capacity in low- and moderate-income neighborhoods and populations.

MR. CURRY: Thank you very much. John.

MR. WALSH: I would like to return to a question that I asked the last panel because I think it is kind of given a little different flavor in the comments a number of you have made. And that was in the last discussion that we had, in thinking about things like small business lending or foreclosure prevention and neighborhood stabilization, there is, it seems to me, a certain tendency in thinking about how to deal with those issues, especially in the current economic climate, to kind of blow up the base, to think about doing more things in small business that perhaps loosen links to a narrow definition of low- and moderate-income, whereas a number of your comments will rather specifically focus not just on LMI communities, but on minority communities and that sort of thing.

It seem to me that those are kind of tensions pulling in opposite directions but I just wonder if you see a real tension there or whether those are kind of reconcilable thoughts.

MR. WILLIAMS: I can say that at lunch we discussed tension in certain groups.

I think to the extent that you start moving the CRA outside of say LMI communities, there are going to be issues. To be somewhat facetious, some of the comments were those issues now being brought upon for middle and upper income folks are issues directly related to behavior by the banks themselves. And therefore, now to rub the salt in and to give credit for them, you see, is sort of a circle kind of logic here that is not quite understandable.

I think that notwithstanding the fact that the Community Reinvestment Act does not necessarily speak to race, anyone who studies the history of redlining and the community reinvestment act knows that defiance in regards to race was not the fault of those folks who were advocating for a CRA. It was the banking community that wanted to keep it out.

That being said, we know to the extent that we find low-income, high unemployment, and all the other indicators, we are going to find people of color. Therefore, when we look at the demographics in terms of the growth in this country, the future labor force, these are the issues that we are facing.

The future of this country is going to depend upon the growth in Hispanic, Southeast Asian and African American communities. White population is decreasing and we all know this. Who is going to support social security? Who are going to fill those jobs out there that are necessary? We know that they can only be filled from those populations. Those populations are suffering from higher dropout rates, low education, lack of access to capital, and what have you.

So it would seem to me as a priority looking at the scarce resources that we are addressing that we must stay concentrated and we must stay focused. And if that focus is on low- and moderate-income communities at this point in time and if that is the back door that I get into those populations, then so be it, because I don't think that I am going to be able to go to college and be able to get them to open this up on the basis of race.

So, the way I look at this, yes, there will be some tension if we try to move the CRA beyond targeted low- and moderate-income communities.

MR. BARRAGAN: The level I would trade would be for LMI. If we could actually determine what businesses, what communities are receiving loans, and that became a standard, the fact is what I said, our workforce is a very diverse workforce.

Many of the businesses that I work with, I believe in because they are LMI. I believe in their business. I do find out afterwards that the majority of the people that they are hiring are LMI and at the end of the day, it is about jobs.

MS. PRINSTER: I think when it comes to small business lending there does need to be a recognition that small businesses are not necessarily place-based in terms of the LMI characteristics. I think as Roberto was talking we also look at whoever is lacking access to capital and we find out later what their profile looks like.

And there is no question that low-income and moderate-income neighborhoods and communities need to have viable small businesses. But when it relates to the LMI individuals who are business owners, they don't necessarily. The best place for their business is not necessarily in that community or that neighborhood.

So to the extent that you want to be able to build wealth among those individuals, they have to go where the business concept is going to be most viable.

On the other hand, it goes the other way, that maybe a middle-income or even a higher-income person who might be starting a business that would be hiring individuals from those populations, they themselves would not necessarily be LMI nor would their business be of a certain size that would qualify for CRA. And yet it would have a large impact on the community.

So that is why I feel like the small business is really a little bit different, needs to be looked at differently in terms of the oversight and the incentives to be able to see how it impacts the community.

MS. LING: I am not prepared to represent the Low Income Housing Institute's point of view on this matter. But personally, I feel that this distraction between low-income community and community covers is a false one.

And I would tend to agree with Mr. Williams' point of view. Let's focus on low- and moderate-income community and address the social equity issues that these communities are seeking to redress at this time.

MS. VISSA: I agree with all of my colleagues here on the panel that there must be a focus on the LMI communities but I think that we will be doing ourselves a great disservice if we are race neutral. We see that the research is startling that homeowners with a 720 FICA score and above were still disproportionately sold high-cost predatory loans within the African American and Latino communities. And if we don't take that into account when we are talking about CRA, I think we will just end up in the same place once again.

MR. FISHER: Yes, I would agree with what my colleagues here say. I think it has to be mix of both of these things. It is clear that there is color discrimination in all the studies that we have done. The recent study we did looking at those loan modification and mortgage lending, areas where people of color lived were disadvantage.

In a study we did a few years ago, middle-income African Americans had a harder time getting a mortgage loan than low-income Anglos.

So I think we need to look at those kinds of things. I think we need more data around breaking out in terms of, particularly, Asian Americans, API. But I think this has to be looked at. Otherwise, we don't get the whole picture.

MR. WALSH: Thank you. Do others have follow-up questions? We have a little more time.

MS. BRAUNSTEIN: Okay, I will ask one. We had some discussion about this earlier today and I wanted to get an opinion from people on this panel.

The needs assessment that is done as part of CRA requirements. Currently responsibility is on the banks to do that And there has been a lot of discussion about this at previous hearings and some have said that they think that the regulators should be more actively participating and doing needs assessments, if not doing it all together. And we had some discussion about this on one of the panels. It was kind of split. Some of it was, yes, the regulators have more data, they would be able to do it better. But then there were some concerns that might interfere with whatever conversations currently go on between the banks and the community groups, that we kind of let them off the hook.

I was just wondering what is this

panel's take as community folks on this whole question of who should be doing the needs assessments.

MR. WILLIAMS: I feel strongly that if the banks don't know their communities, they should be punished in terms of their rating. I don't know how you get around this but performance context is a place-based and even region-based kind of things.

One of the issues that we have is that we have a lot of banks that are statewide and even throughout the United States and have a tendency to design products that fit in a national or statewide platform when in a state like California, the difference between Imperial Valley, the difference between Santa Cruz, the difference between Fresno and Sacramento are like four different states. We could further segment that down into even more than that.

To an extent with those people on

the ground and in those communities, they have to know their communities. At one time, and I know we always talk about going back to old fashioned banking, bankers knew about transportation issues. It is not just about low-income housing. It is not just about whether it is small business lending. We know the relationship between poor transportation, poor health within our communities, and having negative impacts within our communities that bankers are trying to address with the CRA.

If the people on the ground and in these institutions do not understand the complexities and the needs of their community, again, I say they should be punished.

Now to the extent that the Federal Reserve were to go out and to provide data, that is almost like telling me as a lender that a borrower has gone out and hired a consultant to do his or her business plan, and then I am going to make a loan to that borrower who still may not necessarily understand that business plan. It is nice and fancy because they have got a consultant who is going to be able to put together some great data.

So I tend to look at this as being a primary responsibility of financial institutions to understand and know the performance, the context of their community and how they should be performing within that community, within the needs that they have.

MR. BARRAGAN: I think that the banks should continue doing the assessments but I think the assessment should be evaluated and judged adequate by the regulators, not simply accepted as part of a plan or a performance. And in fact, if the system itself is flawed that we should inform the regulators as to the bank's CRA performance.

Both will be part of the process and banks should know what the community looks like but because of what they say, it should not be accepted as fact.

MR. FISHER: Go ahead.

MS. PRINSTER: Okay. I guess I would agree that the banks should have the primary responsibility for this because they are and should be closest to the community and what the needs are. I think that having access to data is one thing. Interpreting the data is another thing. And interpreting it in the light of non-quantifiable factors is also something that can only be done if you live in the community.

So just because there is data doesn't mean that the interpretation of the data is going to be the same in every community. And so I think that is why it is important to have the banks do that.

Having access to the data that maybe the regulators would have is really critical. And if there is more capability on the part of the regulators to provide the data, then great. But I do think that it should be the responsibility of those who are closest to the community, which would be the banks.

MS. LING: The Low Income Housing Institute recommended that the individual bank performance assessment should be open to community input. I think that is where the regulator's participation and needs assessment could happen.

Because through a community input process, you can determine whether a community's needs are being addressed and, through an appeal process, to put in conditions that would include the bank improving those areas where the community needs are still not being met.

MR. FISHER: I think we, from my point of view, need a sort of check and balance. I mean, our goal at CRC is not to have great CRA programs at the banks but to have the banks internalize those programs, see them as good business and move forward with them.

So I think the critical thing is for the bank to really understand and take it on. But I think if we have learned anything in the last five or ten years, it is that once in a while banks game the system and may not tell us the whole truth.

So I think there needs to be a rule for the regulators to really oversee that, maybe using the community to be sure that what is happening is real and is really benefiting the community.

I mean here in California, we have all these banks now that come in from out of state. They see our big state. They see an ability to make lots of money and they think it looks like Minnesota or New York or North Carolina or something, you know. And they don't really understand what goes on here, the diversity, the size of it. Maybe we have eight regions here. The state is the size of most of the East Coast. They think it is like Rhode Island or something. You know, it is a state.

So I think without there being some pressure from other places, there can't be a good assessment.

