testified at the public CRA hearings that members of the League support strong capital regulations, but Congress and the regulatory agencies must recognize that current risk-based capital regulations have an unavoidable impact on an institution's ability to fulfill community needs. The treatment of (capital requirements for) rehabilitation loans, apartment loans, and equity participations makes them too "expensive" in capital costs for many institutions.

During CRA hearings in 1993, an official of a large nationwide bank stated that over time her bank has learned that community development lending is not unsafe and that the bank's community development lending portfolios perform as well or better than its general market loans. The banker pointed out that community development loans look different from so-called traditional loans in that the sources of equity and debt-to-income or loan-to-value ratios are different, and the appraised value is often no measure of real value. Recognizing that these variables do not make for unsafe community development loans, the banker noted that such loans are viewed adversely from a safety and soundness perspective, and, thus, are more heavily reserved against, more heavily monitored, and, at best, more expensive to make.

During our review, we frequently heard concerns or complaints from bankers about possible or perceived safety and soundness risks in the implementation of CRA. We did not independently verify the accuracy of these claims.

\16 A loan in which the amount advanced by the lender is close to the appraised value of the property. Generally, any mortgage loan with a loan-to-value ratio above 80 percent is considered high and may require mortgage insurance.

\17 State and city subsidy loans, grants, or other equity financing that are used in conjunction with bank loans to provide the right mix of financing needed as an economic stimulus for a particular business.

INNOVATIVE AND COOPERATIVE
INITIATIVES HAVE OVERCOME SOME
LENDING BARRIERS
-- Chapter 4:2

Various individual and cooperative efforts among institutions, community groups, and others have provided the means to lower credit risk and reduce transaction costs in community lending. Although the lack of specific performance criteria in CRA has complicated compliance and enforcement of the law, it has allowed institutions flexibility in designing and implementing programs to better serve the credit needs in low- and moderate-income areas. Bankers taking a proactive approach have used the law's flexibility to create innovative programs and strategies that allow them to expand lending opportunities and increase or cultivate new markets. Also, those bankers who gain experience or develop expertise in community lending and make it a part of their normal business operations find that CRA obligations need not be perceived as a regulatory burden. Many cooperative ventures have also permitted community groups to play an important role in reducing barriers to community lending.

CRA FLEXIBILITY ALLOWS

BANKERS TO ENHANCE COMMUNITY
LENDING

-- Chapter 4:2.1

Bankers who are committed to serving the credit needs of their communities have taken advantage of CRA's flexibility and carved out ways to make loans that other bankers might not find attractive. Regulators have found, and our case studies revealed, that a more effective CRA program was generally evident when bank management exhibited certain types of proactive approaches to CRA implementation. These bankers took action to get their board members involved, reached out to members of the community to determine the needs of their communities, developed marketing and advertising strategies, and established sound CRA plans designed to address community needs. The types of initiatives implemented by bankers and found by regulators to have effective CRA performance included education and counseling seminars, community outreach efforts, flexible underwriting standards or policies, participation in government-sponsored lending programs, and implementation of special programs offering unique products or using specialized staff to better meet the needs of customers. Also, some banking associations have developed programs to inform bankers of these different types of initiatives.\18

In some cases, greater financial and staff resources of larger institutions have allowed them to create designated CRA departments that can devote time to developing and promoting various unique product lines to attract consumers. However, some smaller or rural bankers who serve predominantly low- and moderate-income areas, by necessity, have succeeded in meeting CRA goals during their normal course of business with customers. Considering their clientele and the special needs that many require, these bankers have found that to make a profit and satisfy community needs, it was necessary for them to create specialized programs and develop flexible policies. Some examples of the types of programs or initiatives that bankers have implemented to meet their CRA goals are presented in table 4.1.

Table 4.1

Examples of Community Lending Initiatives

Type of institution	Type of community lending initiative
Large, urban Boston bank	Initiated a leadership role in programs that provide affordable housing and rehabilitation projects in low-and moderate-income areas. Bank's chairman was one of the founders of the Massachusetts Bankers Housing Partnership, which has provided millions of dollars for affordable housing in its 10-year history.
Suburban, medium-sized Illinois bank	Developed a "second look" program, which provides that any denied application from an individual within its delineated community receives a loan officer review the next day.
Small, urban Dallas bank	Developed products aimed at the low-and moderate-income market. The deposit product is a low cost (minimal balance/service charge), low-volume checking account designed to help individuals establish a credit history by enabling them to write a few checks a month. A

	loan product was developed in conjunction with some local groups, and it enables individuals with no prior credit history to obtain secured consumer loans.
Small, rural California bank	Promoted fair and increased access to credit within the community by: advertising in Spanish, having a flexible (no minimum) loan amount, expanding the types of products offered (i.e., credit cards, special equity lines, Small Business Administration (SBA) loans) and evaluating loans so that seasonal employees were not disadvantaged.
Large, urban California bank	Promoted credit access through its loan agent operations. For example, it has special agents soliciting 95 percent loans (5 percent down payment). Bank also has outreach coordinators in the community who uniformly try to determine the needs and how they can be met.

Source: Information obtained from GAO case studies.

\18 For example, the increased emphasis on CRA has prompted the American Bankers Association, a national trade association of commercial banks, to establish a Center for Community Development. The primary purpose of the center is to provide information and technical assistance to its members to help them achieve their CRA goals. Most of the center's activities have focused on educational efforts, such as publishing an educational guide and a compendium of community lending agencies and organizational contacts.

INITIATIVES TAKEN TO REDUCE CREDIT RISK AND TRANSACTION COSTS FOR COMMUNITY LENDING

Chapter 4:2.2

Bankers use various mechanisms to lower credit risk and transaction costs on community loans. They have found that losses can be reduced by screening out the riskiest applicants and by supporting successful applicants before and after loans are extended. Two approaches that bankers use to help keep credit losses on community development lending to a minimum include (1) screening, counseling, and monitoring borrowers and (2) risk-sharing arrangements. Cooperative efforts also help to share costs, so costs for individual bankers may be reduced.

SCREENING, COUNSELING, AND MONITORING

Chapter 4:2.2.1

Based on roundtable discussions, many bankers agree that thorough applicant screening, applicant education and counseling prior to loan extension, and diligent monitoring of borrowers after loans are granted help lower the risks of lending in low-income areas and to low-income borrowers. Bankers and other organizations that support lending use various techniques to screen potential borrowers, including home buyer and small business education, credit counseling, and extensive direct contact with loan officers.\19 Many institutions provide technical assistance and grants to nonprofit housing counseling groups and community groups that help with loan packaging.

The groups screen potential borrowers, help assemble documentation, and make sure that applicants meet the institution's underwriting criteria.\20

They also help market and promote loan programs and minimize institution processing costs. These activities are done to allow the bankers to become familiar with the applicants and their communities.

\19 As an example, completion of a prepurchase home-buyer education program is a requirement for loan applicants who wish to participate in the Federal National Mortgage Association (Fannie Mae) and Federal Home Loan Mortgage Corporation (Freddie Mac) community home-buyer programs. The sessions, which are conducted by either a mortgage lender or a nonprofit group, cover information, such as applying for a mortgage, budgeting household expenses, and shopping for, inspecting, and maintaining a home. The purpose of the requirement is to mitigate the risks of lending within the community home-buyer programs.

\20 Some community groups with whom we spoke have been active in providing credit counseling to help low- and moderate-income consumers prequalify for loans and show them how to effectively maintain their loan payments. During our study we learned that the Association of Community Organizations for Reform Now, a community group, was given a grant by a large, urban thrift to service and counsel loans financed through a property rehabilitation program initiative.

SPREADING RISKS THROUGH CONSORTIA

-- Chapter 4:2.2.2

Lending consortia may be either formal or informal, for profit or nonprofit. Consortia often consist of institutions that pool lending money or collect equity stakes for low- and moderate-income housing and community development. The types of participants, bankers, and funding involved vary from program to program. In all cases, consortia allow institutions to spread risk and transaction costs to avoid high concentrations of credit risk in individual projects or in limited geographic areas. Risk sharing allows institutions the opportunity to expand lending through various means to nontraditional borrowers whose risk characteristics are difficult to quantify or assess. For example, they can save member institutions time and money by gathering information and developing expertise about public and private subsidy programs, the past performance of real estate developers and property management companies, and the characteristics of targeted communities and local community groups. They can attract staffs that are knowledgeable about matters such as underwriting and property appraisal. Loan consortia also provide an opportunity for smaller institutions to participate more in community development lending, because such institutions, on their own, are less able to bear the cost and develop the expertise for community development lending.

Several of the bankers included in our review said that they have participated in various consortia or multibank activities in meeting their CRA goals. Examples of some of the consortia organizations named by institutions in our sample review are included in table 4.2.

Table 4.2

Examples of Lending Consortia

Organization	Purpose of organization
California Community Reinvestment Corporation (San Francisco, CA)	A nonprofit mortgage banking consortium, which was created in 1989 by California banks to increase quality affordable housing in California. Since its creation, the 58 member banks have pooled over $100 million for community lending.
Community Investment Corporation (Chicago, IL)	An organization composed primarily of savings associations, which provides mortgage funding to rehabilitate and purchase multifamily housing.
Savings Associations Mortgage Company, Inc. (Santa Clara, CA)	A company that consists primarily of numerous savings associations which pool their resources to fund a variety of housing projects for the poor.
Southern California Business Development Corporation (Los Angeles, CA)	A multibank community development corporation that was organized to operate in South Central Los Angeles for the purpose of making loans and equity investments in small businesses that do not qualify for conventional bank financing.

Source: GAO case studies and the Consumer Bankers Association.

INITIATIVES TO ADDRESS BANKERS' CONCERNS ABOUT SAFETY AND SOUNDNESS REGULATIONS

Chapter 4:2.3

Regulators and bankers have taken steps to address potential conflicts with regulations designed to help ensure safe and sound operations. In January 1994, the Federal Deposit Insurance Corporation (FDIC) adopted changes to its risk-based capital standards that were intended to facilitate prudent lending for multifamily housing purposes. Similar action was also taken by the other federal regulators. The risk-based capital final rule lowered from 100 percent to 50 percent the "risk weight" accorded loans secured by multifamily residential properties that meet certain criteria as well as securities collateralized by such loans. The effect of this ruling is that an institution making or acquiring these loans or securities can hold less capital than required in the past under the risk-based capital standards. However, to be eligible for the lower risk weight, the loans must satisfy certain loan-to-value and debt service coverage requirements.

To ensure that appropriate and affordable financing can be provided for community development projects, institutions have often found it necessary to depart from traditional standards of credit extension. We found bankers who created ways to make secure, profitable loans while sharing costs and risks through their own individual initiatives or by employing such techniques as government loan guarantees, interest rate subsidies, or blended-rate loans with participation from public and private lenders. Examples of individual policy initiatives used by institutions are included in table 4.3.

Table 4.3

Examples of Flexible Underwriting Policies

Type of Institution	Type of underwriting flexibility
Large, urban Illinois bank	Decided that instead of selling loans to the secondary market, it would hold more loans in portfolio in an effort to reach more low-and moderate-income applicants.
Medium, suburban Texas thrift	Reviewed and changed underwriting standards as necessary to ensure maximum flexibility in approving loans. Also, a minimum loan amount is not required.
Small, urban California thrift	Worked with borrowers in making loans by considering "mattress" money, income from renting a room, or minimal down payment and no mortgage insurance.

Source: Information obtained from GAO case studies.

BARRIERS POSED BY SECONDARY MARKET STANDARDS AND SOME INITIATIVES DESIGNED TO ADDRESS THEM

Chapter 4:3

During our review, we often heard complaints that secondary market standards made it difficult for institutions to sell some of their more nontraditional loans that did not meet normal underwriting standards. Similar complaints have been made at focus group meetings sponsored by secondary market entities. The secondary market provides the mechanism for existing loans, marketable securities, and other assets to be sold to investors, either directly or through an intermediary. More specifically, the secondary mortgage market represents the national market where residential mortgages are assembled into pools and sold to investors. This market, which originated with such corporations as Fannie Mae and Freddie Mac, supplies additional liquidity to mortgage lenders.

The single most important contribution of the secondary mortgage market is the creation of a national market for resale of residential mortgages. This ensures that mortgage originators, regardless of where they are located, have access to pools of capital managed by pension funds, insurance companies, and other institutional buyers of mortgage-backed securities. Home buyers are assured an adequate supply of mortgage financing as the secondary market sales provide lending institutions with a constant source of new funds to make more home loans. Banks receive CRA credit for originating loans to particular low-income communities or individuals whether they sell the loans in the secondary market or hold them in their portfolio. Our interviews with bankers disclosed several concerns pertaining to the secondary market underwriting standards that some bankers believed pose a barrier and tend to restrict lending in low- and moderate-income areas. One primary concern was that institutions do not want to deviate from the secondary market standards because they want to be able to sell all their loans to the secondary markets. As one of the regulatory officials noted, if the secondary markets will not accept a loan, an institution is forced to keep the loan in its portfolio and assume the market and interest rate risk for the full life of the loan. Therefore, some institutions look for loans that do not have any nonconforming provisions or any questions about collateral. Other concerns raised included the following:

A thrift regulatory official noted that one of the secondary market standards that can reduce flexibility is the requirement that no more than 36 percent of the borrower's salary can be used for loan payments. In an area with high housing costs, such as the San Francisco Bay area, these standards are very limiting. He said many people already pay 40 to 50 percent of their salary for rent and are probably able to continue to pay a high percentage in house payments.

A bank management official of a large urban Chicago thrift said that Fannie Mae formulas or ratios represent the industry standard; however, he noted that he was not aware of empirical evidence that an applicant who does not meet these ratios cannot service the debt.

INITIATIVES DESIGNED TO
ADDRESS SECONDARY MARKET
BARRIERS
-- Chapter 4:3.1

Some of the players in the secondary market have begun to recognize the problems associated with the underwriting standards and have initiatives under way that are intended to help alleviate some of these problems. We did not assess the effect of these initiatives as part of this review. Fannie Mae and Freddie Mac have both announced initiatives in recent years to purchase loans with underwriting guidelines or payment terms that do not meet their more traditional loan purchase programs. Congress has encouraged these corporations to support low- and moderate-income loans by setting specific volume goals over a 2-year period, which began in 1993. For example, for all the loans they purchase, 30 percent of the units financed must be for low- and moderate-income borrowers, 30 percent must be located in central cities, and $3.5 billion ($1.5 billion for Freddie Mac, $2 billion for Fannie Mae) must finance loans to low-income and very low-income home buyers.\21

In announcing its initiatives in February 1994, Freddie Mac cited the potential effect of these initiatives on mortgage lending in inner cities as well as its efforts to broadly redefine creditworthiness. Officials of Freddie Mac stressed the fact that the clarifications do not represent a lowering of its standards but an effort to dispel misconceptions among originators of mortgage loans. Through meetings with lenders, appraisers, mortgage insurers, and others, the corporation was able to identify more than a dozen underwriting issues that were causing originators to needlessly deny credit in the belief that some particular factor would make a loan ineligible for a Freddie Mac pool. For example, numerous people thought that Freddie Mac did not want to purchase any loans extended to borrowers with one or two 30- or 60-day delinquencies in their credit histories. While recognizing that such a history could indicate a bad risk, Freddie Mac officials said that they now tell lenders that they may focus on the borrower's history of housing payments as well as consider explanations for the delinquencies. Acknowledging that the initiatives could reduce the quality of loans in its pools, Freddie Mac officials plan to vigilantly monitor the performance of the loans.

In March 1994, Fannie Mae announced its $1 trillion plan to help finance affordable housing loans by the year 2000. Significant among the 11-initiative program were 2 initiatives, 1 involving the clarification of guidelines and the other testing an approach for underwriting loans, which were intended to help break down the barriers pertaining to secondary market criteria. In clarifying the guidance, Fannie Mae officials tried to ensure that the underwriting guidelines are clear and flexible and are applied equally to everyone. To ensure appropriate use by lenders, Fannie Mae plans to

maintain a constant dialogue with mortgage lenders to identify the loan characteristics and underwriting procedures it thinks need clarification;

develop a comprehensive training program for mortgage industry underwriters;

develop easy-to-use reference tools for underwriters, including on-line access to Fannie Mae guidelines;

establish regional hotlines that lenders can call for instant guidance on underwriting;

establish an internal Fannie Mae loan review board to review loans initially rejected by its underwriters; and

make an automated underwriting system available to lenders that will use artificial intelligence to analyze loans, ensure consistency, and free up time for underwriters to work on complex applications.

