



NEWS RELEASE

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It's a pleasure to join the Consumer Bankers Association and its members, who have been the catalysts for so much of what's working in American banking today. The banking industry's contribution over many years to the rise in home ownership, the growth in small business formation, and the improvement in material well being in the United States is beyond calculation, and CBA's members have long been in the forefront of progressive change in each of these crucial areas. I appreciate the opportunity to participate in this CBA conference. Your topic, the Community Reinvestment Act, is very timely.

The ability to anticipate and adapt to changing times has been one of the keys to your success, and change is the theme of my remarks today. In 1919, when CBA was founded, retail banking was still struggling to overcome an unfortunate reputation as a specialization somehow beneath the dignity of respectable bankers. Fortunately, that's a stigma that no longer exists, due in large part to the high standards and technical competence that CBA has effectively advocated and upheld. As with the issues that absorbed it back then, the issues that are prominent for retail bankers today -- customer privacy, responsible lending practices, and community development, to name a few, are fundamental to the industry's credibility, and, therefore, to its profitability, both today and into the future.

As regulators, we face a similar challenge -- specifically, the challenge of assuring that the regulations we're responsible for writing and enforcing faithfully implement the statutes on which they are based *and* continue to be relevant to the evolving requirements of a changing industry -- even if the statute is decades-old. This has never been easy, in part because of the requirements of the regulation-writing process itself. Much as we have tried to modernize our rules and streamline our procedures and make them more efficient -- and as OCC Chief Counsel, I can tell you that few things have absorbed more of my time and attention -- producing timely and meaningful regulations remains a complex and challenging process. Yet, outdated and obsolete regulations are inherently burdensome and represent an unfair drag on your ability to compete and effectively serve your customers -- and we must do what we can to change them.

The challenge of producing regulations today is greater than ever before, because change is occurring faster than ever before; in other words, the velocity of change is steadily accelerating. That places growing pressure on regulators to ensure that regulations reflect the realities of the current financial marketplace, and embody some elasticity to be durable in the face of constant changes in the industry. This balancing act also must be coupled with the need to keep regulations appropriately tethered to their underlying statutory authority.

Since CRA is what this conference is all about, let me use it as an example of the challenge we face -- and how we're responding to that challenge.

It was only 24 years ago -- still a living memory for most of us -- that the Community Reinvestment Act became law. Yet one could argue that the financial world of 1977 more closely resembled the world of more than fifty years earlier, when CBA was founded, than it resembles the one in which we operate today. When CRA became law, the typical financial portfolio -- even in well to do American families -- consisted of one or more passbook accounts, a stack of savings bonds, and a few shares of AT&T or something similar. Back then, American households owned nearly three dollars in bank deposits and government securities for every two dollars in stocks and mutual funds; today, the ratio is roughly one to two.

There were only a tenth as many ATMs then as there are today, and they were little more than rudimentary cash dispensers. Of necessity, then, the great majority of banking transactions were conducted face to face, during what were derisively -- or enviously -- referred to as "banker's hours."

The industry itself -- with more than 14,000 independent offices -- was more fragmented in 1977 than at any time since the Great Depression. In the absence of general authority to branch interstate, banks were overwhelmingly local businesses, operating in local, largely sheltered markets, facing limited competition. The balance sheet reflected this structure: working with a big base of core deposits and generous spreads, banks earned ten dollars in interest income for every dollar of noninterest income; today, the ratio is more like two to one. Senator Proxmire's statement in 1977 about the need for the CRA illustrates how differently the world of banking was viewed: A reason for CRA, he said then, was to "encourage bankers to get out of the office and walk around the block and find loan opportunities here at home...."

That was a snapshot of the financial world of 1977, when CRA implementation began. The rules written back then were probably right for their time. They established basic procedures and requirements, and defined the standards for CRA compliance. But within ten years, many found flaws in those rules -- principally that the process aspects of the rules did not seem to be producing the tangible results that were the goal of the law. Some have referred to the old rules as producing a "paper chase." And so in 1995, the CRA regulations were revised, shifting the focus away from process toward the achievement of results, as measured by actual loans made, services performed, and investments consummated. In management jargon, this could be characterized as a shift from "inputs" to "outcomes." Many institutions found that, properly managed, community development lending and investment could make a positive addition to the communities they served and to their own bottom line.

Some would say that we should now leave well enough alone. But, when the current rules were adopted, the banking agencies pledged to review how they were working after five years in effect -- 2002. And, even if the agencies had not made that promise, the extent of the changes that have taken place in the banking system since then make a case for reviewing the regulations anew, to ensure that they retain their relevance and effectiveness.

The changes that have occurred in the industry since 1995 would be no less startling if they had occurred over a much longer period of time. Industry consolidation is perhaps the most visible of these changes: there are some 6000 fewer banks today than there were in 1977, and 1500 fewer than just six years ago.

Even more significant for purposes of our discussion today is the reach of the institutions that remain. The Riegle-Neal Interstate Banking Act of 1994 swept away most interstate banking restrictions and has given rise to national financial institutions that operate from coast to coast. This, in turn, has raised questions about the way they are evaluated under CRA. For example, how do we define, for CRA purposes, the “assessment area” of institutions whose name brand and products -- whether delivered through traditional brick-and-mortar outlets or, as is increasingly the case, over the Web -- now extend into every corner and community, and potentially every computer, in America? The language of the statute, with its references to “local communities,” could begin to sound anachronistic in the future if facility-based delivery systems tied to particular geographies are overtaken by boundless technology-based systems. It’s even been argued that the current CRA definition creates a disincentive for institutions to extend credit in low- and moderate-income communities where there are market opportunities, if they happen not to have branches there. That’s led to suggestions that institutions be permitted to designate non-branch based assessment areas.