MS. VISSA: I would just add to that that regardless of who is doing the needs assessment, it is critical that the community input be number one, either on the front end where they are providing input for the needs assessment or on the back end where they are able to provide oversight and either agree or amend the assessment once it is created.

MR. WALSH: We are a few minutes ahead. Any final?

Okay, we are going to be moving on to the very large round of commenters.

A comment was made by Mr. Fisher earlier about keeping the record open. There is an opportunity for public comment to be added to the record through the end of the month. So, we do welcome additional comments.

I would like to thank this panel

for their contribution. We will adjourn for just over 15 minutes. We ask the speakers in this final session to be in place by five minutes to three, so that we can get started. We have quite a large number to get through.

Thank you.

(Whereupon, the foregoing proceeding went off the record at 2:42 p.m. and went back on the record at 3:00 p.m.)

MR. WALSH: We will begin our last session this afternoon, which includes individuals who have asked to testify and will each have three minutes to speak. As in our earlier session, our timekeeper will be busy holding up the one minute warning sign and then in the extreme case, ringing his bell. We will need to stick closely to time because there are so many witnesses who have asked to be heard. And as I mentioned earlier, there is also a public record that will remain open until the end of the month of August, so that additional comments can be provided for the record.

But as for now, we would like to begin with our list of individual presentations. And we have to lead off this afternoon Congresswoman Maxine Waters of the 35th District of California, who will offer some remarks on CRA.

REP. MAXINE WATERS: Thank you. Thank you very much and good afternoon to everyone.

MR. WALSH: Good afternoon.

REP. MAXINE WATERS: I would like to thank all of the representatives from the various regulatory agencies, Office of the Comptroller of the Currency, Office of Thrift Supervision, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation. I thank you for bringing us together this afternoon.

Let me begin by saying to all of you that we appreciate that. We don't see all of you all together too often. Thank you very much.

As Chairwoman of the House Subcommittee on Housing and Community Opportunity, I consider the Community Reinvestment Act, CRA, to be one of the most significant pieces of legislation to help lower income in minority communities since its enactment in 1977. The CRA was necessary because financial institutions were discriminating against lower income in minority communities in a practice that we once called redlining. I remember too well the days of redlining.

When I entered the California Assembly in 1976, prior to passage of CRA, whole communities were excluded from mortgage opportunities simply because financial institutions chose not to lend to them. The CRA was an important step to correct this problem and did so by creating an explicit promise between federally insured banks and the government. If banks met the credit needs of their entire community, including minority and lower income borrowers, they would be permitted to expand and grow their business.

Since the passage of CRA, small business lending in low- and moderate-income tracks did increase. They increased from 33 billion in 1976 to 60 billion in 2008. Furthermore, community development lending grew from 18 billion in 1996 to 73 billion in 2008. CRA has played a vital role in increasing homeownership, decent affordable rental housing, small business ownership, and community development investments which would not have been possible otherwise.

Yet, despite this data, critics have blamed CRA as one of the factors that led to the financial crisis. And I continue to hear that with the tightening of credit, banks are making fewer and fewer to loans to small minority and women-owned businesses.

The facts demonstrate that CRA is not to blame and these underserved populations should not bear the brunt of such unfounded claims.

According to a recent study, based on Home Mortgage Disclosure Act (HMDA) data, CRA banks are significantly less likely than other lenders to make high-cost loans and the average APR on high-cost loans originated by CRA banks was appreciably lower than those by other lenders.

Furthermore, it must also be noted that the larger financial institutions that are refusing to lend to under-served populations are the same big banks that received billions in top payouts last year. They are taking taxpayer dollars but failing to serve the communities that need it most.

If we are to recover as a nation, then we must do it together by making sure that our under-served communities are provided the same access to credit and lending opportunities as our most-served communities. That is why I plan on introducing legislation in the next Congress to help strengthen enforcement of CRA and improve upon the role of CRA in increasing lending to small businesses and greater community development opportunities, while ensuring that larger banks remain accountable to under-served communities.

So I look forward to the significant amount of data that will result from this series of joint hearings on CRA and I hope that the Congress and federal regulators will continue to work together to address this very important issue, which will help revitalize and restore our nation's economy at all levels.

And I thank you for the opportunity to speak today. And I would just like in closing to direct you to a recent study that was made available to us today. I think the study was done by the Center for Responsible Lending. And the title of the article that appears today that describes the study is this: Latinos, African Americans More than Half of All of California's Foreclosures. I would like you to read that. Thank you very much.

Do you have any questions?

MR. WALSH: Thank you.

REP. MAXINE WATERS: Thank you.

MR. WALSH: We would not presume.

(Applause.)

MR. WALSH: Thank you, Congresswoman Waters. Let me call Claudia Viek to the podium.

MS. VIEK: Hi. my name is Claudia Viek and I am the director of CAMEO, the California Association for Microenterprise Opportunity. That is a very long name but I am very glad to be following Ms. Waters. Thank you for the opener.

We are a statewide network of 88

nonprofits that provide business development services, also known as technical assistance, and lending to 25,000 businesses last year. It is especially appropriate that this hearing is being held at the Federal Reserve because it is the regulator that could change the dynamics of job creation through CRA. One of the primary mandates of the Federal Reserve is to fight high unemployment rates. And the best way to fulfill this mandate is what I am about to propose regarding support for small businesses.

We need to recognize that our society has undergone a seismic shift with our financial institutions that are leaving a permanent legacy. The regulators need to change the way you look at CRA and reward the type of investments that really create jobs. The nonprofit and non-depository CDFIs that we heard from in the previous panel are now serving the niche of small and microbusiness loans under $100,000 and their customers include credit-worthy businesses that have lost their bank lines of credit or home equity, struggling main street businesses who have lost customers and need this technical assistance, and the unemployed seeking to create their own jobs by starting a microbusiness.

Experts contend that 70 percent of new job creation will come from the very small microbusiness sector and the Kauffman Foundation just published its report that virtually all new job creation derives from startup firms and that mature businesses actually shed jobs over time.

So what can the regulators do to support this reality and strengthen our economy with new job creation?

Number one, treat grants for business development services as risk mitigation for lending. It is an essential component for moving capital to qualified small businesses and ensuring successful repayment as well.

Grants for training and business development services should get the same CRA credit as capital investments.

Number two, nonprofit lenders need cheap, patient capital to lend to small businesses in the economically distressed communities they serve. CRA should encourage bank investment in nonprofit lenders serving economically distressed communities and give a higher CRA value to these investments.

We need to remember that not all CRA investments are equal. EQ2s that are very low interest are especially suitable capital products for distressed communities. And right now, these EQ2s receive the same CRA credit as other bank investments that are collateralized and more profitable for the banks to make. So EQ2s need to be given a higher value by CRA examiners.

The CRA that originally allowed banks to make grants and investments in microenterprise development plus year ago -- That is my end warning. Okay.

As I say, I know this because I founded one of the first in California, the Renaissance Entrepreneurship Center in San Francisco in partnership with Bank of America. Now these nonprofit programs and lenders are the economic anchors in our communities. So I urge federal reserve, OCC, OTS, FDIC to recast CRA so that it will serve to increase investment in this infrastructure and the result will be new businesses, new jobs, new taxes and more entrepreneurial energy, which is good.

Thanks.

MR. WALSH: Thank you. And we are being a little bloody-minded with the bell ringing but we do have large numbers.

Nancy Andrews.

MS. ANDREWS: Good afternoon. My name is Nancy Andrews and I am the President and CEO of the Low Income Investment Fund, which is a leading national community development financial institution that is based here in California but we work nationwide. We are 25 years old and over those 25 years, we have made just about a billion dollars of investments in distressed neighborhoods. And projects that we have supported have created about 72,000 jobs, have leveraged 5.4 billion dollars into these neighborhoods and we believe they have created about 17 billion dollars of family and societal benefits.

And I don't think I am exaggerating to say that pretty much everything that we do we feel we owe to the existence of the Community Reinvestment Act.

I am going to make three points in my testimony today. First, we believe that community development financial institutions like ours should be an eligible CRA activity, even if the CDFI is not located in a bank's assessment district. We think flexibility around the assessment districts and assessment areas would be very helpful. We have seen over the last 30 years the important role that CDFIs and other community development actors have played in creating economic vitality during downturns. We consider ourselves first responders in the neighborhoods that we work in during the current crisis and we think that one way of using this resource and asset that has been created over the last 40 years is through the assessment area of flexibility that I just described.

My second point is that the field of community development has evolved greatly over the last 30 years but the way that we give credit, the way that we count really has not. And so high impact community projects like the types that we finance with health centers, childcare projects, affordable rental housing, schools, these are very, very hard to do with high social impact and high social contribution but they don't have high numbers.

And so to remedy this or to encourage this kind of investment, we would encourage the creation of a new community development test that would capture these kinds of high impact investments.

The third point that I will make is that green projects, green investing is not necessarily recognized or rewarded well through the CRA counting regime and we would recommend that bonus points or some kind of incentive measure be introduced for projects that are built according to green standards. We think that this will go a long way to ensuring that the green revolution doesn't skip over low-income communities all together.