Additionally, through a separate initiative, Fannie Mae announced its commitment of $5 billion to conduct experiments in new underwriting approaches designed to probe and test ways to underwrite loans to make credit more accessible to minorities, low- and moderate-income families, central city and rural residents, and people with special housing needs.

\21 The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 established the 30-percent target goals and called for the Secretary of Housing and Urban Development to establish interim goals for each enterprise for the 2-year transition period, which began in 1993 and 1994.

GOVERNMENTS HAVE PROVIDED INCENTIVES TO ENCOURAGE COMMUNITY LENDING

-- Chapter 4:4

In line with the administration's emphasis on reforming CRA and improving community development, several governmental agencies or entities have initiated activities, or revised guidance governing ongoing programs, to enhance community investment in low- and moderate-income areas. Many of these program activities are geared towards rebuilding communities within inner cities and small, rural areas by providing affordable housing and facilitating small business lending.

STATE AND LOCAL EFFORTS TO ENCOURAGE COMMUNITY DEVELOPMENT LENDING

-- Chapter 4:4.1

Some local governments have sought to encourage community lending in underserved areas by recognizing and rewarding institutions that demonstrate performance and commitment in helping to meet the needs of residents in these areas. Such rewards might result in better service delivery through branch expansions or increased investments or deposits. Some state governments require commitments to community reinvestments before out-of-state institutions can operate in their localities. They premise entry on a standard of net new benefits to the state, such as increased in-state lending and investments. A California County Board of Supervisors approved a community reinvestment policy that would rank institutions on the basis of their performance in making loans to minorities and in depressed neighborhoods. Those ranked in the top half would then reap the benefits of the county's investment business.

To encourage community reinvestment and development, some municipalities condition their placement of deposits upon the institution making specific types of loans. For example, in Chicago, institutions must file reports on their residential and commercial lending in the Chicago metropolitan area before they can qualify for the city's deposits. Similarly, during our case studies, we learned that the city of Boston has a Linkage Program that ties deposit of city funds to an institution's CRA rating. A Boston national bank branch located in a depressed area of the city was rewarded with a $5 million deposit by the city.

States also encourage community development through deposit subsidies. For example, Iowa's State Treasurer's Office offers several "linked deposit" programs that support below-market rate and small business and agricultural loans. Below-market rate deposits are placed with institutions that, in turn, use them to match fund lower rate loans, with a spread over the deposit rate. This approach provides two unique, highly targeted programs through participating Iowa institutions. One is targeted for minority- and women-owned small businesses and provides below-market rate financing for a variety of business purposes. The other is focused on helping diversify Iowa's rural economy and increasing employment. It offers linked deposits as incentives for institutions to fund below-market rate loans for horticultural and agricultural projects that involve products not typically found on Iowa farms.

FEDERAL EFFORTS AND SUGGESTED INCENTIVES HAVE HELPED INFLUENCE COMMUNITY DEVELOPMENT LENDING

-- Chapter 4:4.2

Federal efforts to encourage community development lending have included government subsidized programs, changes in regulatory requirements, and legislation promoting investment incentives, some of which correspond with the suggested incentives offered by bankers. Government subsidies, such as those provided by Small Business Administration (SBA), can significantly affect the profitability of lending by making it easier for the borrower to qualify for a loan or, through a guarantee, cushion anticipated losses from a loan, allowing the lender to set aside a smaller amount of funds against this contingency. In accordance with the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), the Federal Housing Finance Board (FHFB)--which regulates the credit advance (loan) activities of the Federal Home Loan Banks (FHLB)--was required to develop regulations establishing standards of community investment or service for member institutions to maintain continued access to long-term FHLB advances.\22 Through the Bank Enterprise Act (BEA, P.L. 101-242) and the Riegle Community Development and Regulatory

Improvement Act of 1994, (P. L. 103-325), Congress took action to increase financial services provided to underserved and distressed areas and to low- and moderate-income individuals.

\22 The primary credit mission of the FHLBs is to enhance the availability of residential mortgage credit by providing a readily available, economical, and affordable source of funds, in the form of advances, to their member institutions.

SMALL BUSINESS
ADMINISTRATION
-- Chapter 4:4.2.1

SBA is an independent federal agency chartered in 1953 to provide financial assistance to small businesses. SBA makes direct loans to borrowers who are unable to obtain conventional financing, participates in loans originated by financial institutions, and also guarantees loans (typically, a guarantee of 85 percent of a small business loan) made by institutions. This agency has efforts under way to foster small business community lending through various pilot programs or initiatives.

SBA has initiated a pilot program in several southwestern states to test a new short-form loan application, which should benefit both bankers and borrowers. Under this pilot, for loans under $50,000, bankers must now provide SBA with only a one-page document. Loans between $50,000 and $100,000 require the one-page summary document plus the applicant's business tax returns for the previous 3 years, a personal financial statement, and the institution's internal credit memorandum. A national bank official said the shorter form decreases the time it takes to finalize the loan from as long as 6 weeks to 1 or 2 weeks. Also, he said the shorter form makes borrowers feel more comfortable about the application process and bankers more willing to make smaller loans because the previous paperwork made small loans unprofitable.

The Rhode Island Area SBA Program has $13.1 million in initial commitments for business loans of up to $50,000 with maturities of 1 to 7 years. The program was developed by SBA's Providence office and the Ocean State Economic Development Authority, a private entity. Besides offering SBA guarantees, the program virtually eliminates paperwork and "hand holding" burdens for institutions.

FEDERAL HOME LOAN BANK
SYSTEM
-- Chapter 4:4.2.2

While the FHLB System\23 has sponsored special community development initiatives in the past, the passage of FIRREA in 1989 has contributed to the system taking on a more active leadership role in the development of community lending programs. To encourage the flow of funds into low- and moderate-income areas, FIRREA required the FHFB to develop regulations that condition access to long-term FHLB advances on member institutions meeting certain standards of community support. Congress specified that the regulations were to take two factors into account--an institution's CRA performance and its record of lending to first-time home buyers. This provision thereby created an additional CRA enforcement mechanism by tying an FHLB member's access to long-term advances used to finance residential mortgage lending to the institution's CRA performance. FIRREA also established an Affordable Housing Advisory Council at each of the FHLBs. The councils are to meet periodically to advise the FHLBs on low-income housing needs in each region.

Through its Affordable Housing Program and Community Investment Program, the FHLB system is to provide assistance to its member institutions by supporting their CRA activities. It is to advance funds or subsidize below-market-rate loans originated for low-and moderate-income families and for businesses in low- and moderate-income areas. The Affordable Housing Program is to provide home lending funds to support housing for people whose income does not exceed 80 percent of an area's median income, and rental housing funds where at least 20 percent of the units are occupied by low-income tenants. Its Community Investment Program is to provide home lending funds to projects aimed at individuals with incomes of up to 115 percent of an area's median income.

\23 A system of 12 regional banks established by the Federal Home Loan Bank Act of 1932 which acts as a central credit system for savings and loan institutions.

POSITIVE INCENTIVES HAVE BEEN SUGGESTED TO ENCOURAGE COMMUNITY LENDING
-- Chapter 4:4.2.3

To encourage institutions to lend to all parts of their community, some bankers have suggested that CRA be replaced or supplemented with financial subsidies or other positive incentives. Others have called for modifying or supplementing CRA with incentives such as (1) tax credits, (2) deposit insurance credits, (3) streamlined or less frequent examinations, (4) revisions of safety and soundness requirements for CRA lending and (5) broadening the base of institutions and organizations that can buy low-income housing tax credits, and (6) permitting below market financing for community development lending programs with supporting funds coming from FDIC or other regulatory premiums. Past, as well as current legislative matters for congressional consideration have included some of these proposals, as described in the next section.

RECENT LEGISLATIVE PROPOSALS
-- Chapter 4:4.2.4

Over the years, Congress has been concerned about how to provide adequate financial services to distressed rural and urban areas throughout the country. In the past, to address the problem, Congress has enacted numerous legislative provisions, such as those included in FIRREA, which created the Community Investment Program under the FHLB system described earlier. However, because this is a complex and far-reaching problem, Congress has continued to seek workable solutions and recently enacted legislative provisions aimed at enhancing community development in underserved areas. In 1991, Congress enacted BEA, and, in September 1994, the Riegle Community Development and Regulatory Improvement Act was passed.\24

BEA was designed to provide banking institutions with incentives to offer more services to low-income communities. Originally, it was to provide for reductions in the deposit insurance premiums that institutions pay on deposits placed in lifeline accounts--checking accounts for low-income individuals. In addition to encouraging lending in poor communities, the act was to establish a deposit insurance premium credit system for lending or establishing branches in these communities. Institutions engaged in such activities would have their deposit insurance premiums reduced. Although BEA was enacted in 1991, funds were not authorized until passage of the Community Development Banking and Financial Institutions Act of 1994 (CDB Act) in September 1994. Along with the funding came modifications to BEA. Instead of institutions receiving deposit insurance rebates as provided under the original BEA, the CDB Act calls for money to be paid directly to institutions to provide financial incentives for lending in low-income communities. The funding level for BEA was eliminated in the recently passed fiscal year 1995 rescissions act (P.L. 104-19).

Serving as the umbrella legislation, the Riegle Community Development and Regulatory Improvement Act of 1994, H.R. 3474, includes a number of separate legislative proposals that were added as it proceeded through the legislative process. The CDB Act (known as title 1 of the Riegle Community Development and Regulatory Improvement Act) creates a fund for forming and expanding community development financial institutions (CDFI) by providing financial and technical assistance for development services, lending, and investment in distressed urban and rural areas. The act authorizes $382 million to be distributed over a 4-year period, under the administration of an independent board. One-third of this amount has been earmarked to fund BEA. Financial assistance may be provided as loans, grants, equity investments, deposits, or credit union shares on a competitive, matching basis. Institutions, local and state governments, and other community organizations may form community partnerships with CDFIs to work cooperatively to revitalize communities. Assistance must be matched dollar for dollar (allowing a reduced match for CDFIs with severe constraints on available matching funds). Selection for assistance is to be based on several factors, including community need and representation, ability to leverage private funds, extent of targeting to low-income individuals, and strength of the revitalization plan.

During the past several years, other legislative proposals have been introduced (but not enacted), which offered various approaches to supporting development in economically disadvantaged communities. Although the proposals shared the primary goal of revitalizing low-income areas, they varied in the type and scope of assistance provided, administration of programs created, and other areas. For example, the proposed Community Banking and Economic Empowerment Act of 1993 (H.R. 1699), which was to provide money for loans and technical assistance, had a goal of making credit and credit-related services available to low-income families and others not adequately served by traditional lending institutions. More recently proposed legislation would encourage community development or reinvestment by amending CRA. In a proposed amendment to CRA, the Community Reinvestment Improvement Act of 1995 (H.R. 1211) seeks to enhance the availability of investment capital for low- and moderate-income housing in low- and moderate-income neighborhoods. The proposed Microenterprise Opportunity Expansion Act (H. R. 1019, February 1995) sets forth criteria and describes how microenterprise loans\25 and grants would be treated as an investment in a regulated financial institution's community.

\24 Also, Congress has debated numerous legislative proposals to amend CRA in an effort to reduce the compliance burden.

\25 Described by the act to mean a loan (1) to a commercial enterprise with five or fewer employees, with one or more of those employees owning the enterprise; (2) in amounts not less than $100 and not more than $10,000; and (3) the interest rate on which is comparable with the interest rate charged on secured commercial loans offered by financial institutions to their most preferred commercial customers.

REGULATORS HAVE PLAYED A KEY ROLE IN FACILITATING INITIATIVES TO IMPROVE COMMUNITY LENDING
-- Chapter 4:5

Through their various consumer affairs offices or outreach programs, regulators have established a mechanism to encourage and support community development. Many of their responsibilities and promotional efforts are carried out primarily through guidance, educational forums, information dissemination, and technical assistance activities.

The experience levels and the amount of resources the regulators have devoted to their respective community affairs programs and operations vary. The Federal Reserve Board (FRB) and FDIC established programs in 1980 and 1990, respectively, while the Office of Thrift Supervision (OTS) and the Office of the Comptroller of the Currency (OCC) began staffing their programs as recently as 1994. Despite the different levels of operation, development, and resources, all of the regulatory programs have a general goal of encouraging financial institutions to increase the flow of credit to low- and moderate-income applicants and areas. However, the effectiveness of the regulators' programs in providing community affairs activities or participating in community outreach efforts is largely dependent upon the availability of resources.

INTERAGENCY REGULATORY GUIDANCE HIGHLIGHTS EFFECTIVE CRA PROGRAMS
-- Chapter 4:5.1

One mechanism used by regulators to facilitate community lending is through guidance highlighting "best practices" that are characteristic of effective CRA programs. The regulators issued interagency guidance in March 1989, acknowledging that an institution that has (1) ongoing programs or methods to identify community needs, (2) the ability to develop and extend products and services to meet the credit needs identified through the ascertainment process, and (3) a comprehensive marketing program that reaches all segments of its delineated community will generally be in compliance with CRA. The guidance further acknowledges regulators' belief that to secure an effective CRA program, an institution's management should be actively involved, maintain policy oversight, and regularly review the community reinvestment compliance program. Such actions can help to ensure that the products and services offered and extended by an institution (1) will meet community credit needs, (2) can be modified when those needs change, and (3) will be available to all segments of the community. The regulators also are to use the expertise of their community affairs staff to counsel and assist institutions that do not have good compliance programs.

FRB HAS THE MOST DEVELOPED COMMUNITY AFFAIRS PROGRAM
-- Chapter 4:5.2

FRB, which has the most developed outreach program, operates a community affairs office (CAO) in each of its 12 Federal Reserve districts. The staffing level for this program has grown from 14 in the mid-1980s to a current level of approximately 70 employees. According to an FRB official, the staff hired often have some background in housing or the community development area. The principal responsibility of the CAO is to perform outreach work wherein staff contact people in local governments and community organizations to find out what types of unmet needs exist in different communities. The CAO staff develops education and information programs to help meet the community needs identified.

Through interviews with FRB officials, we learned that CAO staff are involved in various types of activities that promote community outreach and provide support to examiners. All 12 Federal Reserve regions publish newsletters that discuss different programs and various community development issues. In addition to sponsoring conferences and publishing newsletters, some CAO staff conduct research and issue community profiles (which provide bankers with information on perceived credit needs, existing community development initiatives, and programs within regions that might be duplicated on a local level). Furthermore, they provide assistance to examiners by maintaining a database of community group contacts and may help to analyze home mortgage data. When an institution receives a less than satisfactory rating, the examiner is to refer the institution to the CAO staff for consultation and guidance. The CAO staff may transmit information on community needs through examiner training or by circulating written reports.

Being locally based, the administration of the CAO program is left to the discretion of the individual reserve banks. Consequently, although all of the reserve banks are involved in community outreach activities, the methods used for disseminating information may vary. For example, a FRB official told us that an approach used by the Kansas City CAO is to develop a road show presentation and travel to designated areas and present the show. This approach allows institutions and community organizations (which may be located in small, rural areas with limited budgets) to take advantage of the FRB's outreach efforts. The San Francisco CAO helped to develop a state-wide lending consortia by convening bankers and experts. The CAO in Dallas encouraged community lending by sponsoring geocoding seminars and small business lending workshops. These sessions are designed to teach institutions how to analyze geographic data to help ensure that the institution serves all areas of its community. The Philadelphia CAO established bankers' councils, which are to meet three or four times a year. By organizing a network of bankers into Community Affairs Officers Councils, the Philadelphia CAO has not only provided a forum for its staff to disseminate CRA information and offer education but also provided a means for encouraging bankers to come together to discuss issues and opportunities for reinvestment in their communities. A FRB official pointed out that the primary strength of CAOs is that they are effective in providing communication forums.