Additional examples abound of how a changing industry throws CRA into a new light. The revolution in retail bank delivery systems has reduced some costs, increased convenience, and expanded access to banking services for millions of Americans. About 13 million U.S. households banked online by the end of 2000 -- twice as many as in the previous year -- and the outlook is for that number to double again in the next year. Millions more bank by phone, and take advantage of direct deposit, full featured ATMs, and debit cards. For example, between 1990 and 2000, the number of purchase transactions using debit cards in this country increased by an astonishing two thousand percent, and the forecasts call for another tripling in the volume of transactions by the year 2010.

With all of this new and improving technology, it’s possible for a typical bank customer to go months -- even years -- without setting foot in a branch or speaking to a teller. And even where banks today do maintain a physical presence, it is often a nontraditional presence -- a loan production office, for example, which is not a branch and does not accept deposits.

How do we square this new reality with the emphasis in the CRA rule’s service test on branch outlets? Would the goals of CRA be better served by encouraging financial institutions to focus on developing innovative non-traditional means to address financial services needs? Or, as some tell us, should financial institutions continue to be encouraged to deliver banking services through traditional physical facilities because they are necessary, especially in low- and moderate-income neighborhoods where consumers may not have access to electronic banking services? And finally, we must remember that efforts to regulate this new reality must be squared with the “old reality” reflected in the statute itself.

In reviewing the CRA regulation, we seek answers -- from you and all other affected parties -- to these types of thorny questions.

The changes in the industry’s corporate structure have been accompanied by equally far reaching changes in the composition of bank portfolios, and these changes also have important CRA implications. Specialization is increasingly the rule in the industry, as financial institutions, of all sizes, drop or outsource product lines in which they lack resources or critical

mass, choosing to focus instead on those product lines in which they command significant market share. In keeping with the growing emphasis on fee income, banks are also holding fewer and fewer of the loans they originate and securitizing more of them to others.

The mortgage business is one example of this change. Many banks are leaving the mortgage business, and some of those that remain are originating fewer loans through their own offices, turning increasingly to mortgage brokers.

Credit cards offer perhaps the most vivid illustration of the trend toward product concentration. Eighty percent of all Americans now carry at least one bank card, and increasingly, the cards they're carrying are from the same banks. In just the last ten years, the top ten issuers of Visa and MasterCard saw their market share increase from 51 percent to 82 percent, with the top five accounting for nearly 57 percent of the total market. Last year alone, more than four percent of all credit card receivables were sold by smaller issuers to larger ones, with the top two issuers taking almost 80 percent of that business. While the big keep getting bigger, many of the others are dropping out of the race altogether.

What ramifications do these changes pose for CRA? Under the current framework, the CRA lending test is weighted most heavily in formulating a large retail institution's summary rating. But that puts banks that have chosen to curtail their retail lending activities at what some say is an unfair disadvantage. In such cases, they argue, the investment and service tests ought to rank higher. Others still insist, however, that deposits derived from the community should be invested back in those communities through loans.

The prevalence of loan securitization creates a similar dilemma. The regulations allow equal consideration for loan originations and purchases. Some have asserted that only loans originated by an institution should be considered. Supporters of this position maintain that consideration of purchased loans does not encourage institutions to increase capital in their communities and places too much emphasis on generating reportable "numbers."

Others believe that loan purchases free up capital to the selling institution, and enable it to make additional loans. Therefore, purchasing loans may be valuable in helping to meet the credit needs of a community. As such, they argue that both purchases and originations should be considered, although some argue that originations should be weighted more heavily because they require more involvement by the institution with the borrower. Still others propose that all secondary market activity, whether evidenced by purchased loans or purchased asset-backed securities, should be captured under the lending test because they both involve loans.

The types of questions I've raised here today -- and others I have not touched upon -- will be presented in an Advance Notice of Public Rulemaking, which the banking agencies are now developing. We welcome -- and need -- need your comments to ensure that any changes we eventually undertake make sense, and make the CRA rule both more effective and efficient.

On that score, let me emphasize one final point. It is relatively easy for commenters to address a single dimension of the current regulation, to suggest, on the one hand, that the agencies should eliminate provisions from the current rule, in order to make it less burdensome, or, on the other hand, to urge that new measures and new recordkeeping requirements be added in order to show institutions' performance more precisely and comprehensively. But, the challenge is actually three-dimensional: to achieve a CRA regulation that effectively furthers the Community Reinvestment Act, without imposing unnecessary or artificial regulatory requirements, and which is framed so that it reflects and can accommodate change of the type impacting the banking industry.

So I offer a suggestion to prospective commenters: Your thoughts and recommendations will be most helpful to us if they take into account not just one, but all three perspectives.

We -- and you -- face a considerable challenge. Consolidation, commoditization, and securitization have transformed the way the financial services industry is structured and the way products and services are delivered. CRA has played an important role in highlighting the variety of marketplace opportunities that exist for banks in their communities. But there's still work to be done to ensure that all of our communities are able to share in the benefits that the modern financial industry has to offer. For the foreseeable future, the Community Reinvestment Act will play a part in that effort. We at the OCC look forward to working with CBA and its members -- and all interested parties -- to ensure that the regulations implementing the CRA provide a workable framework to meet these new challenges.

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The OCC charters, regulates and examines approximately 2,300 national banks and 56 federal branches of foreign banks in the U.S., accounting for more than 56 percent of the nation's banking assets. Its mission is to ensure a safe and sound and competitive national banking system that supports the citizens, communities and economy of the United States.