And we think this is very important because while these communities contain about 20 percent of the nation's population, their residences and commercial buildings contribute about 40 percent of our greenhouse gases. So we would urge you to consider that.

That concludes the points I want to make. I know as well as you do that the devil is in the details and I would be very happy to work with you and help flesh some of these ideas out. Thank you very much.

MR. WALSH: Thank you very much. James Zahradka?

MR. ZAHRADKA: Good afternoon. My name is James Zahradka and I am supervising attorney at two programs of the Law Foundation of Silicon Valley, hence the laptop, I guess, Public Interest Law Firm, and the Fair Housing Law Project. I am also a member of the Board of Directors of the California Reinvestment Coalition.

At the Law Foundation, we serve thousands of Silicon Valley residents every year who are the most disenfranchised members of our communities. Many of our clients are poor immigrants or limited English proficient, others are abused and neglected youth, and people with HIV, AIDS, and diabetes, and people with mental health or developmental disabilities. These are the most in need of job creation, affordable housing, in the vibrant communities that CRA seeks to create and promote.

So today I am going to speak to a specific issue which is part of what you requested comment on but I haven't heard really addressed today, which is the issue of fair lending and how that plays into the CRA examination and how it should be strengthened.

So since 2003, we have represented dozens of families, almost all of whom are limited English proficient immigrants who have been prayed upon by unscrupulous mortgage brokers and lenders. These families were induced to take out loans that have caused them to lose hundreds of thousands of dollars in equity, their credit worthiness, and in many cases, even the home.

All too often it seems clear that these homeowners were targeted based on their race or their national origin for these inferior loans. I don't have to tell you how disruptive this has been for not only these families but our communities and the entire nation.

So in this context, with an eye to preventing another catastrophe along these lines, it is critical for the regulators to conduct more rigorous examinations regarding fair lending practices, and to act upon evidence and discrimination.

As you know, CRA provides that bank CRA ratings can be downgraded if discrimination or illegal lending were widespread and the lender did not take action to end the practices. There is, however, not much evidence that the fair lending review is conducted concurrently as CRA exams are rigorously testing for abusive and discriminatory lending. In fact, it seems in some instances the contrary is taking place. As in most cases, even the largest banks in the country, the fair lending section of the CRA examination is a very cursory section of the exam, sometimes as little as one sentence stating that the regulatory agency tested for evidence of illegal discrimination and that there was no such lending found.

With an apparently cursory, non-transparent process, it is hard for the public to have confidence that the regulatory agency performed a detailed anti-discrimination analysis and also to have confidence that the bank is really adhering to fair lending standards.

There are some positive counter examples. For instance, there was a Federal Reserve bank review in 1996 of Signet Bank and there they conducted a match file review of 300 actual loan applications and they used a regression analysis to try to root out whether race was a factor in rejection. So that was sort of a redlining case but it could also be used for anti-redlining, the same type of analysis.

It considered variables not available in the HMDA data, such as credit histories, stability of employment, and the debt obligations of the applicant. That kind of rigorous review is what is required if the regulators are serious about both substantively rooting out lending discrimination and generating public confidence that they are taking this issue seriously and the enhancements that we talked about a couple of weeks ago up in San Francisco that will help in this regard because some of these factors will now be in under Dodd-Frank and will be considered for addition.

So just to say in conclusion, there needs to be much more rigorous review of this issue. We were in 2008 for the Bank of America acquisition of Countrywide and as you may recall, there was much evidence of problematic lending practices among

Countrywide. But when the evidence was put forth by commenters, basically what the Fed said was HMDA data doesn't allow us to tell if these are the actual fair lending violations, which is a interesting conclusion because the New York Attorney General had just sued Countrywide and got a very positive settlement two years prior.

So we don't know what would have happened if maybe a more rigorous review had been done of Countrywide's fair lending practices. Some more accountability would have been had.

So I encourage you to look at that more carefully and thank you for your time.

MR. WALSH: Thank you. Alan Jennings.

MR. JENNINGS: Thanks for the opportunity to travel 3,000 miles to be part of this.

MR. WALSH: We feel the same way.

MR. JENNINGS: You have my

comments so, in the interest of time, I will just offer a summary of key points. First, I will make the most important point.

In an era when capital is increasingly a consolidated centralized and global commodity with decisions more standardized as well as distant from the community where it is needed, CRA is the antidote, localizing credit and fueling our communities' economic vitality and therefore, its quality of life.

Our agency recently started a peer review process where all small business loans that are being rejected are being renewed by each other's banks in order to move deals around and hopefully increasing the likelihood of small business lending. It never would have happened without the context of the Community Reinvestment Act.

Second, we resent the suggestion that CRA and safety and soundness are mutually exclusive. The frustration of community development professionals is that community development lending is safe and sound and none of us intend it any other way. An effective CRA would be a hedge against the tight credit market for small businesses, if the regulators took CRA as seriously as they take some of the other regulatory enforcement.

Third, regulators need to be more consistent in their examinations, both among the agencies, as well as within the agency. I gave you an example of confusion about investments in our CDFI.

I want make a fourth point. Size does matter. The community banks, despite their claims to the contrary really don't have a good sophisticated handle or the resources on how to do CRA. The bigger the bank, the greater the capacity but the harder it is to jam our square pegs in their round holes. It is the mid-sized banks that are the easiest to work with and they are vanishing.

Fifth, there are many ways in

which public disclosure and public participation need to be improved. Public comment periods are not publicized. In our region, the only branch in our moderate-income borough is closed and nobody knew until they informed their customers, long after the regulator approved the closing. The low-income elderly folks who don't drive never knew what hit them.

Large bank mergers occur, affecting hundreds of communities and hundreds of thousands of people. No public hearings are held. Not only should hearings be held but large mergers should only be approved when the surviving bank offers a community reinvestment plan that includes public input.

The ratings are not very well publicized. People don't even know they can find out how well a bank is performing. A bank should be examined with public input.

Seventh, branches remain the most visible icon of banking for everything from deposits to mortgages to small business lending. It amazes me that banks are receiving satisfactory CRA ratings, despite having not a single branch in an LMI census track and in some cases completely avoiding the city right in the middle of their assessment area.

Seventh, since the lifting of glass steeple's firewall, the use of branches to determine assessment areas is obsolete.

Finally, I agree with NCRC that as long as class and color are synonymous, we need to do a better job of collecting data and applying CRA to color as much as we do to class.

And I have run out of time. Thanks for the opportunity.

MR. WALSH: Thank you. Ali Tarzi.

MR. TARZI: Hi. Good afternoon. I am here representing Community Housing Works.

Community Housing Works is a 28-

year-old nonprofit founded to create housing and housing options to help people in neighborhoods move up in the world. We are also a proud member of the California Reinvestment Coalition, the California Rural Housing Coalition and the National Council of La Raza.

We are certain that CRA and the 1995 revisions have created the conditions for banks to extend themselves and finance courageous projects for hard to serve people in communities that were previously excluded. Our daily magic for our residents would not be possible without CRA. However, the dramatic changes in the banking industry over the last 15 to 30 years have threatened to leave behind the critically important regulatory incentive system for CRA. These failed incentives have had recent and negative impacts on the San Diego rural and urban communities we serve.

Because of the way in which assessment areas are designated, we have been told that San Diego as an entire market is not currently a CRA priority for a number of major banks. We are the second largest metropolitan area in California and among the largest metro areas in the country. By any common sense measure, our under-served communities' credit needs have not been adequately met.

The current CRA system provides the strongest incentives for lending and investment in San Diego only to those banks that have active merger and acquisition strategies.

There are other impacts felt in San Diego County that are national in scope as well. They have been well articulated by other commenters such as Liskin Enterprise. On the threat side, they include they include the failure of the CRA system to cover a large part of the financial service industry and of the tight geographical link between area deposits and the area of financial services.

We support the following

priorities for modernizing CRA to help it achieve the original goals of the statute in the current financial institution environment.

One, expand the range of institutions that CRA covers. Two, refine assessment areas of responsibility. Three, formally recognize a fourth activity area, community development, that will provide a path to provide a qualitative review of community development activities.

Also, assess services with rigor and attention more similar to a lending and investment test; increase interventions to assure small business lending needs are met; and finally, strengthen performance incentives and enforcement tools.

We are delighted that the agencies are asking these questions about improving the regulatory implementation of CRA and we look forward to being a continuing part of the policy discussion. So thank you very much.

MR. WALSH: Thank you. Linda

Mandolini.

MS. MANDOLINI: Thank you for the opportunity to testify today. My name is Linda Mandolini. I am the executive director of Eden Housing. Eden is one of California's largest and oldest nonprofit affordable housing developers.

I am here today in my capacity as a Board Member of the California Housing Consortium. CHC is an advocacy group that advocates statewide for policy changes and good affordable housing. Collectively, at CHC, we represent the entire state both for- and nonprofit developers, our investors, and lenders, and together we have created tens of thousands of units of affordable housing in California.

We believe that CRA is one of the principle reasons why all of us have been successful in creating those units and we would encourage you to look at two issues in particular in your thoughts on CRA.