FDIC ENHANCES STAFFING FOR COMMUNITY AFFAIRS

-- Chapter 4:5.3

FDIC has reached its goal of having at least three community affairs (CA) positions (CA officer, CA assistant, and fair lending specialist), in each of its eight regions. FDIC operates its regional community affairs activities with a staff of 26 who report to regional management with program oversight being provided by headquarters. Similar to FRB, FDIC's staff has some background experience in housing and community development, and although the program staff's operations may vary by region, they perform a variety of functions, which are coordinated centrally. For example, the CA officers provide training and information to examiners and develop community reports similar to, but less detailed than, the FRB's community profiles. The fair lending specialist analyzes home-mortgage data and handles consumer complaints. FDIC headquarters office coordinates functions with community affairs staff through quarterly meetings. Also, centrally coordinated projects, such as a recently published paper on Native-American issues, may be directed by the Washington, D.C. office. FDIC anticipates that its newly created division of compliance and consumer affairs will allow the agency to broaden its outreach initiatives and be more responsive to consumers and bankers.

EMERGING COMMUNITY AFFAIRS
PROGRAMS OF OCC AND OTS
-- Chapter 4:5.4

OCC plans to have 12 community affairs staff working in conjunction with its new compliance program. As part of this staffing goal, OCC intends to have one community affairs officer located in each of its district offices. The officers are to be responsible for outreach and communication with community groups and other members of the public. As of February 1995, staffing of these positions had not been completed.

Although its community affairs program is in the early stages of development, OCC has had a Community Development Division (CDD) to (1) oversee community development corporations (CDC) and investment programs and (2) approve applications by national banks to invest in CDCs\26 in accordance with the National Bank Act. The role of the CDD is to provide policy guidance to the OCC on community development issues that affect national banks, their customers, and banking community and consumer organizations. The division is responsible for (1) developing initiatives related to the creation of affordable housing for low- and moderate-income individuals; (2) the provision of technical assistance and financing for small, minority, and women-owned businesses; and (3) the economic redevelopment of low- and moderate-income areas.

In February 1993, the CDD published the 1992 National Bank Community Development Survey Report, which highlighted the types of community development activities in which national banks participate. The report was distributed to more than 7,500 national banks, community representatives, and other interested parties. The CDD also publishes a quarterly newsletter, Community Developments, which is designed to provide national banks and others with information on innovative bank community development programs, regulatory updates on community issues, and news of federal and state programs that might be of interest to national banks.

In February 1994, OTS announced the appointment of five experienced senior staff members to fill positions in the consumer affairs area. In making the announcement, OTS said that the appointments are part of agency initiatives emphasizing community reinvestment, nondiscrimination in lending, and other consumer-oriented goals for thrift institutions.

According to OTS officials, during 1994, the community affairs liaison officers in each of its five regions were actively involved in outreach and support efforts related to affordable housing, community development, and related fair lending and CRA matters. For example, these activities included (1) training programs for industry and staff, (2) assistance to institutions with poor CRA ratings, (3) the establishment of a community contact database for examiners, (4) meetings with local government agencies and community organizations to ascertain community credit needs and community development programs, (5) forums for thrift institutions and local community organizations to discuss local credit needs and community development programs for thrift participation, and (6) policy work on regulatory barrier and safety and soundness issues related to community development and affordable housing. A National Community Affairs Coordinator was appointed in February 1995, in Washington, D.C., to oversee the function of and coordinate the activities among the regional community affairs liaisons.

OTS officials also noted that in 1994, they issued a guide on the federal laws and regulations governing community development activities of savings associations, entitled Community Development Investment Authority. In addition, OTS officials said they began a new training program for safety and soundness examiners on understanding and evaluating multifamily affordable housing loans/projects.

\26 CDCs are organizations funded by banks and bank holding companies (BHC) which are authorized to make investments that may not otherwise be permitted for banks or BHCs. For example, CDCs may make equity investments in local real estate and business projects if such investments result in public benefits, such as economic development, jobs for low- and moderate-income individuals, affordable housing, and capital for small businesses.

INTERAGENCY COORDINATION COULD BE ENHANCED THROUGH A MORE SYSTEMATIC APPROACH

-- Chapter 4:5.5

Coordination of community affairs activities among the regulatory agencies is not something that is required by regulations or mandated by legislation. In practice, however, much of the interagency coordination of the regulators' community affairs activities that occurs is done through joint training and meetings or established councils. According to an FRB official, FRB holds many conferences jointly with the FHLB Board and has cosponsored conferences with FDIC. Now that OCC and OTS have separate compliance offices, FRB anticipates working more closely with these two agencies. On a regional level, FRB and other government agencies sponsor joint interagency programs, such as training or conferences dealing with community affairs issues.

Information is also shared through regulatory publications, such as newsletters or community reports and community contact forms. Upon request, newsletters and community reports containing information such as community lending techniques and investment opportunities are generally disseminated to the public and shared among the regulators. During the examination process, if examiners find that recent contact has been made with community representatives and the results documented, examiners who are assigned to assess an institution's CRA performance in identifying and/or addressing community needs in that same general neighborhood or community can save time by taking advantage of information obtained from shared community contact forms. These methods of information sharing are generally done on an ad hoc basis. Consequently, the overall benefits to be gained by the regulators as well as the community may not be as far reaching as they could be under a more systematic, coordinated approach to information sharing.

Interagency coordination in the use of regulators' resources can expand or broaden the effectiveness of these resources in helping bankers to understand and implement various initiatives that have proven successful in meeting CRA goals, while providing much needed credit assistance to communities that may require revitalization or redevelopment. To the extent that regulators can apply a systematic, coordinated interagency approach to providing community outreach services that are commonly provided by all regulators--such as community contact information or databases--institutions, community groups, government entities, and others who benefit from such services could be more efficiently served despite the limited resources of regulators.

CONCLUSIONS

-- Chapter 4:6

While some bankers perceive an inherent conflict between safety and soundness and CRA goals and are concerned about the secondary market requirements and/or higher transaction costs and smaller loan amounts associated with CRA lending, others have worked to overcome such barriers through individual and/or collective innovative and creative initiatives. Because lending and community development in low- and moderate-income areas often involve different and more complex methods of financing, successful initiatives tend to require the cooperative efforts and expertise of multiple financial partners.

Given the recent emphasis on CRA reform and sparked by the need to remove perceived barriers and provide additional compliance incentives, program initiatives have been taken by the secondary market, governments, and Congress to provide financial and other incentives to promote community development and revitalization. The banking regulators have also played a key role in facilitating community lending by providing educational forums and disseminating information to encourage cooperative working relationships among banks and thrifts, other financial entities, community groups, and various government agencies. In this current climate of CRA reform and limited government resources, the regulators' role of encouraging institutions to meet the needs of all segments of their delineated communities will be a key factor in continuing and expanding upon workable and successful CRA initiatives. Given the differences in resource availability among the regulators, more systematic coordination could help to better utilize limited resources and enhance the regulators' role in encouraging community development lending.

The varied positions taken by the affected parties further demonstrate that the debate about how best to achieve the goals of community reinvestment is both complicated and contentious. The approach embodied in the current CRA statute uses the levers of compliance examinations and application approvals to increase community reinvestment lending. The new regulations are an attempt to generate better results with less regulatory burden. However, given the positions of the different parties, it is not clear that the results will fully satisfy all of those parties.

MATTER FOR CONGRESSIONAL
CONSIDERATION

-- Chapter 4:7

If the concerns raised by the affected parties should persist even after the regulators have had sufficient time to implement the revised regulations, Congress may want to consider revisiting and revising the CRA statute to clarify its intent and scope, possibly examining alternative strategies for reaching its goals. Such strategies might include incentives to strengthen positive CRA performance by bankers and additional enforcement authority for regulators to discourage negative performance.

AGENCY COMMENTS AND OUR EVALUATION
-- Chapter 4:8

With regard to the "Matter for Congressional Consideration" FDIC and OCC were concerned that congressional action before sufficient time has passed for full implementation of the revised regulations may be premature, and that further revisions to CRA without feedback on the effectiveness of the revised regulations could undermine their implementation. OTS noted that the agencies have already agreed to conduct a full review of the revised regulations 5 years after they are fully implemented. We agree that the regulators have made extensive efforts in revising the regulations to address the diverse concerns raised about the effectiveness of CRA. Consequently, we modified the matter for congressional consideration to suggest that Congress may want to consider the results from implementation of the revised CRA regulations in its deliberations as to whether the objectives of community reinvestment are being well served through the CRA statute and regulations.

(See figure in printed edition.)Appendix I
COMMENTS FROM THE FEDERAL RESERVE SYSTEM
== Chapter 4

(See figure in printed edition.)

(See figure in printed edition.)Appendix II
COMMENTS FROM THE FEDERAL DEPOSIT INSURANCE CORPORATION
== Chapter 4

(See figure in printed edition.)

(See figure in printed edition.)Appendix III
COMMENTS FROM THE OFFICE OF THE COMPTROLLER OF THE CURRENCY
== Chapter 4

(See figure in printed edition.)

(See figure in printed edition.)

(See figure in printed edition.)

The following are GAO's comments on OCC's letter dated September 29, 1995.

GAO COMMENTS

--- Chapter 4:9

1. OCC concurs with us that Congress defer revisiting or revising the CRA statute until after the regulators have fully implemented the revised regulations, but OCC points out that we are not specific about how much time is sufficient for full implementation. We agree with the regulators that they have made extensive efforts to address the diverse concerns raised about the effectiveness of CRA, but also recognize that if Congress identifies issues of concern, it may want to revisit CRA to determine whether community reinvestment objectives are being satisfied. We believe that the results of the regulators' planned evaluation of the revised regulations 5 years after their implementation could be useful for any reconsideration of CRA issues by Congress, but also agree with OCC that the completion of a full examination cycle would be needed for Congress to objectively assess the adequacy of the revised regulations to address industry concerns and Congress' mandate for community reinvestment. We have, therefore, modified our matter for Congressional consideration to reflect the need for a sufficient amount of time to implement the revised CRA regulations.

2. OCC suggested that we acknowledge the value of properly exercised examiners' discretion and expressed the belief that the need for training has not been heightened as we report. On page 60 of our report, we recognize the fact that examiner judgment will continue to play an important role in CRA evaluations, and we call for clear guidance and comprehensive examiner training to achieve consistency in examinations. Also on page 60, we changed our discussion on training from its need being "heightened" to "created" to ensure the revised CRA regulations are consistently implemented. Unless examiners understand how to interpret and apply the guidance, given differences in banking activities and community needs, examination consistency may not otherwise be achieved.

3. On performance information, OCC pointed out that only FRB received and checked HMDA data accuracy but that under new joint CRA examination procedures all agencies will check data accuracy. Our discussion of the regulators' efforts to ensure that the institutions they supervise maintain and submit accurate HMDA data is based on our understanding that the regulators are required to do this during compliance examinations. We believe that the regulators' experience in this area suggests a need to establish clear guidance to examiners for ensuring accurate data maintenance and reporting by institutions, which OCC suggests will be provided for in the new joint CRA examination procedures.

4. OCC does not, at present, expect increased examiner resource requirements to be needed to implement the revised regulations due to various efficiencies being introduced to the examination process. We believe that more sophisticated CRA analysis software and training are examples of the resources required to assist agencies in successfully implementing an efficient CRA examination process. We

also agree that over time, experience with the revised regulations could result in some reduction in the time required to do CRA examinations, but at this time it is unclear what effect this will have on total resources dedicated to CRA examinations, compared with what is required under the current regulations and considering the additional responsibilities placed on examiners.

5. OCC indicated in its comments that we overstate the impact of the Department of Justice opinion on CRA's enforceability. Our discussion describes the Justice opinion, which resulted in the regulators removing from the revised regulations provisions to use formal enforcement actions for CRA compliance.

6. OCC pointed out that transaction costs and profitability for community lending require sophisticated models that take into account all financial factors. We agree with OCC and deleted our statement on page 70 about transaction costs and profitability since it did not reflect all relevant financial factors. The primary purpose of our discussion of transaction costs is to present some bankers' concerns that such costs affect institutions' profitability and, thereby, serve as a barrier to community reinvestment lending. We believe a sophisticated model that takes into account all financial factors affecting the profitability of community loans can best be developed by a bank that knows the facts and circumstances specific to the products and services it offers to prospective borrowers.

7. OCC questioned the basis for our claim that bankers are required to set aside additional loan loss reserves for community lending based on examiners' assessment of the safety and soundness of such loans without fully understanding the related credit risk. The discussion pertaining to loan loss reserves as it relates to credit risk management represents the opinions or views of some bankers and community groups. On pages 70 and 71 of this report, we attribute this discussion to these parties as a safety and soundness concern about CRA lending, and on page 71 we state that we did not independently verify the accuracy of these claims.

(See figure in printed edition.)Appendix IV
COMMENTS FROM THE OFFICE OF THRIFT
SUPERVISION
== Chapter 4

(See figure in printed edition.)

See comment 1.

(See figure in printed edition.)

(See figure in printed edition.)

See comment 8.

(See figure in printed edition.)

(See figure in printed edition.)

The following are GAO's comments on OTS' letter dated September 12, 1995.

GAO COMMENTS

-- Chapter 4:10

1. OTS suggested we add a statement to round out the discussion on page 3 of the executive summary that the regulators acknowledge these three challenges and are working together to address them. We believe OTS' point is made through the agency responses and our comments to those responses.

2. OTS pointed out that various sections of the draft report indicate that not all industry problems can be addressed through regulations and suggested we provide a clearer explanation of the problems addressed and not addressed in the revised regulations. We acknowledge, on page 54 of the report, that the regulators' draft regulations included provisions to use formal enforcement actions, such as cease and desist orders, to enforce CRA compliance. However, we also point out that in December 1994, the Department of Justice issued an opinion that CRA did not give regulators legal authority to use formal enforcement actions to enforce CRA. We do not take issue with the regulators' proposal nor do we take issue with Justice's opinion. The result, however, is that the bankers and community groups concerns about CRA enforcement were not addressed in the final regulations.

3. OTS suggested that our statement that the revised regulations have increased examiner responsibilities, heightened the need for comprehensive examiner training, and increased the amount of resources needed to effectively complete examinations may be premature due to the efforts OTS is undertaking to address those issues. In our discussion of resource requirements under the revised regulations, we point out that examiners have additional responsibilities which may increase OTS' examiner resource needs. We believe that more sophisticated software, training, and other similar tools are examples of the additional resources that will be required if regulators are to successfully achieve the anticipated efficiencies in CRA examinations. The regulators are initiating action to implement new procedures and make their CRA compliance systems more efficient. However, it is not clear what impact such action will have on examination time and resource needs.

4. OTS pointed out that the regulators have agreed to conduct a full review of the revised regulations in the year 2002, 5 years after they are fully implemented. We believe that the regulators' plan to conduct a full review of the revised regulations is a positive step. The results of this review could be useful for any reconsideration of the CRA by Congress.

5. OTS expressed concern over our statement on page 19 that the fair lending laws overlap with CRA. Our discussion of the fair lending laws and their relationship to CRA has been modified. We determined that the use of the term "overlap" may distract the reader from the major point of the subsection, which is to point out that the objectives of the laws and some of the tools used to evaluate compliance with them are similar.

6. OTS stated that our discussion of the OTS specialized compliance

examination program did not accurately reflect the development of that program. Discussion of the OTS compliance program on page 21 has been changed to reflect the suggested clarification of the program's development.

7. OTS suggested that our discussion on page 33 of the regulators' use of enforcement actions for CRA violations implies that the regulators should have taken more stringent actions. The purpose of our discussion of enforcement actions is to objectively present the facts. It does not attempt to make an assessment of what regulators should do.

8. OTS pointed out that we incorrectly stated that it does not track information on enforcement actions that include CRA violations. We changed our discussion of OTS' use of enforcement actions for CRA to reflect the information provided.

9. OTS was concerned that our discussion, on page 63, of the regulators' success in examining their institutions for CRA compliance was misleading and did not sufficiently differentiate the performance of the regulators in the same way as was done in other sections of the report. Our discussion of the regulators' success in examining institutions within a 2-year time frame was meant to make the point that they have not been successful in examining all of their institutions within their established time frames under the current CRA regulations and that this problem could worsen under the revised regulations in light of increased examiner responsibilities. The figures provided by OTS in its comments, that it completed 96 percent of its required examinations in 1992, 91 percent in 1993, and 89 percent in 1994, in our view, support this point.