First would be the community development test. I agree with Nancy Andrews' testimony and the testimony submitted by Enterprise and others that you should have a community development test that takes into consideration a broader array of activities in community development, including investment in affordable housing, investment in CDFIs and other community institutions.

Secondly and most importantly is the issue of assessment areas. For CHC's members, the issue of assessment areas is particularly acute. Right now Eden and our colleagues can get investment in tax credit projects in coastal areas and major cities. But if I were to ask an investor to go with me to a place like Lodi in the Central Valley, we would be told that they can't do that because they don't get CRA credit.

We encourage you strongly to reconsider how the assessment areas work, both in terms of what banks get credit for, and how it fits the kinds of institutions that we work with, at least. We did longer testimony, and you have heard a lot today so I don't need to give you a lot more detail.

But I did want to answer your one question about unintended consequences. We have thought a lot about what would happen if banks started lending and investing more in rural areas. I doubt very much that an entity like Eden would not get an investment in Palo Alto, even if that same bank were to go with us to Lodi. So I would encourage you to look hard at the assessment area question.

Thank you very much.

MR. WALSH: Thank you. Jeff Schaefer.

MR. SCHAEFER: Good afternoon. I am Jeff Schaefer, Vice President at Enterprise Community Partner representing the Southern California Association of Nonprofit Housing.

SCANPH creates affordable housing opportunities for low-income people by expanding the knowledge, capacity and influence of the nonprofit housing sector. The 350 members include nonprofit organizations, public agencies, lenders and investors, of which approximately one-third are community development corporations.

Although SCANPH members have produced more than 100,000 apartments, condominiums, and houses throughout the region, the need for affordable rental housing in Southern California remains acute.

SCANPH applauds your leadership and holding these public hearings to examine the current state of CRA's regulatory regime. While I am not a banker or an expert on bank regulation, I have seen first-hand how important CRA has been in spurring public-private partnerships that finance affordable housing. Although we have seen some good local examples of community investment such as with the new generation fund, more generally in recent years, we have seen declines in financing for affordable housing and community development, both because of the financial crisis and the recession and because the CRA doesn't have the force that it once did.

Currently, evaluation of bank activity supporting community development is scattered amongst the lending service and investment tests, depending on the form the investment takes.

The multi-family housing that SCANPH members develop takes much more time and attention to finance than conventional single-family mortgages, yet if CRA examinations are only a matter of filling in tables with loan volumes, there is no distinction made.

The time and complexity required by community development projects needs to be recognized by a separate test that looks at community development as an integrated whole. This by current regulation should be augmented with the community development test that replaces the investment test. Lending services and investment in affordable housing, economic development projects, community facilities like childcare and charter schools, community loan funds, microfinance loan funds and other community development activities in low- and moderate-income communities should qualify for this test.

Equity investment in community development financial institutions and other investments in building the capacity of community developers should qualify as well.

Furthermore, the agency should consider all of the lead activities for examination under CRA. Many financial corporations have organized their corporate structure in a manner that puts normal banking activities under affiliates where they have not been overseen or examined in the past. Affiliates and subsidiaries should be regulated and examined along with the banks.

Effective community development

starts with an assessment of the community's needs. To make the community development test effective a bank's activity should be compared against an objective analysis of what the market needs. Is there a need for rental housing, affordable home ownership, community facilities? Regulatory agencies should work together on an interagency analysis for each major metro area that replaces the assessments of community needs done by individual agencies as part of CRA exams at various financial institutions.

Thank you for your time and attention.

MR. WALSH: Thank you. Cecilia Estolano.

MS. BIBBINS: Hello and thank you for your time. My name is Shamar Bibbins and I am here on behalf of Green for All. Green for All is a national organization that works to build an inclusive economy. We love to create green jobs and green job opportunities and economic development specifically in communities of color and low-income communities. We believe that we should rethink economic development to include clean energy lending opportunities.

It is our proposal that CRA rules are strengthened to encourage depository institutions to support activities that have a triple bottom line result. Triple bottom line meaning activities that support not only the environment, but promote equity as well as the economy.

So under this proposal, triple bottom line activities having positive impact on the economy, equity and the environment would receive favorable consideration under CRA performance assessments. The proposal would supplement existing CRA consideration for community development activities. It would expand the type of community development activities which institutions may receive CRA credit for.

Green for All works in about 12 to 18 different cities around the country. We submitted testimony and a proposal at the hearing in June for our work that we are doing with Green Jobs New York. Here on the West Coast we are right now working in Seattle, in Portland, as well as in Santa Clara County here in California to bring energy efficiency retrofit organization programs, both residential and commercial, to city-wide scale.

So for example in the work that we are doing in Seattle, we are working with Seattle's Community Power Works program, which is an initiative, a million dollar neighborhood initiative, to bring community retrofit programs up to scale.

Within this project that we are working with, we just created high-low standards which the City Council of Seattle just signed onto and basically, it sets standards for this type of program to promote the hiring of minority and women-owned contractors for the Energy Retrofit Programs. In addition, it also creates opportunities for people with traditional barriers of employment to work on our residential programs.

So we feel that programs such as these that we are working on not only in Seattle and Portland but across the country could also receive CRA credit as well, in terms of economic development.

And while this is a small sector of the environmental field, we also believe that credit could be extended not only to energy efficiency projects but across different sectors, including urban agriculture, including restoration and any other types of environmental programs that promote a clean energy economy and also fuel economic development.

So I thank you for your time.

MR. WALSH: Thank you. Steve Nissen.

MR. NISSEN: Good afternoon. My name is Steve Nissen. I am Vice President for legal and government affairs for NBC Universal but I appear here today in my volunteer capacity as Co-chair of the Legal Services Trust Fund Commission of the State Bar of California. I also bring a personal perspective of having worked with legal aid organizations serving the poor for over a quarter of a century.

The Legal Services Trust Fund Commission administers a program known by its acronym IOLTA, Interest on Lawyers' Trust Accounts. The IOLTA currently funds 96 nonprofit legal aid organizations, covering every one of California's 58 counties. It was established by statute in 1981.

Simply defined, the IOLTA program works as follows. Interest earned on certain lawyers' trust accounts at depository institutions is sent over to the State Bar on a regular basis. And then in turn, it is distributed to qualified legal services organizations that serve the poor. There are several distinctive features of California's IOLTA statute but the salient ones for purposes of today's hearing are as follows.

IOLTA's funds must be distributed through the provision of civil legal services to indigent persons. It is important to note that income eligibility thresholds for legal aid are much lower than CRA thresholds so that virtually all eligible individuals under the IOLTA definition of indigency are also low- or moderate-income under the CRA.

Further, the IOLTA statute was amended in 2008 to add what we call a comparability requirement. That is, depository institutions are statutorily required to pay a rate of interest for IOLTA accounts that is no less than the rate paid on comparable non-IOLTA accounts. And because the need for legal aid in our state is great but available resources are not, the Trust

Fund Commission has been encouraging institutions to pay higher rates for IOLTA than what is mandated by the comparability law. And that brings us to why we are here today.

We asked the federal banking agencies to issue a Q and A in the interagency questions and answers to confirm to depository institutions that they will receive investment credit for IOLTA payouts that exceed the statutory remanded level of interest payments. Simply put, when banking institutions provide more to IOLTA programs than they have to under the law, we ask that you clarify that those institutions receive the same credit as if they had made an outright cash grant to legal aid.

In conclusion -- And I might add that that would hold true for service fees, as well, that are waived by financial institutions. They should receive investment credit or alternatively service credit.

Now in conclusion. Because IOLTA funds are allocated to every county in the state, relay providers help stabilize communities in every corner of the state. By extension, if our request is granted, it will clarify that CRA credited fund can be put to work in every part of the state, helping Legal Aid preserve affordable housing, protect children from violence, seniors from foreclosures, counsel microbusinesses, and so much more. Thank you.

MR. WALSH: Thank you. Joyce Dillard.

MS. DILLARD: I am an active citizen. I am not affiliated with anyone and I learn from having to deal with problems, helping people, attending a lot of meetings, and watching every agenda that goes through the City of Los Angeles. And I can say that on a local level, people are cut out.

There are a lot of terms that I have heard here that no one would know. I have even asked the question, we have the Community Development Agency here, why is the general fund budget minus where the CRA is plus in the same area. What is it?

So you are not widely known. I live in a low- and mod-income area. Things are too controlled by the local governments. We are a Spanish system out here, a lot of power with the mayor, I have this in my testimony, but in essence, it really has to branch out to what is local. Within 500 feet of you is what we get involved with. Local use, land use planning, charter schools which I wrote against because they are public schools. There is a line of banking issues that needs to grow beyond.

The State of California is in failure with small business, as are locals. We rely on capital gains that come in California and we need to rely more on service and turn the model around here.

After this hearing, I really don't

see a bright future for California. Again, I am more LA-oriented but we are the second largest and we are immigrants. So I think you need assessments. I think you need to see local land use planning, some state laws adhered to which isn't being addressed because you are a federal agency.

The banks are not known. The CDFI, the term isn't even known. The LA Economic Development Corporation may be known in certain parts of town, not in mine, which is East Side. So it is very limited to a control of a few people.

And the banks, I can see their role now and I can see why our areas are valuable because geographically we live in the right area you need for bigger deals, security deals and other deals. And I am sad to say that has got to go. Because we are changing in California. We are changing demographically, culturally. We talk on other sides of town now. We are not isolated like we used to, but parts that were successful aren't and they are contributory to our budgets in California and in the city. And if they don't grow, we don't grow.

So it has to be a double-growth, good areas or not in good areas. But the exclusion of the citizen in knowing their value and in inclusion in plans has just got to stop, not only on the federal level but very much on the local level.

And you are not even addressing what local government needs to comply with. Right now, we have to go through the mayor's office or the council's office to even get to this point. Most people in low- and moderate-income areas aren't going to do that. They are going to go with the person they know. Who do they know that can get them the phone call in to the banker? It may be an older -- Seniors have a lot of contact with networks. Some cultures have that angel network. What you have to fight is underground income and you have to fight money laundering. Because your answer when you cut out the citizen or the would-be citizen is you are going to get the illegal activity that is really hard to control because they don't trust anyone because the procedures haven't been implemented to trust.

Thank you.

MR. WALSH: Thank you. Brett Palmer.

MR. PALMER: Good afternoon. My name is Brett Palmer. I am President of the National Association of Small Business Investment Companies. Small business investment companies, also known SBICs, were created in 1958 by Congress to fill a capital gap that we see on the market to provide financing to small businesses that banks really weren't willing to provide.

We provide capital that is too risky for banks to take on generally that is sometimes a little larger than they are used to dealing with or too long term than banks are willing to lend for. We have a patient capital. We provide growth capital to small businesses.

We are very concerned about CRA and the role that it plays. Banks are significant investors in our funds. SBICs are private equity funds. They are not banks. We don't compete with banks. We compliment banks and banks invest in us significantly. Some SBICs have as little as zero bank investment, some are 100 percent bank investment. But the ones that have more bank investment than others get CRA credit for the investment test because we provide small business capital.

Some banks recently have begun to get concerned about investing in SBICs, not because of the returns that we have had, not because of the results we have had, not because of the jobs that we have created but because of the CRA credit and how much is going to be given. There is a lack of clarity on that, despite the Q and A which specifically references us a number of times. There is some questions about how much credit is going to be given. This goes to the regional comments and the assessment area comments that you heard earlier today from Kerwin Tesdell with the Community Development Venture Capital Association because when you are making an investment in a private equity fund, it is a longer term investment and you don't exactly know where the money is going to go because you don't have the money lined up for that particular deal yet.

Well some of these banks are getting less than full credit so, therefore, they have stopped investing in SBICs. Most have not had that problem but some have. So that is a concern for us because we provide a lot of capital to businesses, not just the direct capital invested by the banks but because of the nature of the program which I am not sure many of you know about but as an

SBIC, once you are licensed and once you have raised the private capital, you can access leverage from the SBA at a fairly low cost. There is a money multiplier to it.

So if banks are not investing in SBICs, it is not just a one dollar that they are not investing and that is being removed from the small business community, it is actually a multiple of that up to three.

So that chilling effect is something that we would really like to get taken care of because right now there is about five billion dollars in leverage that is being sought. If private capital can be raised they will go exclusively to domestic small businesses across the country.

And largely, it is worth noting that where we invest is different from the rest of the private equity world and the rest of the venture capital world. We are, A, very small, and B, we invest in other places other people don't. Where most of the venture world invests about 80 percent of their investments in the Silicon Valley and New York to Boston corridor, we are the inverse of that. We invest in places like Arizona and Louisiana and the plains and other places, and places that are just passed over that we provide jobs and growth. And so housing and these other issues are critical issues but if you don't have the community development in jobs, you really can't pay for the rest of it and that is where we come in.

So we are not talked about a lot. We are not widely known. I would like to take the opportunity to educate any of your staff about any further questions you may have. I know there isn't a lot of time. But we would welcome, as you are reviewing the CRA, if you could provide greater clarity as far as what qualifies for CRA investment credit. If as you are talking about adjusting the assessment area, discuss the regional assessment area where those investments will be done because, for example, if we are working to build a manufacturing plant, it may be in my area or it may be out but people commute to there.

So as you are looking at the CRA, please make sure that you are looking after the unusual forms of capital that come in to create jobs. Thank you.

MR. WALSH: Thank you. Stephen Blakely.

MR. BLAKELY: Hello. My name is Stephen Blakely and I am an consultant for Measured Outcomes, LLC. We do management, development, policy consulting services in Northern and Central California.

I would like to thank the agencies for the opportunity to testify today about CRA and community development. My testimony draws upon my experience working in the CRA compliance group for a large regional bank with responsibility for a 23-state regional footprint, my work as a consultant and board officer with various other community groups and nonprofit agencies.

Today I wish to focus on four broad but vitally important areas of the Community Reinvestment Act and how it is enforced. They are geographic distribution, affiliated activities, access to banking services, and community development.

First is geographic distribution. The Community Reinvestment Act as currently enforced concentrates most activities in large urban areas. The practice leaves many poor, rural communities to stagnate.

Data clearly shows that poverty rates are higher in rural America than they are in the cities. Only one in 20 urban counties has a poverty rate above 20 percent. For remote rural counties, that ratio is one in five. The counties that have been poor for a period of decades are overwhelming rural.

There are two main reasons why the concentration of poverty, the lack of good jobs and the availability of affordable housing stock is relative to urban areas. As economies in booming cities start pushing wages and housing prices, people with fewer skills and less education move to more rural high-poverty counties. Unknowingly the cities are exporting their poor to rural areas.

For these reasons, the CRA activities need to be delivered in a more comprehensive and equitable fashion.

The second issue is affiliate lending. Current regulations allow institutions to have the primary power to decide whether their subsidiary or affiliate lending will be included in their CRA performance examinations. One of the few limitations to that the primary decision-making power is the inclusion that it cannot be done selectively.

For example, the institution cannot cherry pick loans that would be favorably considered under the loans of middle- to high-income borrowers.

On the surface, this seems like a reasonable regulation. However, when you dig deeper, you find that many institutions think the structure of their business is designed to support this rule. By moving desirable parts of their business under one banking charter and excluding those with less desirable characteristics, institutions exclude all affiliate lending and receive outstanding ratings while continuing to pursue lines of business that are contrary to the spirit of the regulation.

Institutions should not be able to manipulate the examination process through creative corporate structures. The only way to solve the issue and to create a level playing field is to include all affiliate lending in every examination.

Third is access to banking services. Low-income households often lack access to banking accounts and face higher costs for transacting basic financial services through check cashing and other alternative service providers. These families find it more difficult to save and plan for their financial future. Living paycheck to paycheck leaves them vulnerable.

Alternative financial service providers, including check cashers, money transmitters, payday lenders, title lenders, and tax preparation services that provide refund anticipation loans are providing a wide range of financial services in low-income communities.

A 2000 Treasury study found that a worker earning $12,000 a year would pay approximately $250 annually just to cash payroll checks using these services.

And lastly is the issue of community development. The mortgage crisis has had larger impact on low- and moderate-income communities than those observed in the broader population. Subsequently, the needs of outlying communities are more pronounced now than they ever have been. Foreclosures are affecting outlying borrowers in epidemic proportions.

Community development must be approached in a holistic way that takes into account the potential impacts on the broader community and the financial institutions must be held accountable for ensuring that stated outcomes are achieved.

This area, if properly implemented and enforced is a vital component of any planned response to the collective financial that we find ourselves in and I am encouraged by the open process adopted by the Agencies in drafting the regulations. Thank you for your time.

MR. WALSH: Thank you. Eric Weaver.

MR. WEAVER: Hello and thanks for the opportunity to be here today. I am Eric Weaver. I am the CEO and founder of Opportunity Fund. We are a CDFI serving the

San Francisco Bay area and we are the largest micro lender in California, as well as the largest provider of individual development accounts in the nation. We also finance affordable housing and community facilities and we invested about 170 million dollars into the neediest communities of the Bay Area.

You have got my written testimony. I am not going to repeat that. I am just going to touch on some things I heard today.

We started as a multibank CDC in 1992. So about 18 years of working with banks investing in low- and moderate-income communities. And one of the things I want to share is that banking consolidation has really not been a good thing for most lending intermediaries. We have had several situations of a large bank acquiring a medium sized one and, as a result of that, reducing its level of investment with us. And I think there needs to be something to at least slow down that process, if not reverse it with CRA.

Times like we have just been through I think have really shown us, those of that have been with us a long time, which banks are really our friends and which are not, which ones are really dedicated to CRA.

My experience right now is it feels to us as though the Community Reinvestment Act is not being enforced in a meaningful way in the wake of the banking crisis. We have an excellent track record as a CDFI. I think we are one of the safest investments around but we have seen bank investments in our loan pools decrease from 22 million to ten million just recently. And I am just kind of wondering, how does that happen? How does that -- Why are banks not concerned about the ramifications of cutting back so drastically on the investments with us? This is right after many of the same banks had gratefully accepted taxpayer-funded relief.