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DATE: February 5, 1999

At your request, I attached documents that we have collected regarding statements made by Senator Gramm on CRA. Please contact me if you need any additional information.

cc: Joan Affleck-Smith

was done by the committee in bringing this matter to the Senate floor.

I, again, thank Chairman D'AMATO for his skillful work in developing the legislation to this point and bringing it to the floor of the Senate.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, let me add my voice to those who have congratulated Senator D'AMATO and Senator SARBANES for this bill. I believe we have put together a good bill. I think it is a dramatic improvement over the House bill. It does, for the first time, in an effective manner begin to look at capital requirements and safety and soundness, and, in doing so, it will dramatically improve the quality and regulation of credit unions all over the country. I think those who are part of the credit union movement want people to know that their deposits are safe, sound, insured, regulated and protected in the savers' interest.

Second, the bill, for the first time, begins to put appropriate limits on the amount of business loans that credit unions can make. There are those who believe, and I happen to be one of them, that credit unions were chartered to provide consumer credit to their members as part of a cooperative effort. A dramatic movement of credit unions into commercial lending would circumvent the whole intent of the credit union movement, and in my opinion, it would be a negative factor on the progress of the credit union movement. In this bill, we for the first time set limits on the amount of credit union assets that can go into commercial loans. That is a very positive step.

We deal with the common bond issue, and we settle once and for all the principle that every American ought to have the right to join a credit union—not any credit union—but join a credit union within an appropriate field of membership. It my view, and I believe that we achieve this with this bill, that it should be possible for every American citizen to find an appropriate field of membership by which he or she can associate with others, and have the opportunity to join a credit union and to affiliate with that credit union if they choose to do it.

Those are the positive things about this bill. I am a strong supporter of the bill. I intend to vote for this bill, but there is one provision in the bill to which I am very strongly opposed.

In this bill, for the first time ever, we begin to have the Federal Government direct credit unions as to how they will use their members' money. In this bill, for the first time ever, we begin the process of telling credit unions that the government is going to allocate some of a credit union's resources to promote a "public purpose," even though it may not be the purpose of credit union members. I believe that not only is this very bad and dangerous public policy, but I think the logic of it is totally inapplicable to credit unions and the credit union movement.

The name—it is a wonderful sounding name for a program that has nothing to do with any one word in the name—is Community Reinvestment Act. In this bill, for the first time ever, we apply in three different ways this Federal mandate and credit allocation to credit unions.

Let me explain why, despite all the arguments you can make on the merits or demerits of the Community Reinvestment Act, why it does not belong on this bill.

Credit unions are voluntary, private associations. They are nonprofit organizations. They are tax-exempt organizations. They represent a collective effort of members to pool their savings with a common objective. They pool their savings and they lend to each other, the members of the credit union. In doing so, they perform a cooperative credit function. In many cases, they provide credit that would not be available, certainly at rates that would not be available, in many cases, to the consumer.

They are not in the business of promoting any broad, general purposes, such as the general welfare of the country or the community. They are small, private associations that are organized for the purpose of promoting the welfare of their members. The whole purpose is to pool nickels, dimes and dollars to build a cash base that can be lent to members for things such as buying a new car or new truck, buying a new tractor.

The objective of the credit union is to promote the interest of credit union members. It is not a for-profit organization, and there is no logic to applying to it a provision of law where the Government adds an additional mandate that the credit unions should direct the money of those members to support some end other than the wellbeing of the people who put up the money in the first place.

Let me explain how this works, and I want to read you some language—in my mind, shocking language—that has been included in this bill in the House, and language that I believe should be removed.

In the bill, the House has set up this requirement for a Federal mandate and capital allocation that goes by the name of community reinvestment. I will talk in a moment as to why this provision has nothing to do with community or reinvestment.

This bill mandates that credit unions conform to this Federal capital allocation. Here is how it is defined, and here is basically how it works:

In three different places, we have a reference to it in the bill. The first way that the bill would measure whether a credit union is complying with this Federal mandate allocating their members' hard-earned money is on page 58 in new section 215. In subsection (b), it is set out that credit unions have to comply with this community reinvestment, and that in doing so, they will be regularly evaluated by the Federal Government, and their record will be looked at to see if the credit union is "providing"—I want you to remember, that is "ing"—". . . providing affordable credit union services to all individuals of modest means . . . within the field of membership of the credit union. . . ."

In other words, in this section, the Federal Government will evaluate whether or not this credit union, in making loans, in allocating the money of the people who have joined the credit union, is providing affordable services—and I don't know how you define "affordable." I think I know how you define "providing;" you test whether they are actually doing it, although I could imagine some very interesting and intrusive methods of testing that the regulators might conjure up. But the test of "providing" can be a very rigorous test, since the standard is not whether the credit union is offering it services, it is not whether they are try ing to do it. They are required to do it. They are to be "providing"—you ar evaluating whether they are ". . . pro viding affordable credit union service to all individuals of modest means . . within the field of membership of th credit union."

You need to understand, field c membership and membership are tw different things. A credit union consic ers itself successful if it is able to ge about 20 percent of the people wh could join that credit union to join i So that in any field of membershi normally about 80 percent of the peop in the field of membership who were i vited to join the credit union, who we invited to put up their money, sa "No, I don't want to join your cred union; I don't want to put my mon into your credit union." But the fir provision of this bill requires that t credit union, to comply with this la on Federally mandated capital alloc tion, must be ". . . providing affor able"—and where are these terms d fined? Nowhere—"credit union servic to all individuals of modest means . within the field of membership."

Now, I do not believe we ought to forcing credit union members, who p up their own money, to provide se ices to people that had an opportun to join the credit union but decided n to join it. I think that violates whole spirit of the credit union mo ment because a credit union is a co erative, and if you want credit un services, you join the credit union. Y participate in putting up the capi and you apply for loans or servi from the credit union.

The second evaluation has to do w community credit unions. And th are credit unions that serve an en community. This second provision quires that credit unions are "m ing"—not trying to meet—and pl note, the law does not say that "offer" services, that you offer "aff able" services, whatever that mean all people of modest means within your field of membership. The law requires that you "provide" it.

Now, the second reference is, that ou are "meeting the credit needs and credit union service needs of the entire field of membership of the credit union." That is on page 59—"the entire field of membership. * * *"

So again, you are in a community. This little credit union is providing services to people in a town with 5,000 people; roughly 20 percent of those people have joined the credit union. But this law requires that they provide "affordable" services—whatever that means—to people who did not even join the credit union. How can that be right? Clearly, in my opinion, it cannot be right.

Now, the third case, very similar to the first, except the language gets even more grandiose. Imagine writing a Federal law where you can threaten the deposit insurance of a credit union and put it completely out of business. If it does not have Federal deposit insurance, it is not going to be able to operate. This law applies to both Federal credit unions and State credit unions, as long as they receive Federal deposit insurance.

Listen to this language. You have regulation to see if the credit union is "satisfactorily"—satisfactorily, mind you—"providing," "affordable"—I do not know how you define these terms. I have discussed "providing." The credit union is actually doing it. It is not "offering" services; it is "providing" them, services are being accepted and received, not just offered. "Satisfactorily" is an undefined term, satisfactory to whom? "Affordable" is undefined and undefinable —that the "credit union is satisfactorily providing affordable credit union services to all individuals of modest means within the field of membership of the credit union," whether or not they join the credit union in the first place.

Mr. President, this provision does not belong in this bill. This provision is piracy. This provision came about because we have a crisis in the credit union movement because of the court ruling, a crisis which requires congressional action. And what those in the House, who put this provision in the bill, have, in essence, said is, that in order to resolve your crisis, you have to pay tribute. And the tribute you have to pay is that we are writing a provision of law which says that every year you will be evaluated by a group of Federal bureaucrats who will determine whether you are satisfactorily providing affordable credit union services to people who are not even members of the credit union. And then they will publish their findings.

Now, what does this produce? What this produces is a situation where you literally—I am going to use some strong language here; and I mean every word of it—this produces a situation where literally you have professional protesters who extort resources from banks, and if this bill passes unchanged, they will be extorting resources from credit unions. Here is how it works. And I am going to give you some examples. And you are going to be shocked by these examples.

What happens is that periodically you have this evaluation that is made public, and whether or not the evaluation is satisfactory, you have a group of people who show up from various organizations to tell you how to use your resource for their benefit. ACORN is very active in this effort, and there are many other organizations, it is a growing industry—they show up at the bank and they say, "You're not meeting your CRA requirements. And here are some things we want you to do. And if you'll do these things, then we will say that you're meeting these requirements, and we will stop protesting for now."

It works like this. You have a bank who may have a perfect record on CRA requirements, but they want to merge with another bank. Even though they may have never had anything other than an exemplary rating, protesters can enter the process and challenge the merger on the grounds of community reinvestment and cost the banks millions of dollars because of the delays that their protests cause.

Now, let me give you two examples of where this has occurred.

The first I will refer to happened in 1989 in California. And let me say, Mr. President, it is hard to get banks to talk about this. I recently spoke to the CEO of a major Fortune 500 company, and I mentioned to him an effort I am supporting, an effort Senator SHELBY is undertaking to provide CRA relief for small community banks. When I mentioned CRA, he said, "It's extortion." If I called him up and asked, "Could I use your name?" how many people who are being extorted want their name used? They do not. They are afraid to have their name used. When a CEO of a Fortune 500 company in America is afraid to say his mind publicly, to expose extortion, something is wrong in America.

Now, let me give you my examples and offer my amendment, and then we will debate this again on Monday.

In 1989 California First Bank wanted to merge with Union Bank. But when they sought to merge, opposition was lodged under the CRA provisions of banking law, and in order for these protests to be withdrawn so that delays could be ended and the merger could go forward, here is what California First Bank agreed to: One, to increase purchases from women and minority-owned vendors to 20 percent of purchases within the next 5 years. Second, they agreed to give charitable contributions, cash grants, not loans, in the amount of 1.4 percent of income in 1989 and 1.5 percent of income in 1990.

Now, I do not know this, but if I were a U.S. attorney in that district, I would go look and see if they gave those contributions to the groups that protested the merger. That would be a very interesting inquiry.

Next, California First Bank committed that 60 percent of the employees placed in middle and senior management positions within the next 5 years would be minorities and women. And finally, they committed to appoint three minority and women directors.

That is what they had to do in order to get the right to merge with another bank. Now, listen to this next one.

Sumitomo Bank of California—now I do not know, but I guess that Sumitomo Bank is a Japanese affiliate. I think it is relevant because I want you to put yourself in this position. Let us assume that an Ohio bank had opened an affiliate in the Dominican Republic and that some government agency there had said that, "You are not meeting your CRA requirements." And then they published that, and then a group of people came to the bank and said, "We want you to do some things so that we then will tell the government that you are meeting these requirements." Let's see what the things were that our Government in effect forced this bank to do. Let me read to you what they did.

No. 1, $500 million was committed to CRA-related loans. No. 2, the bank committed to spend 2 percent of income on charity, nonprofit organizations, with two-thirds of the money going to inner-city development, this being cash, grant money. No. 3, the bank committed to appoint minority board members. No. 4, the bank agreed to appoint a paid five-member minority advisory board to consult with management. And, No. 5, the bank agreed to give 20 to 25 percent of outside contracts to minority-owned vendors.

Now if that happened to an Ohio bank operating in the Dominican Republic, what would you call it? I would call it extortion. That is what I would call it. I would call it extortion, or maybe even expropriation, a taking of private property.

Now, how does something like that happen? How it happens is that we let people write into law provisions like "satisfactorily providing affordable services," which no one can define, nobody knows what it means, and if you have to comply—a regulator that is willing to let protest groups file objections to banks merging, for example, by simply the ability to hold that merger up—they are able to extort resources.

Now, I could go on for quite a while and add to the list. For example, when Bank One wanted to merge with First Chicago. But what do you think happened when they filed that merger? What happened was, they had a group of protesters who showed up, who filed a boilerplate objection which could be drawn up in 15 minutes by any lawyer who deals in this area. I am sure the bank president said, "Well, we have an exemplary CRA record." The protestors said, "We have objected to your merger."

So weeks go by. time goes by. and this is the Woodstock Institute that objected in Chicago—I better be careful to get the name right—yes. in Chicago. the Woodstock Institute objected. So what happens in such cases? The bank ends up allocating the resources of its stockholders in order to eliminate the objection just to be able to move forward with its business.

Now. let me read a quote to just show the arrogance of these people who we are empowering under these laws. Forgive me if I get a little excited about it. but it is the kind of practice I hate worst. This comes from the proposed merger of NationsBank and Bank of America. They have received outstanding CRA grades, but in spite of their unprecedented $350 billion CRA packages of loans and services to inner cities, et cetera, CRA activists are raising protests against the merger. One of the activist leaders has said the following—remember. this is about banks that have exemplary CRA records, at least according to the Government regulators who regulate this activity. These banks have exemplary records. But here is what the protester said, "We will close down their branches and ensure they fail in California." That is what they said. "We will close down their branches and ensure they fail in California. This is going to be a street fight and we're prepared to engage in it."

Do you know what this reminds me of? This reminds me of a little immigrant storeowner. He and his wife and three children are running a little store. and these great big hoods come knock on his door. They come in and say, "Somebody could do you some harm. There might be people who could come and break in your store, steal your goods. They might beat you up; they might break your arm. But I will tell you what we will do. If you will pay us 5 percent of what you earn in this store, we will see that nobody comes and breaks your arm."

That is what this reminds me of. That is exactly what this reminds me of.

Now, I don't like the fact that it is going on. Some day I will get rid of it. Some day this is going to be gone. I intend to speak out on this for so long with such great passion that in good time Congress is ultimately going to rise up and stop this. That is not likely to happen here today, but some day it will happen.

What I don't want to do is, I don't want to start this business with credit unions. Now, I am sure that we are going to hear from someone who will say credit unions don't support this amendment. Well, the credit unions have been told, "You support the Gramm amendment, and maybe your bill won't get passed. You support this amendment, and maybe the President won't sign your bill. You support this amendment, and maybe it will mean endless delays." Now, that is like saying to someone sticking a gun to your temple, saying, "You feel good about things, don't you?"

We will vote on this amendment on Monday afternoon.

I don't want credit unions to have to be evaluated on whether or not they are providing satisfactory, affordable services to people who didn't even join the credit union.

AMENDMENT NO. 3336

(Purpose: To strike provisions requiring credit unions to use the funds of credit union members to serve persons not members of the credit union)

Mr. GRAMM. Mr. President, as a result of not wanting that to happen, I send this amendment to the desk to strike these provisions, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3336.

Mr. GRAMM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 204 of the bill and renumber the sections accordingly, and beginning on page 45, line 24, strike all through page 46, line 4, and redesignate subparagraph (E) and (F) on page 46 as subparagraphs (D) and (E), respectively.

Mr. GRAMM. Mr. President, it is my understanding this will be the first vote we have on Monday. It is also my understanding that there will probably be an hour set aside so each side will have 30 minutes to debate the amendment. Rather than stay around today and debate it, I will use my 30 minutes on Monday.

I thank my colleagues for their indulgence. This is an important amendment. We ought not to add these onerous CRA provisions to credit unions, which are investor owned, which are set up as cooperatives to serve the people who are members.

Imagine, for example, in New York, where you have a credit union that was set up so cabdrivers could save their money and lend it to one another, and the loans, then, would be made to buy a Medallion so somebody could own their own cab.

Now, with CRA, the Federal Government comes in and says, "Hey, how many loans have you made to people who aren't members of your credit union who could have been—they are in your field of membership, but they didn't choose to join your credit union; how many Medallions have you helped them buy?"

So Joe Brown, who put money into the credit union for 15 years, finally gets to the point where he thinks he can buy his Medallion, but because of this provision, the credit union has to take Joe's money and lend it to somebody who never joined the credit union, never wanted to be in the credit union.

If you can defend that, good luck.

I yield the floor.

The PRESIDING OFFICER. The S[...]ator from South Dakota.

Mr. JOHNSON. Mr. President, I r[...] to address the overall issue of the leg[...]lation before the Senate, H.R. 1151.

I want, first, to commend Chairm[...] D'AMATO and the ranking memb[...] Senator SARBANES, for their help [...] this legislation getting to the floor i[...] timely fashion.