You know, and I think obviously

there needs to be -- Other people have said there needs to be something factoring in safety and soundness in looking at CRA investments because you have got banks that had worked with us for 15 years, withdrawn from our loan pools. At the same time, you had banks like WaMu and Wachovia earning excellent CRA ratings as they were flooding low-income neighborhoods with toxic loans. And so it wasn't CRA that drove them to do that. It was profits.

I think somehow as we think about reforming CRA, we need to be thinking about not just how many loans you are making in this community but what kind of loans and to who, and who are we supporting and not supporting.

As you think about the possibility of the community development test, whether that is included for not, I feel like there may not be enough emphasis on saving products and wealth creation in CRA. That is something we do a lot with. And we have been doing individual development accounts, which are a match savings account, for many years now. We have proven the success of that model. But really Citibank is the only leading bank that is doing IDAs at any scale. And it is confusing to me why another bank has not been motivated to get into doing that.

As a micro lender, we make very small loans to very small businesses. I see the idea of increasing the limit on what qualifies as a small business for CRA credit. I think that is probably a good thing. But I think there needs to be some kind of specific credit or extra credit or carved out credit to loans to very small businesses, whether the bank is doing it directly or making investments in CFIs that are doing it. So I think just increasing that ceiling without looking at the real micro lender would inevitably lead to less money flowing there.

I don't at all approve the idea or

support the idea of expanding CRA to include middle-income. I think it was designed to address needs in low- and moderate-income communities. Where some specific issues are related to this financial crisis, I don't think we should change CRA permanently for the future in reaction to that. And I will stop there.

Thank you.

MR. WALSH: Thank you. Debra Beard.

MS. BEARD: Good afternoon. My name is Debra Beard and I am one of the tens of thousands of homeowners here in California who are struggling to keep their home out of foreclosure. I am here speaking on behalf of the members of the statewide community group, ACCE, The Alliance of California for Community Empowerment.

My husband Tommy and I are typical American homeowners. We have lived in our Watts home for over 25 years and our kids grew up there. Tommy has worked as a hospital cook for over 18 years and I have worked as a teacher assistant at a local school for over 11 years.

We at ACCE believe that the Community Reinvestment Act should be revised with an eye towards repairing and restoring neighborhoods that have been devastated by predatory lending and the economic crisis caused by Wall Street's greed.

For over 20 years, many ACCE leaders have been working to ensure that good quality credit, meaning not predatory credit, is extended to qualified borrowers in our communities. Homeownership and small business creation are two cornerstones for strong, stable communities. And now we are watching as these hard-earned gains are stripped away, gains earned by families often working long hours at low wage jobs to provide a decent home and a better future for their children.

The Community Reinvestment Act

should be revised to make sure that lending institutions can provide our communities with equal access to quality fair lending and address some of the new problems that these same lenders have created. In other words, CRA must ensure that the communities that were impacted by predatory lending are not subjected to a new form of redlining in the name of financial prudence. We need to make sure that credit is extended in our communities to qualified borrowers.

Steps must be taken to help the folks that have had their credit destroyed as a result of the predatory lending and the economic crisis brought to us by Wall Street. Borrowers' credit scores can fall off by as much as 135 points, once they fall three months behind on a mortgage. According to a recent FICA report, more than 43 million Americans now carry a credit score of 599 or below. Prior to the subprime mortgage crisis, most borrowers were able to secure a loan with a credit score of 640. Lenders are currently requiring a score in the 700s to obtain financing.

Banks should have affirmative programs to help rebuild credit in the communities damaged by the housing meltdown and the recession. They should assist people in restoring their credit when their credit has been damaged by loss of income or other events outside of their control. Banks should also develop innovative mortgage programs for low- and moderate-income people, which includes low down payment loans and underwriting, which properly evaluates their income, savings, debts, and credit.

In terms of the CRA review, process of bank performance, one, evaluations must include race and ethnicity, and not rely just on income evaluations.

Two, the world of community groups in the process must be strengthened. CRA agreements between lending institutions and community organizations should be considered positively in the CRA review and in any exams involving mergers or acquisitions.

Three, any institutions which receives an unsatisfactory rating should be encouraged to partner with local nonprofit community organizations they serve as part of the corrective plan to find collaborative strategies to improve community investment.

And four, an evaluation of the assessment area should provide enough level of detail that even if an institution receives an overall satisfactory or higher rating, geographic areas with inadequate performance should be identified and an improvement plan required before the next review.

And of course, none of this works unless all lending institutions are covered by the law.

I am glad you have come out to California but sitting inside listening to talking heads is not enough. You need to come out to my neighborhood. I will take you down streets that a year ago were full of families that are now full of vacant houses.

I will take you to visit Millicent "Mama" Hill, an amazing woman who taught in South LA schools over 30 years until she retired and began to mentor and tutor neighborhood children. She is now a renter in the home that she had owned for years, one more victim of the predatory lenders of Wall Street that were allowed free rein to wreak havoc on our neighborhoods by our so-called government regulators.

It is time for you all to step up. Step up to the big banks that have done so much damage to working class communities across the country. What I am really saying is it is time for regulators to look out for Main Street, not Wall Street.

Thank you for giving me the opportunity to speak.

MR. WALSH: Thank you. Bernard

Deasy.

MR. DEASY: Good afternoon. My name is Bernie Deasy and I am president of Merritt Community Capital. We are an Oakland-based tax credit investor serving the State of California. But today I am speaking to you on behalf of the National Association of State and Local Equity Funds, an organization comprised of 16 firms around country serving in 36 states that have raised over seven billion dollars and produced over a 100,000 units of tax credit housing.

And you call know that the low-income housing tax credit program has been a tremendous engine for producing affordable housing over the last 20 some-odd years, as well as thousands of construction jobs related to those projects. But in today's environment, we are trying to raise more funds for tax credit investments. The fact that Fannie Mae and Freddie Mac are no longer investing in tax credits when they comprised about 40 percent of the market in the past has caused a tremendous shortfall in tax credit equity investment.

Many banks, CRA-motivated banks, have been tremendous source of tax credit equity over the past years but today we are looking at some barriers to their investing that we want to clarify and we want to remove.

One of the things that needs clarity is the regulations that govern the assessment areas and how they are evaluated. In today's Q and A one section refers to the fact that a bank may receive credit, consideration for credit, if they have adequately addressed the community needs in their area but are investing a project that may be within the footprint of an investment opportunity but beyond the footprint of their particular assessment area.

And what we are recommending specifically is a change in the Q and A which basically would say that some institution that has been demonstrated on its last exam to adequately address community development needs in an assessment area receive full credit for community development activities that benefit a geographic area located somewhere within the broader state-wide or regional area that includes the institution's assessment area but may not actually have a specific project in that assessment area.

This will allow a bank that is essentially looking at, say, Los Angeles only to get credit for investing in an entity that provides investment opportunities that are broader than the county of Los Angeles but include the county of Los Angeles. That will essentially give more firms the clarification and the confidence that they will receive appropriate credit when making such investments. And it is clear that in today's market, we are trying to generate more investment and tax credits and we need this clarity of regulation to allow banks to proceed with the confidence that they will receive the appropriate credit.

Thank you for your attention and the opportunity to speak to you today.

MR. WALSH: Thank you. Dora Westerlund?

UNIDENTIFIED SPEAKER: She's not here.

MR. WALSH: All right. Joni Halpern.

UNIDENTIFIED SPEAKER: She's not here either.

MR. WALSH: Okay. Michael Banner.

UNIDENTIFIED SPEAKER: He's not here, either.

MR. WALSH: Okay, Carol Gallant.

MS. GALLANT: Good afternoon. I want to thank you for convening these hearings about the Community Reinvestment Act. The CRA is a critical element in the ongoing work to increase economic opportunity in the nation's poorest communities.

My name is Carol Gallant and I am the Director of Program Development for the largest Asian community development corporation in the nation, PACE. Founded 35 years ago to serve Asians, we now serve all low-income ethnic minorities, immigrants, refugees and asylees that are in the Los Angeles area, more than 50,000 a year.

I have submitted my whole written comments and we are getting kind of late and thanks for still being awake. So I am just going to give you an abbreviated version.

In the years from the late 1980s until now, CRA has been eroded by factors that have been discussed here today and at other hearings. Changes in the size of regulated institutions, mergers, acquisitions, failures, the evolution of new types of non-bank entities, and the economy in general to name a few. As CRA has been watered down, credit availability for low-income communities and direct bank participation in community-based organizations has also been eroded.

In 2010, the extent of the dilution of CRA is evidenced by the fact that 99 percent of the banks pass their CRA exam. Are 99 percent of the banks examined really meeting the credit needs of all the communities from which they get their deposits? I can only speak about PACE's experience.

Over the past two years, the number of small business loans that our clients were able to get funded from banks declined by 79 percent and the amount of the loans received by small businesses declined by 83 percent. These statistics, while shocking, still do not tell the whole story of how unavailability of credit affects real people.

One of our clients was a man I will call John Tran. Mr. Tran came to the U.S. as a refugee from Vietnam in the late 1990s. Although he was working as a teacher back home, his lack of English language skills prevented him from pursuing a job in his profession. Mr. Tran came to PACE's Business Development Center for entrepreneurial training. He was able to start a seafood delivery business and by 2006, his business was prospering. He had a delivery truck and employed two other people.