I will not address the issue raised [...] my colleague from Texas. I know th[...] are others who will want to talk abo[...] that at much greater length.

There is an underlying legitimate [...]bate there about whether an indust[...] that benefits from Federal insuran[...] Federal regulation assuring that ind[...]try's stability and long-term viabili[...] should, in turn, have to commit its [...] to making investments back into [...] own community or not. That deb[...] can go forward. But I want to t[...] briefly about the underlying bill.

As we all, I think, understand, [...]lowing the Supreme Court's decis[...] earlier this year, the credit un[...] membership of some 20 million cre[...] union members all across America [...] been in some jeopardy. There was [...]tially legislation offered in the ot[...] body that was designed simply to ov[...]turn the Supreme Court decision. [...] other body chose not to do that. Nev[...]theless, they did reach a comprom[...] bill that passed in April on an ov[...]whelmingly vote of 411–8.

Following that debate, and passag[...] that legislation, the Senate Bank[...] Committee took up our version of cr[...]it union legislation, with the und[...]standing that prompt action was [...] fact needed. But again, rather th[...] simply choosing to overturn the [...]preme Court decision and rather th[...] simply choosing to pass the legislat[...] passed in the House, the Senate Ba[...]ing Committee crafted its own vers[...] strengthening significantly the [...]guage of that original H.R. 1151.

Now, there is a compromise invol[...] here. Most Members in this body, [...] many Americans, are members of b[...] credit unions and banks. It is im[...]tant that they both be viable, str[...] contributors to our national econo[...] It has always been—and it is the nat[...] of compromises—that some will [...] away not entirely satisfied, but, on [...] other hand, we can reach that bala[...] that will allow both the banking [...] credit union industries to go forwar[...] a fair and competitive fashion. T[...] certainly, at least, is the goal of [...] legislation.

So in the course of crafting this [...] we were able to arrive at bipart[...] agreements on the level of restrain[...] expansion of credit unions that o[...] to be put into legislative langu[...] There are some who would rather [...] no restraint whatsoever; others w[...] rather have much greater restrain[...] what definition of "common bond[...] used. We did reach a level of restr[...] in our legislation that, for the [...] time, now exists. I think perhaps, [...]

Mr. President, so it is my understanding that after the defense authorization bill is considered tomorrow, we, in the early afternoon, will move to the Internet Tax Freedom Act. There will be a number of relevant amendments. I believe they can be worked out, including the Bumpers amendment. And I believe that we can move forward and resolve this very important bill very rapidly.

I thank my friends on both sides of the aisle. I understand there are strongly held views. I believe those views will be given the consideration they deserve during the debate on this very important piece of legislation.

Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

FINANCIAL SERVICES ACT OF 1998

Mr. GRAMM. Mr. President, I came over this evening to speak briefly about H.R. 10 and where we are in our efforts to bring that important bill to the floor of the Senate. I want to explain to our colleagues the concerns I have—those concerns are shared by Senator SHELBY and by others—and explain the compromise that we have proposed in the hopes that those who are for this important bill will prevail upon those who are holding back on reaching a compromise on a key issue in the bill, and who by doing so are jeopardizing enactment of this important legislation.

Let me try, as briefly as I can, to lay out where we are in terms of the parliamentary situation, what the issue is that is contested in this parliamentary maneuvering, why that issue is so important to me, and what we can do, in my opinion, to resolve it.

First of all, thanks to the great leadership of Senator D'AMATO in the Banking Committee, we have put together a comprehensive financial modernization bill. While there are still parts, in my opinion, that need to be changed, it is a good bill. There are many provisions of the bill that I support. I congratulate Senator D'AMATO. I have to say that getting this bill through the Banking Committee with as little time as is left in the legislative session and bringing together most of the disparate interests that are ultimately represented, benefited or hurt, in a bill like this is one of the great legislative achievements that I have seen. I congratulate Senator D'AMATO for his effort.

Unfortunately, I cannot and do not support the bill in its current form. While there are many provisions of the bill that I do support, and while I would like to see the bill become law, and while if this problem could be dealt with I could step aside and allow the bill to come to the floor of the Senate, with this problem now pending, I am opposed to the bill.

Now, what is the problem? The problem has to do with a provision that sounds innocent enough. In fact, perhaps it sounds good to the ears of some. That is the so-called provision for community reinvestment. These are provisions of law that were adopted without a whole lot of debate in the late 1970s. The objective of these provisions of law was to force banks to lend money in the communities in which they were operating. The assertion was made that there were a lot of banks that were simply taking deposits and using them in other areas of the country and that, therefore, there ought to be a provision of law to require banks to meet the lending needs of their local communities.

Now, the purpose of the Community Reinvestment Act, or CRA, was to establish a procedure for an evaluation of whether or not banks were making loans in the communities where they were chartered or whether banks had simply become deposit takers and were taking those deposits and making loans somewhere else or buying government bonds or whatever other activities they might be involved in.

I personally don't think much of having the government require banks to use their capital in a particular way pleasing to the government or some government functionary. It sort of strikes me as crony capitalism. It is an unjustified intrusion into banking, in my opinion.

However, that is not what I have been objecting to in connection with this bill, nor is this government-directed capital allocation the only problem with CRA. The aspect of CRA in practice that I wish to bring to the attention of my colleagues is that CRA has become a vehicle for fraud and extortion. In fact, as strong as it may sound, the Federal banking regulators, through their delay of approval of applications, actually strengthen the hands of those who would use this law, the CRA law, in ways that it was never proposed to be used.

Let me give an example of how this works and how it is abused. Banks periodically have to be evaluated for meeting the CRA requirements. This is an evaluation done by the Federal banking regulators, at the conclusion of which they give a bank a rating. Whenever the bank wants to engage in some activity that requires approval of the Federal Reserve Board, or of the Comptroller of the Currency—like opening a new branch, merging with another bank—they have to make an application. Any person or group of persons can file a protest to that action in the name of CRA. They can do it even though the bank may have an excellent rating in its last evaluation of its community reinvestment activities.

For example, when Senator SARBANES, who is a strong proponent of this provision of law, talked about the law, he pointed out that perhaps the bank that has done the "best job" of meeting community reinvestment requirements was Bank of America, that they have gotten sterling ratings for lending money in the communities they serve. But when Bank of America announced a merger with NationsBank, even though Bank of America had the highest ratings of any bank in America in lending in the communities that it served, professional protesters came in and opposed the merger and demanded concessions from the bank. In fact, one of the spokesman for the protesters, in making demands on the bank that has the best CRA record of any bank in America said:

> We will close down their branches and ensure they fail in California. This is going to be a street fight and we are prepared to engage in it.

So here is a bank, Bank of America, that has the best CRA rating of any bank in America, and yet when they apply to merge we have professional protesters come in and protest and threaten to delay their merger and ultimately strike concessions from this bank.

Now, what kind of concessions are being granted? The purpose of CRA was to have lending by banks in the communities they serve. But what CRA has turned into is a vehicle for extortion, whereby banks are accused of not meeting the CRA requirements, whether they have an excellent CRA record or not, but the protest are withdrawn in exchange for agreeing with protestors to meet a series of demands, and often these agreements include cash payments, thinly disguised as donations. Banks are being required to make cash payments to the professional protester groups. They have, in the past, under duress in my opinion, agreed to donate a percentage of their profits to the very institutions that have filed protests against their actions with the Federal regulator. They have been forced, in my opinion, under duress, into agreeing to quotas and set-asides in hiring, in purchases, in promotions.

So what has happened all over America is that under a provision of law that was supposed to encourage banks to lend in the communities that they serve, we now have banks being extorted and being forced to make cash payments which are little more than bribes, being forced to set up quotas and set-asides, being forced to give concessions to people who are selling goods and services, being forced to agree to hire and promote based on things other than merit. Needless to say, there is a growing concern about this in America. That concern is reflected in the Senate where we rejected a proposal to extend this CRA requirement to credit unions. We also had strong support to exempt small banks from the CRA requirement.

Now we have before the Senate a bill that would try to promote a more competitive financial structure in America, a goal I very much support and have advocated for years. So let me make it clear, I am for legislation. But unfortunately, the bill has four different provisions that dramatically expand CRA powers, and in essence, give the Federal Government, for the first time, the ability to impose penalties on banks, and even to impose penalties on nonbanking subsidiaries and affiliates, as well as create new hoops and new hurdles that banks would have to jump through to get certification as financial services holding companies or to engage in certain activities in subsidiaries.

What this would do is literally set up the vehicle for billions of dollars to be extorted from financial institutions in America by people who are professional protesters. You can hire groups to go to your hometown and stage a professional protest under the name of CRA, with the objective of extorting banks and forcing them to contribute, forcing them to make cash payments, and forcing them to do things that are an embarrassment in an economy that has always been the freest, most honest and most transparent economy in the world.

Now, when we set out to write this new major piece of legislation, particularly since it came over to us from the House of Representatives very late in the session, it appeared, for a time, that we reached an agreement that in this legislation we would leave the CRA battle alone, that this bill would not be used as a vehicle either to expand or reform CRA. That is to say that people like Senator SHELBY and myself would not use the bill to try to repeal CRA or reform it, something we very much favor; but we asked those on the other side not to use this bill to try to expand CRA. That effort apparently broke down, and we have in the bill now four major expansions of CRA. Senator SHELBY and I have said that we are going to oppose this bill as long as these provisions are in the bill, as long as the bill is not neutral with regard to CRA.

Now, I want to make it clear that we are willing to work out an agreement. I want to go on record here today as to what we are willing to do. I see that my distinguished colleague, the senior Senator from Alabama, is here. Let me speak for both of us for a moment, and then I will let him speak for himself. We are willing to do either one of two things that could expedite the consideration of this bill. No. 1, we are willing to reach an agreement where the bill would be silent on community reinvestment. We would not seek to repeal it, we would not seek to reform it or restrict it; we would leave this evil where it lies. But we would require that it not be expanded.

(1) neutrality

When I made this proposal in the Banking Committee, it reminded me of Lincoln's position on slavery in the that proposal today, as much as I am opposed to CRA and believe that it is powerfully abused. If someone is representing the interests of banks or security companies, or insurance companies, and they are for this bill, all they have to do to get this bill before the Senate and in a position where it can become law is induce the people who want to expand CRA simply to agree with us to drop the CRA provisions from the bill. Proponents of CRA won't try to expand CRA, and we won't try to use this bill a vehicle to overturn those provisions that already exist in law.

(2) A second alternative proposal that we have made in writing, both to the minority members on the committee and to the chairman, is a proposal that says the following: the bill would expand CRA to include being considered at the formation of the new financial institutions that will exist under this bill. In other words, just as with the formation of a bank holding company, CRA performance can be evaluated in connection with the creation of a financial services holding company. But if we are going to expand CRA in that manner, there are two reforms to CRA that we want, and I submit that neither of these reforms is unreasonable.

(a) The first reform we want is an anti-extortion provision, which says that CRA is about lending in the community you serve. Under this reform, we would have a strict prohibition against kickbacks, cash payments, quotas, and set-asides in connection with purchases, hiring, and promotion.

The idea that professional protesters, as part of withdrawing their protest and letting banks proceed with their business, would then be hired by the bank in an advisory capacity to advise them on various issues conjures up in my mind the "protection" racket of an earlier era, where the little merchant had the gangster come into his place of business and say, "You know, somebody could come in here and do you some real harm, and I am willing to protect you."

Now, some people have said—being critical of Senator SHELBY and myself—well, the banks aren't complaining. Well, the plain truth is that many of the merchants who were being extorted by the gangsters were afraid to complain. But it was wrong and we did something about it. You can call up the President of any bank in America, or any head of any Government regulatory agency and, if you have their confidence, ask them off the record, "Is CRA, as it now works, extortion?" They are going to tell you, in all probability, that the answer is yes.

So what we want is a simple anti-extortion provision that says that CRA

The second change we want is eminently reasonable, as well. It is that if a bank is in compliance with CRA, if they have been examined for CRA and they have been given a favorable CRA rating, then they should be deemed to be in compliance with CRA on anything they want to do that requires CRA compliance until their next examination. (b) safe har

The idea that a bank today can get an excellent CRA rating, and then they apply for a merger and CRA protesters come in and shake them down again is unconscionable to me, and it is unreasonable. I can't, for the life of me, see how anybody could be against an anti-extortion provision, and I can't see how anybody could be opposed to a provision that says if you have a passing rating on CRA when you apply for a merger or an acquisition, you are deemed to be in compliance until you are reviewed again and get another rating.

Senator SHELBY and I have offered to do one of two things—either drop all the CRA requirements and go on with this bill, or expand CRA as we have described, but together with a simple anti-extortion provision and a simple provision that says if you are in compliance, you are in compliance.

Now, in the absence of an agreement on these issues, Senator SHELBY, I, and others intend to resist. We are simply a small number of Members, and I understand that there are many powerful interests around America who have interest in this bill. I say that Senator SHELBY, I, and others have a principle in this bill. Our principle is that we are against extortion, and we are not going to be parties to expanding it. We may not have the votes today to get rid of it. We may not have the votes to purge this evil from the American financial system. But I think under the rules of the Senate we do have the power—I hope we do—to prevent it from being expanded.

I just want to say to those who have an interest in this bill, if you want this bill passed, urge those who are on the other side of this issue to look at our reasonable proposal. The rules of the Senate were established to protect the rights of the minority. They were established so that if a few Members felt strongly about something and they were willing to stand up for their principles and beliefs, it was hard to run over them.

It is like Washington said when Jefferson came back from France, where he had been Foreign Minister to France while the Constitution had been written. Jefferson asked Washington what the Senate was for. His argument was, if you have a House of Representatives

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which has passed this financial services ill, even if only by one vote—will be ke this cup and it will catch the heat and the fire of the moment; but the Senate will be the saucer in which we will allow the passions of the moment to cool. That is what role Senator SHELBY and I intend to fulfill as we exercise our rights. It may be that we can be run over and this bill can be passed; maybe not. I believe that those who want this bill would be well advised to urge Senator SARBANES and Senator MOSELEY-BRAUN, who are so determined to expand CRA—I think it would be advisable to ask them whether that is worth killing this bill over. Can't you just take a time-out on CRA and leave it out of the bill? Or, if you can't do that, why not agree to a compromise whereby those who oppose CRA are willing to let you expand it, but you have to give them an antifraud provision, and you have to give them reasonable enforcement, so that if you are complying with the law, you are considered to be complying with the law?

I hope people who are for this bill with their great economic interest will call on those who are on the verge of killing it in the name of CRA to be reasonable and let us move ahead.

I say today that unless there be any confusion from this point on, as one single Member of the Senate, I intend to do everything in my power to impede this bill unless these problems are resolved. I intend to do everything in my power to use all the rules of the Senate, no matter how long it takes, no matter how difficult it may be. It may be that Senator SHELBY and I, and others, can be run over, but it may be that the rules of the Senate are sufficiently strong that with our determined resistance this bill will die unless some accommodation is given on this issue.

I urge those on the other side of this issue—I am not talking about the other side of this body. I am talking about the people who have invested millions, billions, trillions in banks, insurance companies, securities companies who know in their heart that we are right about community reinvestment—I urge them to call on those who are trying to use this bill as a vehicle to expand community reinvestment not to kill this bill over this issue.

I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I want to first associate myself entirely with the remarks of the Senator from Texas. He was speaking very articulately for himself. But he was also speaking for me and a lot of other people, I believe, here in the Senate when he was talking about the problems with H.R. 10. There are a lot of good things in H.R. 10. But one of the most reprehensible things, I believe, Mr. President, is the expansion of the Community Reinvestment Act. Senator GRAMM has gone to great lengths to explain that tonight.

But before any of my colleagues would think about voting for the bill, if it comes up, H.R. 10, I think they ought to ask themselves and ask their local bankers, small bankers, the small directors and the officers if they in America support these measures that I think are reprehensible, such as increased administrative enforcement authority of the regulators to fine directors and officers of banks up to $1 million a day for CRA noncompliance. That is not the law today.

Two, that would make activities like insurance sales, or mutual fund sales, subject to CRA compliance on all depository institution affiliates on an ongoing basis. That is not the law today; and regulatory authority to shut down any affiliate within the holding company if just one subsidiary depository institution falls out of CRA compliance.