Mr. Tran ran the business profitably and saved as much money as he could so that he could buy a home for his extended family, which included himself, his wife, their two children, his wife's parents and a cousin.

As the business continued to grow, he needed additional cash to pay his suppliers while waiting for 15 to 30 days after delivery for payment from his restaurant, grocery, and other customers.

Turned down at the bank for conventional small business financing, the loan officer suggested he use a home equity loan of $50,000 to provide the financing that he needed. In 2008 his home equity loan was frozen, his rates on his credit cards more than doubled and suddenly he had no sources of cash to get the next batch of supplies and to pay his employees.

The final blow came with the dramatic increase in gas prices. With no source of operating capital and increased operating costs, Mr. Tran was forced to give his trucks up. Without his business income, he started falling behind in his mortgage payments. He came to PACE to get help with the short-sale process. We managed to negotiate with the main bank but the secondary loan holder refused. His home was foreclosed and he moved out of state. His American dream of success that once seemed so close was dead.

We need the unequivocal buy-in and commitment of financial institutions to comprehensive community development as an essential ingredient in the ongoing effort of our neighborhoods and our nation to continue to address the problems of persistent poverty.

Thank you.

MR. WALSH: Thank you. Richard Alarcon.

MS. BRENNAN: Hi and good afternoon. I am not Richard Alarc¢n but I am his staff. My name is Sarah Brennan. I am here to testify on his behalf.

Richard Alarcon is the Los Angeles City Councilmember representing the Seventh District of the City of Los Angeles. That includes many communities in the Northeast San Fernando Valley with over 250,000 residents.

Councilmember Alarcon wanted to deliver these remarks personally but, unfortunately, he is unable to attend due to a funeral. He did submit prepared testimony last week and since time is limited today, I am just going to touch on the heart of his remarks.

Both here in Los Angeles and

across the country there is growing interest among local governments to invest resources in financial institutions that are, in turn, reinvesting in our local communities. In a time of economic distress, this is a budget neutral way to promote economic activity at the local level.

Here in Los Angeles, Councilmember Alarc¢n is spearheading the Responsible Banking Act in City Council. This Act will prioritize investing city dollars in financial institutions that demonstrate their local reinvestment activity within Los Angeles. The initial version of the bill was unanimously passed by Council this spring and the city attorney's draft ordinance is now being circulated.

Councilmember Alarcon believes the logic is simple, that taxpayers can and should expect that at least some of their tax dollars be reinvested locally, whether in local businesses, local teenager development projects, or to promote local homeownership. Of course, this rationale is similar to what drove the creation of the Community Reinvestment Act over 30 years ago. Namely, that financial institutions have the obligation to serve the communities with which they do business. However, in order to enact meaningful local policies that leverage this area, such as Los Angeles' Responsible Banking Act, the job of local governments will be made immeasurably easier, with the assistance of federal regulators, by collecting the data needed for this effort.

Modernizing the Community Reinvestment Act must, therefore, include local data disclosure. Cities and communities need the tools with which to gauge the investment of financial institutions at the local, rather than aggregate level.

For example, the FDIC's annual summary of deposits could be modified to collect information on lending commercial, industrial, and residential by branch or by zip code. This type of data could be used not only by cities, but by academics and nonprofits to better monitor the effects of CRA on a local level community as well as to measure the success of initiatives such as the one that we are trying in Los Angeles.

Finally since we know today that not all communities served by an institution have a local branch in that community, it would be necessary to have this type of information from financial institutions that do not have a branch but do lend within an area zip code.

On behalf of LA City Councilmember Richard Alarcon, thank you for the opportunity to testify and thank you for considering these types of local data disclosure, which would allow cities a greater role in leveraging the CRA.

MR. WALSH: Thank you. Robert Wiener.

MR. WIENER: Good afternoon. Robert Wiener with California Coalition for Rural Housing. Since we are using a lot of superlatives, we are the oldest statewide association of affordable housing developers and advocates in California.

Our members work in rural areas, urbanizing areas of California and these are areas that even before the current economic crisis had been beset by endemic problems, such as double digit unemployment, typically three to four times greater than the state rate; very low incomes because of seasonal labor based on agriculture, tourism, and services; some of the highest child poverty rates in the United States, comparable to Appalachia and to the Mississippi Delta; high concentrations of farm workers; and Native Americans who are some of the worst housed populations in the United States, living in third-world housing conditions; and discriminatory lending practices that have long-plagued rural areas equivalent in very many ways to inner city areas, redlining, higher interest rates, shorter amortization periods, high down payments, and predatory lending.

Recently, we conducted a survey of our members and found the following. Number one is that banks are not lending for land acquisition and construction of single-family homes, especially for mutual self-help housing, which is a specialty of our members similar to the Habitat method. And even though there is a huge demand for this kind of housing in rural areas, and virtually a zero foreclosure rate.

Number two is when banks are lending, they are imposing very unreasonable terms and conditions, such as requiring a contract of sale even before the units are built and providing a loan to value that used to be 70 percent and is down now to 50 percent. And because appraisals are artificially low, that means that banks are virtually lending very little for development in rural areas.

Moreover, in some cases they are calling loans, existing loans, forcing projects into foreclosure. They are also selling foreclosed properties to speculators, rather than to socially-minded nonprofits. Our members are trying to pick up developed lots and banks are ignoring them.

Recently there has been a resurgence of tax credit investment in urban areas but not so in rural areas. CDFIs are having difficulty getting banks to capitalize and invest in rural areas. So basically, there is a total - almost a moratorium - on rural lending.

So we recommend the following. First off, as many have said before, assessment areas need to be reconsidered so that you look at not the percentage of a bank's portfolio in a particular community, but the percentage that bank's lending represents within that community, which should increase the percentage of rural lending.

Moreover, banks should receive credit for investing in rural counties, investing outside of their assessment areas. Assessment areas should be based, should be evaluated using the same criteria, regardless of the size of the lenders, which again discriminates against rural areas. Performance evaluations should be based upon the investing in minority communities, low-income communities, difficult to develop projects.

Finally, banks should also consider -- The regulators should also consider looking at the non-depository nonbank affiliates, such as mortgage companies and other entities that provide lending.

Thank you very much for your consideration of our proposals.

MR. WALSH: Thank you. Ann

Silverberg.

MS. SILVERBERG: Good afternoon. Perhaps I am the shortest to provide testimony this afternoon.

My name is Ann Silverberg and I am the Vice President of Bridge Housing Corporation, a California-based nonprofit developer of over 13,000 affordable homes for working families and seniors.

I am here today in my capacity as President of the Board of Directors of the Nonprofit Housing Association of Northern California, NPH. NPH is the collective voice of those who support, build, and finance affordable housing in Northern California. NPH promotes the proven methods of the nonprofit housing sector and focuses government policy on housing solutions for lower income people who suffer disproportionately from the housing crisis.

I would like to thank you for this opportunity to provide comments on how to improve and modernize the regulatory implementation of CRA. CRA-based incentives have acted as a catalyst for private investment in high impact affordable housing and community development projects. NPH members have developed thousands and thousands of units of affordable housing in partnership with CRA-motivated financial institutions that have invested in low-income housing tax credits and have acted as commercial lenders for affordable housing developments.

Through these partnerships, NPH members have identified two key issues that can be improved through updates to the CRA regulations. And a lot of my comments here echo those of the testimony that you have heard earlier and the written testimony that you will receive. So at least we are thinking alike.

So first community development. We recommend an approach that increases the focus and importance on community development activities within the CRA-examination and reporting framework. Building and rebuilding healthy communities should be an integral, separate and measurable part of CRA examination reporting structure. The regulators should expand the term "community development" to include loans, investments, and services by financial institutions inside and outside their assessment areas, using a new category of national needs. And I think that is a term that has been talked about.

CRA examinations should also include a new community impact category for qualitative extra credit to financial institutions that lend to, invest in, or provide service to nonprofit developers, CDFI lenders and others.

Incorporating these aspects into CRA evaluations will help ensure that financial institutions have appropriate incentives to make loans and investments that can create qualitative community value and meet community needs.

The second point that I would like to address is assessment areas or geographic coverage. The region, area of many financial institutions -- I thought it was the bell. Racing against the bell.

(Laughter.)

MS. SILVERBERG: The reach and impact of many financial institutions can and have often extend far outside their physical deposit-based assessment areas. Increasingly, financial institutions are conducting business and we see the economic benefits from markets where they have little or no physical presence. CRA assessment areas should be rethought to ensure financial institutions provide significant community benefits at local and national levels.

Assessment areas for large national financial institutions should be expanded to reflect the broad impact these institutions have outside their current assessment areas. These institutions should be evaluated on their performance in large metropolitan areas where they have a physical presence, as well as in their investment within a state and then their efforts to meet nationwide community development challenges, such as affordable or special needs housing.

Large institutions should also receive CRA evaluation credit for lending and investments in entities like nonprofit, mission-oriented community development organizations, and conduits like tax credit funds, CDFIs that operate outside their assessment areas. These flexible assessment criteria will create incentives for banks and financial institutions to undertake broad community development activities based on a variety of community needs.

CRA has helped to create thousands of units of desperately needed affordable -- there it is -- affordable housing in California and I appreciate the opportunity to make these comments today. Thank you.

MR. WALSH: Thank you. If you had only cut off that last line.

(Laughter.)

MR. WALSH: Dorothy Herrera.

UNIDENTIFIED SPEAKER: She's not here.

MR. WALSH: Okay. Abigail Marquez.

MS. MARQUEZ: Good afternoon. Abigail Marquez. I am providing testimony on behalf of the City of Los Angeles Community Development Department.

The Community Reinvestment Act is an important legislation that encourages financial institutions to invest in our communities. Many of our low-income neighborhoods need responsible banks that offer low-cost products and services to help people manage their household budgets, save for the future, and build assets.

Unfortunately, because of the lack

of bank activity in some communities, many people utilize check cashers and payday lenders that will charge them usurious fees. While these institutions are providing a service, they don't offer products that help people build wealth.

Studies from the Brookings Institution and the Center for Financial Services Innovation estimate that Los Angeles has 500,000 unbanked individuals. In addition, recent research from the Pew Charitable Trust concludes that substantial segments of the Los Angeles population continue to find existing banking products and services unsatisfactory.

To help educate people about the value of having a bank account, the mayor's office launched the Bank on LA Campaign last year to promote banking and to refer people to low-cost bank accounts. The campaign brought together 12 financial institutions and recruited nonprofit organizations in partnership with the United Way of Greater Los Angeles.

The Community Development Department has also made a significant investment in helping families become economically self-sufficient. With the recent redesign of our human service delivery system, our city now has the infrastructure in place to support low-income families. Our department manages 21 centers referred to as the family source centers, which are providing coordinated services to families most in need.

Our family source centers have also adopted initiatives such as Bank on LA and are expected to promote the campaign, deliver financial education, refer unbanked clients to local banks, and track their progress. However, because many of our centers are located in areas of the city with the highest concentrations of poverty, many of the centers do not have a local financial institution in their neighborhood where they can refer clients.

Our city's system to support the unbanked is expected to touch 50,000 people annually and we hope to work together with banks to serve this population.

As the CRA is being revised, the needs of the unbanked in Los Angeles should also be considered and programs like this should be supported. Thank you.

MR. WALSH: Thank you. Sofia Quinones.

MS. QUINONES: (Speaks in Spanish.) My name is Sofia Quinones. (Speaks in Spanish.) -- Los Angeles.

I came here today because I am coordinating and organizing for the first time in Los Angeles a Spanish language workshop entitled Capital Para Su Negocios, Capital for Your Business. And it astounded me that it had never been done in Los Angeles before. So I contacted SBA, U.S. Department of Commerce Minority Business Development Agency, contacted the Board of Equalization and I said I can't believe this has never been done before. So I am targeting specifically Spanish language businesses. And I am going to tell you people in this audience, every business I have talked to does not know of SBA and does not know of CRA. When they hear of CRA, they say eminent domain because they think of a Community Development Agency.

And just as some background, I also have a degree in Mexican-American studies. So having an understanding culturally, you know, the background and the history of your community is very important, specifically because of past wrongs, issues of discrimination, redlining, at least LA was redlined, it was one of the first examples.

We are not a part of the City of Los Angeles. We were segregated. And unfortunately we have inherited a lot of that disenfranchisement and we are trying to bridge that gap with the lenders. The federal government bailed out big business but what about small business?

We also got involved because we have major development with East LA Gold Line Extension and it was a devastation. We lost businesses all around the corridor because they just could not deal with that project and the businesses went under.

Another issues that has really devastated minorities is the passing of the AB 32. I am a member of the Sierra Club but then I have seen the devastation. It has annihilated small business.

And if the government is going to hold businesses accountable to deal with this regulation, it needs to hold the banks accountable. And there is predatory lending that there is no oversight on and that has to do with vehicles, machinery, and development. It has been outlawed yet banks continue to allow the financing of this equipment, machinery and vehicles. So now you have businesses saying that I owe $150,000 on this and $200,000 on that and now I can't even use it and you are telling me it is bad.

So this has negatively impacted the Spanish language community and also other communities in Northern California that speak Punjabi in specific industries. It also impacted small business and small farms, organic farms. We are now going to have larger factory farms take over those small farms because farmers cannot deal with the upgrade and dealing with the California Resources Board and dealing with the grants that were supposed to go to small business negatively impacted California because the majority of those grants went to businesses outside of California and that is just wrong.

So I am trying to do a lot of things. When we were talking about comprehensive workshop, you just can't build housing when you already have a triple truck system, when emergency rooms are crowded and we do not have the infrastructure to build more affordable housing in areas of color but I have already been inundated with it. And then when we do get these housing projects, they are cardboard boxes. And we are now looking at the contractor now. There is a lot of problems with housing and contracting.

So you know, we are having our workshop on the 26th and I came here to see if you are a lender and if you want to partner with East LA and specifically the Spanish language community, please contact me. Because as I mentioned, no one knows who CRA is and people don't know who SBA is because there is a language barrier. And hopefully you can, as a Board, also deal with that by upgrading your web page so that we can go access it and it can be in Spanish with the simple click of a button. I am hoping you can do that. Thank you.

MR. WALSH: Thank you. Mr. Banner? Okay. We have someone who was joining us, Michael Banner.

MR. BANNER: Thank you and I apologize for not making it earlier but I was trying to help our housing authority figure out a strategy of how to survive.

I am here today to speak about something you have probably heard about ad nauseam, small business lending. I represent a local community development financial institution, 30 years old, and all we do is business lending.

And I particularly wanted to emphasize the point that we have had the system now where if financial institutions that participate, and I will tailor these comments to the Small Business Administration program, 7(a) program, which is dominated by big banks. They have moved away from it, so the market collapsed.

One of the solutions that I would advocate for is that the CDFI industry be induced, incentived, cajoled, and assisted in getting involved in lending in that particular space under the current guidelines. In order to do that, though, they are going to need investment from financial institutions to serve that market. And I think it is particularly important when you look toward the performance historically in a bank-only driven SBA lending program like the 7(a) and what has happened to minority borrowers.

If you believe that small business is the driver for economic development and a lot of communities, especially communities of color, access to capital goes hand-in-hand with that. If you have bank-driven programs that have a pretty abysmal rate at lending to minority borrowers with a government sanctioned guaranteed program, I think it is time to let other people take a shot at it.

But what you have to be able to do is to induce financial institutions through maybe some tinkering with CRA that there is an incentive for them to support with investment.

The institutions that actually want to try to serve that market, and it is attributed to the comments just made by the prior speakers, that there are markets where people don't know what SBA means because nobody is talking to them. There is not outreach there.

Finally, the other thing I would suggest that you probably heard a lot about is keeping score. Should we be collecting information on ethnicity, race, and data for small business lending like we do in HMDA? I would urge you to think that yes, we should. It is clear that you can't fix a problem if you don't know the magnitude or have information about the problem. And collecting the data would be one step along the way, some people might say it is intrusive but it would be the way to find out exactly what is going on, who is doing it and how we can change behavior and meet the needs in communities, once we have information.

I happen to serve on an advisory

board for a bank here in California which actually has a special program that is allowed by a regulatory agency to collect information like this on small business lending.

I have been told and have seen data that would suggest that those loans perform just as well as the loans in their regular portfolio. So the fact that ethnic borrowers, minority borrowers aren't getting access to capital, there is evidence that their loans will perform just as well as anything else to me is a disparity and it is a disparity we can fix.

I thank you for your appreciation in listening to my comments.

MR. BOWMAN: Thank you.

MR. WALSH: Thank you very much.

And that brings us to the end of our list. I would like to thank our individual witnesses for their testimony. And with that testimony, that concludes the last of the four public hearings on revising the

Community Reinvestment Act regulations. We have heard from a broad spectrum of community leaders -- Do we have one more? No. -- community leaders, bankers, nonprofit organizations, individuals who provided a range of ideas for how we might proceed in updating the regulations.

In addition to this series of hearings, as I mentioned a couple of times, we have invited the public to comment in writing and those comments are due by August 31st. After this comment period closes, we will begin the next phase of our regulatory review process, which involve a careful review of the testimony and the public comments we receive to identify areas in which we think changes to the CRA regulations may be appropriate and beneficial. Then we will roll up our sleeves to develop proposals that address those issues.

Any changes we propose to the CRA rules will be published for public comment.

From the testimony we have heard today and at the other hearings, I can tell you that we have a lot of good ideas that will help to shape the next phase of our work.

In concluding, I would like to thank the OCC staff members Beth Castro, Sharon Canavan, Susan Howard, and Hershel Lipow, the terrifying man with the bell, for their work in organizing today's event.

I would also like to thank the staff of the Federal Reserve Bank of San Francisco, Scott Turner and Michelle Estabo who were instrumental in helping us coordinate all the details for today's hearing. I want to thank all of you for participating and this hearing is adjourned.

(Whereupon, at 4:32 p.m., the foregoing proceeding was adjourned.)

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