Just think about this. These are sweeping, sweeping changes in the law as we know it today.

Senator GRAMM talked at length about passing this banking reform bill—and I think it has a lot of reform in it—and keeping CRA neutral; not bother or try to repeal the CRA law as it exists today, although I personally would like to; leave it alone for another day, but not to try to expand it, either.

Those are some of my concerns.

Senator GRAMM and I have offered and we are hoping to negotiate with the proponents of this legislation for a resolution to the problems dealing with CRA issues. I will go over them one more time.

Mr. President, it would apply to the formation of financial services holding companies the same CRA structure that applies to the formation of bank holding companies today. I don't see anything wrong with that. It would be uniform, and it makes a lot of sense.

Second, Mr. President, any financial institution that has been found to be in compliance with CRA in its most recent exam shall be deemed to be in compliance with CRA for all purposes and for any action until its next regularly scheduled CRA exam.

And, thirdly—I think this is very important—to put forth some language in there dealing with antifraud, antibribery provisions, and to say basically that it shall be illegal for any financial institution in connection with the CRA review evaluation or consideration to give anyone not employed by the bank any grant or subsidy in cash, or in kind, or to establish any quota, or set aside for employment, management, sales, purchases, or other business activities other than activities voluntarily undertaken by the financial institution to meet the credit needs of the local communities in which the financial institution is chartered.

This makes a lot of sense to me. I think it makes sense that people would focus in on this as we debate this bill.

But I just want to again say that we should go ahead if we could knock out and make CRA neutral in this; go ahead and work on the merits of H.R. 10, which are many, and try to do something. If we can't, Senator GRAMM—and there will be others—and I are going to do everything we can to protect our rights here in the Senate.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 29, 1998, the federal debt stood at $5,523,785,546,399.80 (Five trillion, five hundred twenty-three billion, seven hundred eighty-five million, five hundred forty-six thousand, three hundred ninety-nine dollars and eighty cents).

One year ago, September 29, 1997, the federal debt stood at $5,388,316,000,000 (Five trillion, three hundred eighty-eight billion, three hundred sixteen million).

Five years ago, September 29, 1993, the federal debt stood at $4,387,836,000,000 (Four trillion, three hundred eighty-seven billion, eight hundred thirty-six million).

Ten years ago, September 29, 1988, the federal debt stood at $2,587,821,000,000 (Two trillion, five hundred eighty-seven billion, eight hundred twenty-one million).

Fifteen years ago, September 29, 1983, the federal debt stood at $1,354,190,000,000 (One trillion, three hundred fifty-four billion, one hundred ninety million) which reflects a debt increase of more than $4 trillion—$4,169,595,546,399.80 (Four trillion, one hundred sixty-nine billion, five hundred ninety-five million, five hundred forty-six thousand, three hundred ninety-nine dollars and eighty cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-7237. A communication from the Chief of the Regulations Unit of the Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update" (Notice 98-48) received on September 28, 1998; to the Committee on Finance.

On the safety and soundness, let me say I think the regulatory structure put in place by this legislation is important and would permit the formation of financial holding companies. These financial holding companies would be able to engage in any activity that is determined to be financial in nature or incidental to such financial activities.

Thus, the holding company could include a commercial bank, securities firm, mutual fund or insurance company. Each entity within the holding company would be regulated by its existing regulator. Thus, a commercial bank would be regulated by its bank regulator, whether that is the Comptroller of the Currency, the FDIC or the Federal Reserve. The securities firm and the mutual fund would be regulated by the SEC and by the appropriate State securities regulators, and the insurance company would be regulated by State insurance regulators, as is now the case. So you have functional regulation of each entity within the new financial holding company.

In addition, the Federal Reserve would serve as the so-called umbrella regulator of the financial holding company. The Federal Reserve would have authority to set capital at the holding company level. It would have authority to conduct examinations and request reports from subsidiaries of the financial holding company if it determines they are necessary to assess a material risk to the bank holding company for its subsidiaries.

I think this balance is an effective approach to protecting the safety and soundness of the financial system and most independent observers, with respect to safety and soundness questions, agree with that evaluation.

There are also important consumer protections contained in the legislation with respect to the sale of uninsured financial products, and I am sure we will have a chance to develop those in some detail.

Where we find ourselves procedurally is the next vote, obviously, will be on the actual motion to proceed to the bill. At that point, the bill would then be before us and open to amendment. I subscribe to the position put forward by the chairman of the committee that Members ought to have a chance to offer an amendment; we ought to have reasonable debate on them and then move to vote on them, one way or another, and work through the legislation in that fashion.

It has been a long road to reach this point. I think it is important to try now to conclude deliberations on this important legislation in an orderly and rational fashion, and I think the approach the chairman has outlined certainly accommodates that.

We hear stories or rumors that people are out to simply try to delay this as long as they can in order to, in effect, sink the legislation. I very much hope that doesn't happen. An awful lot of work has gone into bringing us to this point, as is reflected by the comments of the various parties who have been deeply interested and affected by this legislation. I, frankly, think the Congress now has an opportunity to finally come to grips with an issue—this issue is being dealt with on an ad hoc basis. No one thinks it should be done that way. No one. At least I don't think anyone. I don't want to speak for all of my colleagues, but that is true of all of the regulators, all of the commentators. They say the way to deal with this is to do it statutorily through enactment by the Congress. So we will just have to see as we move ahead whether we can come to closure on this important issue. I very much hope it will be possible to do so. Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by congratulating the chairman of our committee, Senator D'AMATO. I have had an opportunity to serve both in the House and in the Senate. I have worked with many great legislators in that process. But I have to say that the job Senator D'AMATO has done in putting this bill together, in bringing together people with very different starting points to a unity among the variety of interests that are concerned about this bill, represents one of the most outstanding and, I think, one of the most miraculous legislative achievements that I have seen in my service in the House and the Senate. I congratulate him. I congratulate Senator SARBANES, the ranking member, for his work.

Certainly our colleagues are right when they say that all the interests are for this bill, but I think it is fair to say that Senator SHELBY and I are not here today to represent any particular interest or even the collection of all interests. We are here today representing what we believe is a fundamental principle. Where I come from, when interest comes up against principle, then interest loses.

We have a fundamental issue before us. I believe that perhaps the greatest national scandal in America is not the scandal that is being covered every day at the White House. It is a scandal where a law is being used in such a way as to extract bribes and kickbacks and in such a way as to mandate the transfer of literally hundreds of millions of dollars and to misallocate billions and tens of billions of dollars of credit. I believe that this represents something that should be stopped.

Perhaps some word of explanation should be given. If the people who are being extorted, if the people who are being blackmailed are not objecting, why are we objecting? My response to this is to point out that when the mob was engaged in the protection racket, the little merchant who was afraid generally did not object. But we don't generally accept that in America anymore because there have been police officers and there have been prosecutors who did object on their behalf.

Senator SHELBY and I are here to object on behalf of bankers and small community banks that, in many cases, are afraid to object on their behalf.

I have related to the Senate on many occasions, and we are going to have an opportunity to debate this at length, the abuses under the Community Reinvestment Act, or CRA. I want to make a couple of points related to it.

No. 1, the so-called Community Reinvestment Act and the provisions contained in it was voted on only once in the Congress. It was voted on in 1977 in the Senate Banking Committee on a motion to strip the provision from a proposed housing bill, and that motion failed on a tie vote, 7 to 7, in 1977, which means for half of the Members to vote to strip the provision when the Republicans were in the minority, there had to be a bipartisan vote.

So far as I have been able to find, that is the only vote that ever occurred on this provision of law.

The logic of this provision, which came from the former chairman of the Banking Committee, Senator Proxmire, was to require banks to make loans in areas where they operated. The concern expressed at the time was that banks weren't serving their communities, and, therefore, the Government took upon itself to impose on the banks the necessity of lending in their local community.

I am not going to debate tonight the wisdom or lack of wisdom of that, but as I have pointed out on many occasions, what has happened is that CRA has taken on a meaning that has nothing to do with lending.

It has now become common practice in CRA for professional protest groups to protest a bank's "community service record" and, in turn, use the leverage of those protests to extract bribes, kickbacks, set-asides in purchases and quotas in hiring and promotion, none of which has anything to do with CRA and the lending practices of banks in the communities they serve.

All of this is made possible by the banking regulators in enforcing this law, who respond to the protests by holding up action which banks wish to undertake and often are under immense pressure to undertake once it has been announced. Professional groups here in Washington that you can hire will go to your community and protest against the bank, even dump garbage on the property, make all kinds of statements, claims and demands and, in turn, extract resources for themselves and for others. So strong is the growing resentment against this provision of the law, that when proponents of the provision sought to put it in the credit union bill, it was defeated on the floor of the Senate.

When consideration on this bill began in the Senate Banking Committee, Senator SHELBY and I, and others, offered an agreement which was—this is a very contentious issue, so let us call a truce on it an leave it alone for now. I want to repeal this provision of law. I want to end this scandal. I want to stop this extortion. Others want to expand it, expand this provision of law.

Knowing that we would never be able to compromise on this issue within the very limited time that we had to enact this important financial services legislation, I sought to come up with a solution. And the solution was to treat it as slavery was treated by Abraham Lincoln in his campaign in 1860. That was, where the evil existed, leave it alone, but do not expand it into new areas.

On that basis, if we had left CRA out of this bill, we could have moved together, we could be at this moment united for this bill, and this bill, in my opinion, would be on the way to becoming law. But that is not what has happened.

There has been great confusion about what is actually contained in the bill. So I want to take a few minutes and go over what is in current law and what this bill actually does.

In current law, there are really only two provisions related to CRA. First, bank regulators consider how a bank has been meeting the local credit needs only when a bank applies to open a new bank, a branch or engage in a merger. Second, bank regulators may deny applications for these activities based on the record of the bank in community lending. That is the current law.

Based on this, all over the country banks that have exemplary records in community lending and that have received the highest ratings on CRA are routinely shaken down every time they want to open a branch, every time they want to start a new bank, every time they want to engage in a merger. They end up having to make cash payments, kickbacks, establish quotas in hiring, and many other things, because the regulator simply holds up approval of the action, even though the bank may have a perfect record on CRA.

In fact, we discussed on the floor the record of Bank of America. It was brought up by proponents as an exemplary bank in CRA. I pointed out how professional protest groups had said they were going to shut down the bank in California when it sought to merge with NationsBank if it did not make more concessions to them.

Those are the abuses under the current law. But look what is added by this bill. When you listen to proponents of the bill, it is as if there are no CRA provisions of any significance in it. In fact, we just heard that the so-called community groups, whoever they are, that they did not get—what?—they did not get enough of what they wanted. I submit they never get enough of what they want nor will they ever get it until we redistribute wealth in America.

Here are the provisions that are added:

The first provision added, the third that would become a part of the law, is that officers and directors can be fined up to $1 million per day for CRA noncompliance—a totally new provision of law.

The new fourth provision that is proposed: Banks can be fined up to $1 million a day for CRA noncompliance.

The fifth provision: cease and desist authority for CRA noncompliance.

Sixth provision: the Federal Reserve may place any restrictions on any banking activity for CRA noncompliance.

Seventh provision: the Federal Reserve may place any restriction on any insurance activity for CRA noncompliance.

Eighth provision: the Federal Reserve may place any restrictions on securities activities for CRA noncompliance.

Ninth provision: the Federal Reserve may place any restriction on any other activity of the holding company for CRA noncompliance.

Tenth provision: Any violation by any one bank in the holding company triggers the penalties that I have listed above against the entire company.

The eleventh provision would place in law sanctions affecting insurance sales.

The twelfth provision: CRA is applied to uninsured, wholesale financial institutions.

If we have the abuse that we have under current law with two simple provisions that have no enforcement mechanism whatsoever against a bank, unless it is seeking to acquire a new bank, to merge, or to branch, can you imagine what will occur when the officers of a bank can be fined $1 million a day for noncompliance? Or can you imagine the perpetual shake down of a national, nationwide bank, with 1,000 branches, when the entire company receive those penalties if one branch is found to be or accused to be out of compliance? So this is a very, very big issue.

Here is where we are. We have rules in the Senate. And those rules were designed to protect the rights of the minority. And basically, my position, and Senator SHELBY's position, is that the expansion of CRA by these provisions will greatly increase the opportunity for extortion and kickbacks and the imposition of coercive agreements, such as those whereby companies in the past have agreed to give protest groups a percentage of their profits, have agreed to hire protesters as advisors on dealing with these provisions of law—things that turn your stomach and that in any other area would call for prosecutors and would send the police out to do something about it.

We are now condoning it by law with very weak enforcement provisions. If we have a $1 million-a-day fine, we are going to have an explosion of these kinds of activities.

I have talked to Federal Reserve Board Chairman Alan Greenspan and I have talked to the Secretary of the Treasury about this whole problem area. And I have proposed yet another compromise. The easiest thing to do would be to leave CRA out of the bill. But I have recognized that the President has said that he would not support leaving it out. We have colleagues who would not support leaving it out. So here is the compromise that Senator SHELBY and I want to propose as an alternative, as another option: Expand CRA to the new financial service holding companies so that the laws that apply now to other banking entities will apply in the same way to the new banking entities. But also add two provisions of law to check abuses.

First, we want a simple, well-defined antiextortion, antikickback provision that focuses CRA on lending and not on cash payments, or quotas, or set-asides, or giving protesters a percentage of your profits for a certain number of years.

Second, if a bank is in compliance with CRA in its last examination, then that compliance should mean something. It should remain in force until the next regularly scheduled exam. Then we could end the double-jeopardy situation where the officers and directors are in a position where they can be extorted—even if they have a perfect CRA record—the moment they apply to open a new bank, to merge, or to open a new branch, even though they have an exemplary CRA record.

If we could do these three changes—expand CRA to address the requests those who want to expand it, joined together with those two checks against abuse, one on bribery and extortion, and the other on eliminating double jeopardy—I believe we could have a bill.

Let me make this clear. Obviously, many people are for this bill. All the interests are for this bill. But there is a strong principle at stake here, and I am not for this bill. Senator SHELBY is not for this bill. We believe that using our rights under the rules of the Senate we can probably stop this bill. We will, if we can, stop this bill unless some accommodation is made on the effort to expand CRA. We will not let this bill go forward with these massive expansions in CRA power.

We are in a position where one side is not willing to let the bill go forward with these massive expansions in CRA; the other side says they will kill the bill if these expansive provisions are taken out. So that is where we are.

I want people to understand, if you are for this bill, don't waste your time calling Senator SHELBY and me. We will not be moved. If you are for this bill, call those who are for expansion of CRA and ask them what is wrong with a simple expansion of CRA and a simple amendment dealing with bribery and extortion and a simple provision establishing that if a bank is in compliance, it is in compliance.

I urge those that are for this bill to let their views be known on this issue. I understand some banks in this country are willing to go on paying these bribes and keep quiet about it because there are other provisions of the bill they want. This is a wrong that is bigger than dollars and cents, and it needs to be stopped. I remind my colleagues that the clock is running and will run out, and this bill will die unless an accommodation is made on this issue.

If you care about this bill, if you really believe that this bill is important—and I believe it is important, but I don't buy into the logic that we are not going to pass the bill early in the next session if we don't pass it here this week, but some people believe we won't—what I am saying is for those who want the bill now, there is one thing you have to do to get this bill. You will have to do something about the expansive CRA provisions.

Finally, let me say even if you fix CRA, the clock is running out, and if you are going to fix it, you better do it fast. That, I think, is the essence of our message.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. SHELBY. Mr. President, I will take just a minute tonight. I associate myself with Senator GRAMM. We worked on this together in the Banking Committee and we will be working together on this for a long time. I will take a minute to inform the Senate of my objections to H.R. 10.

I believe that members of the Senate have not had the proper time to study and debate this matter. Most do not even know what is in this bill. This is a very complicated bill. There are a lot of good things in it, but there are some things that Senator GRAMM has raised and I will raise as the debate goes along that we need to debate and we need to take out of this bill. I believe Senators are just being told basically that this is a historical opportunity, you must pass H.R. 10.

Think about it tonight. We make history in this Chamber, the U.S. Senate, every day. If we pass H.R. 10 just because everyone on Wall Street tells us to pass H.R. 10, this will, indeed, be a historical moment. But I don't believe that is going to happen, not with a lot of the provisions that are now in the bill.

If H.R. 10 is so great, why is everyone reluctant to debate the bill? How come the members of the Senate Banking Committee were not permitted to read, study, or share the manager's amendment until the morning of the markup? Is that the way a Committee is supposed to function? What is hidden in this bill?

I'll tell you one thing that is in this bill—so well hidden, not one of the bank trade associations—not the American Bankers Association, the Independent Bankers Association of America, America's Community Bankers, the Bankers Roundtable or even the Consumer Bankers Association knew the implications of the CRA expansion in this bill until Senator GRAMM and I sent around a "Dear Colleague" about a week and a half ago. None of those associations realized that they were subjecting member bank officers and directors to million-dollar-a-day civil money penalties for CRA noncompliance.

Why didn't the associations realize this? These associations are caught up in the rush to judgment. They have not given proper consideration to this bill, and neither have we.

With less than a week to go in this Congress, H.R. 10 is being jammed through the Senate. The Senate is supposed to be the deliberative body.

There are many good things in H.R. 10, Mr. President, but there are also many bad things in H.R. 10. Currently, community groups and even labor unions use CRA to protest the merger of financial institutions. Most of the time, the merging institutions are forced to pay off the protest groups just in order to consummate the merger. Make no mistake about it, this is legalized extortion, one that the U.S. government is aiding and abetting.

The financial institutions who support this bill are used to paying off consumer groups. Nationsbank and BankAmerica have committed $350 billion to CRA in order to merge. Citibank and Travelers Group have committed over $100 billion to CRA in order to merge. These large institutions are used to paying a toll every time they want to do business.

That may be fine for Wall Street, but that is not fine for Main Street. Not every financial institution around the country has $350 billion to buy off consumer groups and labor unions.

Who do you think pays for this legalized extortion? I'll tell you who: all the paying customers in this country. Everybody is complaining about large institutions charging more and more fees at higher rates, ATM fees, late fees and the like. It takes a lot of fees to pay for a $350 billion CRA commitment.

Senator GRAMM and I have consistently stated our position since the Banking Committee first held a hearing on H.R. 10 several months ago. We will not seek to repeal, reduce or eliminate the CRA as it stands in its current form. However, we will not agree to expanding either the scope or the enforcement authority of CRA in H.R. 10.

Now, some have insisted on expanding both the scope and enforcement authority of CRA in H.R. 10. In this bill, some even delink CRA from deposit insurance and subject bank affiliated wholesale financial institutions woofies to CRA. The interesting thing about this is the woofies do not take deposits of less than $100,000 and are not insured by the Federal Government.

I guess, we could roll over like all the banks before us who have paid off the consumer groups. But, I for one, will not succumb to that kind of extortion, and I will fight this thing as long as it stays in the bill. Government mandated credit allocation is wrong. Legalized extortion is wrong.

Last week, Senator GRAMM said that this is a principled objection. It is. We will not be bought off by Wall Street. Wall Street does not have the best interest of Americans in mind in this bill. The only thing they understand is dollars and cents. The principle they understand is profit. The interest of Wall Street is not always the interest of Main Street.

Here is a message for Wall Street in terms I hope they can understand: If you really want to pass financial modernization, in order to consummate mergers and make money off of every American by offering a vast array of services, go to those that are insisting on expanding CRA and ask them to work with Senator GRAMM and myself in making H.R. 10 CRA neutral. Otherwise, I believe this bill will ultimately fail. There may be some late nights and strong words, but I, for one, am committed to ensuring this bill will not become law.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

UNANIMOUS CONSENT AGREEMENTS

Mr. HAGEL. Mr. President, on behalf of the leader, I ask unanimous consent that notwithstanding rule XXII, that the Senate proceed to vote on adoption on the motion to proceed at 10 o'clock a.m. on Wednesday. Before the Chair grants the consent, for the information of all Senators, immediately following the adoption of the motion to proceed to H.R. 10, the cloture vote with respect to S. 442 would occur under the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAGEL. Mr. President, on behalf of the leader, I further ask consent that it be in order for the majority leader, after notification of the Democratic leader, to move to proceed to any available appropriations bills, conference reports, or resume the Internet bill prior to the 10 a.m. Wednesday vote, notwithstanding the invoking of cloture.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. HAGEL. For the information of all Senators, in light of this agreement, the leader expects the Senate to resume the agriculture appropriations conference report tomorrow morning. In addition, tomorrow afternoon, the leader expects the Senate to resume the Internet tax bill. Therefore, votes could occur with respect to that bill, as well. A cloture vote on the Internet tax bill will occur Wednesday at 10 a.m.

Assuming cloture is invoked, the Senate would then remain on the Internet tax bill until disposed of. Therefore, votes can be expected throughout the day and evening on Wednesday.

Having said all of that, there will be no further votes this evening, and Members can expect votes prior to noon tomorrow.

THE WALL STREET JOURNAL WEDNESDAY, JANUARY 6, 1999

REVIEW & OUTLOOK

Gramm's Glass-Steagall Beef

Among the biggest pieces of business to come before this Congress will be bank reform, which means undoing the Glass-Steagall Act. This past fall, after thousands of lobbying hours were expended by those seeking a repeal, Phil Gramm of Texas quashed the whole project because he objected to just one part of the legislation called the Community Reinvestment Act. It is a shame the Glass-Steagall repeal didn't make it. But Senator Gramm's CRA concerns deserve attention. The issue here is drawing a line between doing good and subsidizing a protection racket.

Back in the 1970s, Congress passed the Act with the aim of training banks to cease perceived racial discrimination in business and mortgage loans. CRA gave four different banking regulators—the Fed, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation and the Comptroller of the Currency—the job of reviewing lenders' performance in their communities.

Phil Gramm

Often these offices didn't even do their auditing together, so bankers had to deal with up to four regulators making four sets of demands. Yet CRA's power was considerable: Any bank that wanted to merge with another, expand or open a branch had to get CRA approval. Banks were quick to discover that CRA packages that included handsome contributions to neighborhood nonprofits would win them a passing grade. Extra commitments by banks to establish quota programs for bank hiring also helped; so did set-asides for minority business.

Let's postpone the theoretical debate over this sort of thing for a moment to just look at what the program
(1) has become. CRA very much looks as if it has evolved into a billion-dollar payoff scheme for regulatory approval.

In 1993, Sumitomo Bank of California received a "need to improve" notice from the Federal Deposit Insurance Corporation. So it promised to issue $500 million in CRA-related loans over 10 years and spend 2% of net income on charities and nonprofits. It also said it would give 20% to 25% of contracts to minority-owned vendors. This is the way the world works now, cynics might say. But the numbers have risen beyond cynicism.

This year, within a month of their April merger with Travelers Group, Citibank and Travelers announced in a press release a CRA commitment of $115 billion, or double Citibank's domestic deposit base.

When NationsBank and BankAmerica announced their mega-merger, they created a CRA package worth $350 billion over 10 years. A NationsBank press release pointed out that this amount "roughly equals the combined total of all community lending goals [commitments] made by the rest of the banking industry" since CRA's outset.

The new NationsBank plan promises $115 billion to build or fund affordable housing, and $25 billion for economic investment. First African Methodist Episcopalian Church of Los Angeles sent its Tunua Thrash to testify at a July 9 Fed hearing that she had "grave misgivings" about the effect of the giant merger on the church community. Soon after the merger went through, Nationsbank announced it was giving $300,000 in community development money to the Congress of National Black Churches.

By now the activists have the banks trained to give at the drop of a hat—or even before one. One of the most enthusiastic bits of pro-merger testimony at a 1998 Fed hearing over the union of Norwest and Wells Fargo came from ACCION New Mexico, which specializes in micro-loans. Anne Haines Yatskowitz of the group congratulated Wells Fargo for having made a $200,000 investment in ACCION's Albuquerque efforts the year before, even though, at the time, the bank didn't have much presence in Albuquerque. "There were no branches in Albuquerque," she went on to stress, "yet Wells Fargo took a very proactive role in supporting our program."

Recently ACORN's Minneapolis representative, Marcia Erickson, used the occasion of a hearing on Norwest's merger with Wells Fargo to berate Norwest executives for their "racist, classist performance." ACORN representatives made similar charges, all this past year, at hearings on the merger of Nationsbank and BankAmerica, and First Chicago and Banc One.

With the CRA's federal policeman there to interpret the rules and punish them for violations, bankers haven't been frank in public about CRA for years. As Harold F. Still, former president of the Pennsylvania Bankers Association, wrote to Senator Gramm: "Not long after passage I gave a speech on the subject to some 400-500 Pennsylvania bankers. In my naiveté I spoke openly and frankly. Never having been a spell-binding speaker before, I was amazed when, after the speech, the entire audience rose and applauded." Yet, wrote Mr. Still, "never again did I speak publicly about the Act, nor did any other banker. The threat of action from the so-called community groups . . . caused all of us to keep our mouths shut."

Even the Clinton Administration has had its run-in with the CRA Culture: When CRA fan Paul Sarbanes, Maryland's Democratic Senator, decided that the Administration's candidate for Comptroller of the Currency, John Hawke, wasn't enthusiastic enough about CRA, he blocked confirmation. The Treasury ended up slipping in Mr. Hawke with one of its famous recess appointments.

If the political system is going to countenance this sort of shakedown, there ought to be something substantial to show for it. But even that's not clear. Fed Governor Edward Gramlich pointed out in a thoughtful speech recently that there is "very little rigorous evidence" on the long-term effects of CRA.

Senator ~~Gramm~~ advocates treating CRA in a separate ~~bill next~~ time. As chairman ~~elect of the~~ Banking Committee, he's now in a position to make that happen. It's time for a review.

The Washington Times TUESDAY, JANUARY 19, 1999

A16

JAMES BOVARD

Urban bank loan shakedowns targeted

Sen. Phil Gramm, the new chairman of the Senate Banking Committee, last week proclaimed that the Community Reinvestment Act was resulting in banks being compelled to make "kickbacks and bribes" to activist groups — a process Mr. Gramm said "is little more than extortion." Mr. Gramm's denunciation could open the door to the exposure of some of the worst bureaucratic abuses occurring across the land.

The Community Reinvestment Act, enacted in 1977, was supposed to prevent banks from taking deposits in one neighborhood and making loans in other neighborhoods. But since President Clinton took office, the federal government has largely ignored the law and instead relied on massive threats against banks to force them to loan more to favored groups. As former Assistant Treasury Secretary Paul Craig Roberts observed, "The Justice Department is simply trying to establish by consent decree a system of racial quotas in lending regardless of credit risks."

The Community Reinvestment Act has created mechanisms by which community groups can use federal regulatory procedures to shake it down. In order to get government approval to open a new branch — or sometimes to even open a new ATM machine — or to merge with some other bank, the bank must effectively get approval from community activist groups. Many of these groups are explicit about their goal; Bruce Marks, executive director of Union Neighborhood Assistance Corp. in New York City, describes himself as an "urban terrorist."

One of the most active organizations nationwide is the Association of Community Organization for Reform Now — known by its acronym, ACORN. As Doug Bandow, author of "The Politics of Envy," notes, "ACORN and its allies usually demand money for the protesting organization, below-market interest rates on loans to businesses run by ACORN and its officers, low-interest loans, controlled by ACORN, in poor areas, minority hiring quotas, and cheap banking service for selected groups." ACORN agents were denounced for extortion in D.C. in 1992 after demanding cash contributions from shop owners and threatening them unless they bankrolled an ACORN project.

While the feds are stormtrooping across the nation's banks, one high-ranking official confessed that the terms they use to convict private banks lack any clear meaning.

Federal CRA regulations invite extortionate demands by community groups. Jonathan Macey, a Cornell University professor, observed, "You see really weird things when you look at the Code of Federal Regulations . . . like federal regulators are encouraged to leave the room and allowing community groups to negotiate ex parte with bankers in a community reinvestment context. . . . Giving jobs to the top five officials of these communities or shakedown groups is generally high up on the list [of demands]. So, what we really have is a bit of Old World Sicily brought into the U.S., but legitimized and given the patina of government support." Edward Crutchfield, chairman of the First Union Corp., one of the nation's fastest-growing financial organizations, denounced the CRA process as "pure blackmail."

The Clinton administration used a contorted interpretation of fair lending laws to bring Chevy Chase Bank to its knees for the crime of not having branches open in locations where the Justice Department wanted. The feds used the same arguments in 1997 to punish

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Bank Loan

Albank Federal Savings Bank for not having branches or seeking business in minority areas in the Northeast. And the Justice Department civil rights chief Bill Lann Lee has indicated plans to further expand prosecutions against other types of lenders. At a banking meeting last October, Mr. Lee sought to intimidate the audience: "We're the last people you want to hear from, because when we call on your door we're there with a case, and often a big case."

While the feds are stormtrooping across the nation's banks, one high-ranking official confessed that the terms they use to convict private banks lack any clear meaning. Eugene Ludwig, comptroller of the currency, admitted in 1994: "We have begun a national debate over the meaning of equal opportunity in lending. Those who say they know what it means — be they lenders or borrowers, be they civil rights advocates, industry consultants, or members of the regulatory community — are simply wrong. Nobody has all the answers. The law is sketchy. The policy is evolving." Yet, even though regulators do not know what the law supposedly means, this has not impeded the federal government from harassing banks for as-yet-undefined crimes.

Federal agencies should not have the power to compel banks to make more bad loans to politically preferred clients. The Community Reinvestment Act should be repealed " and the feds should be ejected from the banking business. The less politicians have to do with banking, the more creditworthy the nation will become.

James Bovard is the author of "Freedom in Chains: The Rise of the State & the Demise of the Citizen" (St. Martin's Press, February 1999).

American Banker Wednesday, February 3, 1999

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Senate Banking Panel Chief: CRA Payments Amount to 'Bribery'

◆By DEAN ANASON

WASHINGTON — Escalating the war of words over the Community Reinvestment Act, Senate Banking Committee Chairman Phil Gramm said the law encourages "bribery" and "extortion."

"No bank should be allowed to pay money in order to gain support in a CRA evaluation and no organization should be allowed to ask for money as a condition for silence," the Texas Republican said in a Feb. 1 letter to President Clinton released Tuesday.

The solution is to outlaw these payments, Sen. Gramm said. "By removing cash from the process, I hope we can restore honesty," he said. "People who believe a bank is doing either a poor job or a good job should say so because that is what they believe, not because they have been paid to hold an opinion."

Sen. Gramm was responding to a speech President Clinton gave last week to the U.S. Council of Mayors. The President questioned why banks object to the CRA even though the industry is earning record profits.

"I'll bet the town banker is doing pretty well where you live — in a big city or small town," he said Friday. "And yet, unbelievably enough, when we are proving it is working, the Community Reinvestment Act is under attack again."

Financial reform legislation being drafted by Sen. Gramm is expected to eliminate community reinvestment requirements that were included in last year's version of the bill. That change and several others could anger Democrats, bankers, and insurance agents.

Sen. Gramm's bill also reportedly would permit cross-ownership of banks and commercial firms, keep unitary thrift holding companies intact, and permit securities and insurance underwriting in the operating subsidiaries of banks with less than $1 billion of assets.

Though they cautioned the details remain fluid, industry lobbyists and Hill sources familiar with the plan said that it is also expected to eliminate many — if not all — limits on bank sales of insurance.

A Senate Banking Committee spokeswoman confirmed that Sen. Gramm is considering letting bank holding companies conduct limited commercial activities — possibly capping these activities at 25% of revenue.

Sen. Gramm would prefer to deal with Community Reinvestment Act reforms separately, she added. However, if Democrats insist on some CRA requirements for holding companies created under the bill, Sen. Gramm would seek pro-bank reforms such as limits on payments to community groups.

But as Sen. Gramm mulls major revisions, two House Republican leaders warned Tuesday that tinkering with financial reform legislation could endanger its broad support.

"This is very highly fine-tuned" and any changes could chip away support in the House, Majority Leader Richard K. Armey told reporters after a speech. "You move one comma and you are not going to pass it."

House Commerce Committee Chairman Thomas J. Bliley Jr., also speaking to the Council of Insurance Agents and Brokers, warned Sen. Gramm against trying to dilute CRA. "If he tries to do that in the banking bill, he will blow it up," Rep. Bliley said.

Sen. Gramm and Sen. Paul S. Sarbanes, the ranking Democrat on the committee, are scheduled to meet Friday to discuss the legislation in anticipation of a draft being released on Monday. A committee vote is scheduled for Feb. 25.

Senate Banking's vote scheduled for today on regulatory relief legislation has been postponed until Feb. 11. ◇

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JANUARY 12, 1999, TUESDAY

SECTION: CAPITOL HILL HEARING

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HEADLINE: NEWS CONFERENCE WITH SENATOR PHIL GRAMM (R-TX), CHAIR, U.S. SENATE BANKING COMMITTEE
SUBJECT: SENATE BANKING COMMITTEE AGENDA FOR THE 106TH CONGRESS
538 DIRKSEN SENATE OFFICE BUILDING
WASHINGTON, D.C.

BODY:

SEN. GRAMM: (In progress due to late feed) -- too much process to basically listen and consult.

And in that process, I have listened and consulted with Congressman Jim Leach, who is the chairman of the House Banking Committee. I met yesterday with Paul Sarbanes, who is our very able ranking Democratic member of the Banking Committee.

I have talked on several occasions and met at some length with Alan Greenspan, chairman of the Federal Reserve Bank Board. I met with Secretary Rubin and arranged yesterday to do one final meeting on the subject of the emerging action in this committee. I met with each Republican member of the Banking Committee. I am in the process now of meeting with each and every Democratic member of the Banking Committee.

And we are in the process of soliciting the input of every organization, every business or industry, every group and every citizen of America that is affected by something within the jurisdiction of this committee; input as to what we should do during these two years to improve the quality of financial services, to improve the quality of public and private housing, to improve the quality of mass transit, to expand the economic power of the United States, to promote foreign trade and investment, to create jobs and growth and opportunity. All of those things are within the jurisdiction of the Banking Committee.

Having spent two months listening and consulting -- at the end of last week -- having official become chairman of the Banking Committee, I thought is was appropriate today to begin to talk about at least an outline of our objectives during the next two years.

Obviously, the number-one piece of unfinished business from the last Congress, in fact from the last 10 Congresses, is financial services modernization.

I remember in 1985, when I was a new freshman senator, I had taught money and banking to undergraduates at Texas A&M. I had taught monetary theory and policy to graduate students. I had written extensively on the -- (audio break) -- the Senate.

I thought the time had come in 1985 to modernize the banking laws of the country. Those laws were written in the 1920s and '30s. And the problem is not that they are old; they are relatively new laws compared to many laws that I think are fundamental to the country. But the problem is that the financial services industry has changed dramatically since the 1920s and '30s. And quite frankly, the 1920s and '30s represented in America sort of a low point in terms of basic understanding of markets and economics.

So I thought in 1985 the time had come to change the fundamental banking and financial laws of the country. I had hoped that I would have an opportunity, as a freshman member of the Senate, to participate in that activity, and it has been a dominant issue since, even though we have never carried the ball over the goal line.
I want to publicly thank Al D'Amato for his leadership in the last Congress. I had an opportunity to serve with Al throughout my period of service to this point in the Senate, and I think his finest hour as a legislator was the desperate effort that he made to bring together H.R. 10. I believe that if in the end we are successful this year in passing financial services modernization, as I believe we will be, I think Al D'Amato will deserve certainly some of the credit.
What has produced a situation where the banks and the insurance companies and the securities companies have moved together in terms of reaching a common interest really for the first time in this debate has not really been the persuasive personalities of members of Congress, it's not been any political party, it's not been government. What basically has happened is that there has been a fundamental change in market forces, there have been fundamental changes in technology, and those changes in market forces, those changes in technology have moved to produce a consensus that a dramatic change is needed. I am concerned that if we wait in terms of making those changes, that those same forces that have produced a political consensus to act on these issues will begin to produce in the market system distortions in the market. I think we're already seeing that as numerous industries are moving to acquire thrift charters as basically a way of circumventing Glass-Steagall, as an effort to try to do through a thrift charter what they cannot do through a bank charter. So I am determined to act and to act swiftly.

It is my goal to report a financial services modernization bill from the Banking Committee by the end of February. That is an ambitious objective. I believe it is possible. I hope that we can do it on a bipartisan basis. I certainly am committed to work to try to achieve that goal. But it is absolutely essential, in my opinion, that we move forward; that we seize the consensus that existed at the end of the last Congress. I have initiated a process to meet with every Republican, to go through the bill in three successive meetings to look at each and every provision in the old H.R. 10 to determine which provisions have been overrun by events, to determine what needs to be changed, and to try to reach a consensus among Republicans. I have recommended to Senator Sarbanes that the Democrats undertake a similar activity, then I would meet again with Senator Sarbanes and basically sit down with each and every issue and see if we might work out a consensus.
You can't raise financial services modernization without talking about community reinvestment. The Community Reinvestment Act was passed in 1977. As far as I can determine, there was only one vote ever taken on the bill; it was a rider provision in a bigger bill. That vote was taken right here in this room, and it was a tie vote. No other legislative action was taken on community reinvestment. The law is a very simple, one-line law that basically requires that banks -- or one operative line requires that banks make loans in the communities where they collect deposits. What has happened since that time

is there has grown an elaborate bureaucracy in several different government agencies, and this system has gone far afield from the initial intention of Congress.

It is not my belief that changing the Community Reinvestment Act is essential to financial services modernization, but there is a desire among many to expand community reinvestment provisions to apply to financial services holding companies under the new bill. I have asked Chairman Greenspan and the experts who work on this issue at the Federal Reserve Bank to work with this committee to look to see if we can find a short-term resolution to the concerns that have been raised about bribery and kick-backs where actual cash payments are made with the sole objective of encouraging people and groups to either testify on behalf of an application for a merger or any other action or to pay people not to testify against such action.

I think there is a general consensus that the payment of cash to influence people's testimony is fundamentally wrong and it is tantamount to a kick-back or a bribe. The question is, How can we find the language to eliminate that abuse without fundamentally changing the law?

A second question relates to how do you determine whether a bank is in compliance and does it make sense to delay an application for a bank like Bank of America, that has the best CRA record of any bank in America, even though one or two groups question it and demand some sort of settlement from Bank of America.

So I intend, under my chairmanship, to have the Banking Committee take an extensive, deep look at community reinvestment. In the short term we will try to find a compromise that will allow us to move forward on financial modernization. In the long term we will take a look at the whole CRA law, how it has been used. I am asking the Federal Reserve Bank to undertake a major study and survey, protecting the confidentiality of banks that participate in the survey, to try to build a database so that we have something to work from in this area.

short term – compromise to CRA
long-term – Study whole law

There are four other areas that I want to move on relatively quickly. As some of you are aware, we are -- hopefully, in the very near future, we will settle who will be the subcommittee chairman. You have the list of the subcommittees and their jurisdictions. We've made some substantial changes. My objective was to guarantee that every subcommittee is substantive, that every subcommittee has jurisdiction that some member of the Senate, or more than one, would like to work in this area. I think the reaction from Senator Sarbanes to these proposals has been positive.

We have an application by one senator, Senator Bennett, for a waiver so that he can be a subcommittee chairman. He is chairman of a temporary committee dealing with the Y2K problem. That committee will end at the turn of the millennium, or at least at the year we now claim is the turn of the millennium. And in any case, it will create a situation where he would then come back; ask for his right to be subcommittee chairman.

It could mean moving as many as three subcommittee chairmen. We should have a ruling on that soon.

But it is determined that the International Subcommittee chairman will be Mike Enzi. I have asked Mike Enzi to begin perhaps next week -- if not, the week after -- by holding our first subcommittee oversight hearing on the Export Administration Act, which has expired. I am hopeful in relatively short order that we can hold a hearing, meet, and on a bipartisan basis reauthorize the Export Administration Act.

Last year we passed the Public Utility Holding Company Act. It was a relatively non-controversial bill. It would be my goal to quickly pass it out of the Banking Committee and then to challenge the Energy Committee to pass a similar bill, so that we could marry them up and have an opportunity for the first time to consider the deregulation of electric power generation. Such deregulation could mean a 30 percent reduction in electric power rates for American consumers, and that would have a bigger impact on the pocketbook of American families than any tax cut that has been adopted by the federal government since the 1981 Reagan tax cut. So I think that is a very important issue.

We had a regulatory reform bill related to financial institutions, the so-called Shelby-Mack bill. I have talked to Senator Shelby and Senator Mack. They would like to move the bill in the form that it existed -- in the last Congress. And I have committed to them to work hard to try to see that bill quickly adopted by the Senate Banking Committee and see it move to the floor for consideration.

Senator Dodd and I in 1996 had a major security regulatory reform bill that basically changed every security law in the country, to try to modernize and reduce cost, and expand availability of securities and services related to the securities industry to American consumers. Senator Dodd and I believe it's time to do that again, and we hope to do that in the first six months of this Senate. To what

I intend to make the Banking Committee a major oversight committee in the Congress. I have believed since I came to the Senate that we do a relatively poor job -- and by "we," I mean the Senate does a relatively poor job -- in overseeing the laws that we pass.

We spend tremendous energy and time passing new laws, but we spend relatively little time in overseeing those that are charged with implementing the laws we pass.

I had the great opportunity to serve under John Dingell as a member of the Commerce Committee when I was in the House. John Dingell is the greatest oversight and investigation chairman in the history of the Congress, and I intend to take those lessons and to institute a major oversight and investigation function within this committee. Its first manifestation is the fact that we will have an Oversight and Investigation vice chairman of every subcommittee, so that we will have a person who is charged with oversight of all of the government agencies and all the programs and all the implementations of law within the jurisdiction of that subcommittee.

For example, we passed a major IMF reform bill when we provided $18 billion to the International Monetary Fund. That bill set out changes in policy that have to be implemented by the IMF. They objected to the changes, but my position was, "It's great, if you don't want to make the changes, you don't have to take our money. But if you're going to take our money, you're going to spend it the way we want it spent, and in fact, you're going to spend all the other money you commingle with our money to meet the criteria that we set." I don't think that's unreasonable, given that a lot of Americans work awfully hard for $18.2 billion. We will hold a major set of oversight hearings on IMF. We will ask the IMF to appear before the committee and explain to us what they have

done in implementing our policy We Intend to see those changes made or we intend to move to take the money back.
We will hold major oversight hearings on HUD. We will hold major oversight hearings on mass transit. I will ask the GAO to do a major study on mass transit in America, looking at fixed and variable cost, and calculating in a comparable way the level of subsidy that we are providing to the average rider of mass transit. The jurisdiction of this committee has largely been exercised on mass transit, and in fact, on HUD, by appropriators. I intend to see the committee take that jurisdiction back.
We intend to look at financial derivatives. We believe that financial derivatives are in the jurisdiction of the Banking Committee. We are concerned about the action of bank regulators in our recent problems in New York with financial derivatives.
Finally, let me say I am very proud that Wayne Abernathy, my long-time staffer, has become chairman of -- has become the staff director -- (laughter) -- he has on a new suit today, so he looks like the chairman -- has become the staff director of the Banking Committee.

A famous philosopher once said, "In no way can you get a keener insight into the true nature of a leader than by looking at the people he surrounds himself with." And I believe that that is true, and I am very happy to have anybody judge me by Wayne Abernathy.
Having covered a lot of topics, let me stop and throw it open for questions. And if I could, I am kind of stunned by the number of people that are here today. So let me take questions about banking and about the jurisdiction of the committee. And then at the end obviously, if somebody has come all the way over here and sat through all that I had to say, they probably ought to have a chance to ask a question.
Yes, sir?
Q Senator, you talked about oversight hearings. And the House is planning new oversight hearings on the National Credit Union Administration's new rules -- dealing with membership. You guy -- participated in the legislation last year. Do you see oversight hearings on this side?
SEN. GRAMM: We have -- I have asked the staff to begin to put material together on the lawsuit that has been filed and the ruling that has been made. And we will make a decision pretty quickly on that.
Q Do you see credit unions, perhaps included in your Financial Services Reform bill?
SEN. GRAMM: Well -- my objective in our Financial Services Modernization bill is to make financial services more available to American consumers and cheaper than they have ever been. And anything that will expand the availability of financial services or make it cheaper is potentially within the domain of the bill.
Yes, sir? And then I'll come up here.
Q Could you talk a little bit about your meetings -- (inaudible) -- with Mr. Rubin and tell us where you think you might see eye to eye with the administration and where you see some potential conflicts?
SEN. GRAMM: Well, as many of you know who have followed me over the years, I tend to have very strong views on things. But the dispute between the Federal Reserve Bank and the Treasury is a dispute where I can see both arguments. Having been a student of the Old Independent Treasury from the second

secretary of the Treasury, who actually conducted monetary policy, It was clear to me to begin with, that any secretary of the Treasury is going to be very defensive of the monetary jurisdiction of the Treasury.
I think we have a dispute where the Treasury wants to maintain its ability to control monetary policy through banking. The Federal Reserve Bank feels that if you give large banks the ability to use operational subsidiaries to expand financial services versus a holding company, that they will always opt to do that because it's cheaper and that in doing so, you incur greater financial risk.

Now, that's one of the impasses that we face in trying to put together a bill that can go the distance.
I have met with both of the principals in this dispute, and I'm going to meet with Secretary Rubin again. I am hoping that we can find a middle ground. I have such a potential proposal in mind, but I'm still working on it and not ready to talk about It today.
Yes, sir?
(Inaudible.)
Q Senator, what do you think the -- you talked about a temporary proposal or a temporary solution on the CRA question in terms of financial modernization. How would you outline that? What would it look like?
SEN. GRAMM: Well, I think It would look like a provision that bans -- that prohibits either the giving or taking of cash payments in return for either supporting or opposing an application for merger ther application where CRA is the factor. It would basically judge it based on Intent. If the intent of the payment is to encourage people to support a bank action related to CRA, it ought to be illegal. If the intent of the payment is to encourage people not to oppose a proposal based on CRA, It ought to be illegal. When somebody appears before a government agency to express an opinion, it ought to be their opinion. It ought not to be an opinion that they are paid to have. I think that corrupts the whole process.
So what we're really trying to do, and what I have asked the Federal Reserve Bank to join me in, is to try to come up with language that would allow us to isolate out and prevent a situation where some banks are making cash payments to try to influence testimony and where some groups are basically profiteering and engaging in what is little more than extortion.
I think we can do that without doing any harm to CRA and, In fact, where banks are giving hundreds of thousands of dollars in cash payments to try to at least appear to be in compliance with CRA, if they took those same resources and used those to greatly multiply their amount of lending, we could actually get more of what we seek, which is lending in the communities where banks are located.

So I see that reform as being a reform that will help us achieve the goals of CRA that we set out in the law.
Yes, sir? Yes?
Q You've mentioned oversight of the financial accounting standards for the derivatives. Are you looking at a bill or looking at some kind of legislation similar to what Senator Faircloth or perhaps his counterpart in the House, Senator Richard -- excuse me -- Representative Richard Baker offered?
SEN. GRAMM: I'm not looking at a bill right now. I'm simply looking to be sure

we understand the problem, that we understand how good a job bank regulators are doing. It appears to me that in -- with our problem area in New York, we virtually had the most sophisticated lenders in the country that were making character loans. And I think that we have to look at that. But I don't -- I'm not going to do oversight always with a review -- with a view toward changing law; I'm going to do oversight with a view towards seeing if the current law is being enforced. And where it's not being enforced, I intend to call on government agencies to comply with the law.

Yes, sir?

Q Two questions. On the HUD oversight, what will you be looking for? What are your concerns? And secondly --

SEN. GRAMM: On the oversight --

Q HUD oversight. And then the second thing is, there's been some talk that the administration budget proposal may include suggestions for Ginnie Mae privatization. What were your thoughts on that?

SEN. GRAMM: Well, I'd have to see the proposal to have any thoughts on it. Let me give you an example of something that I think we ought to look at. And I haven't looked at the details on it, but many of you are aware that last year the inspector general at HUD wanted to do criminal investigations in several cities, and HUD and the administration made a decision that those cities were too politically sensitive, and those investigations never went forward. Now we're not going to have politics determine where criminal investigations occur at HUD while I'm chairman of the Banking Committee. John Dingell would never allow a Republican administration to do such a thing. So we're going to take a very close look at that. And I don't want to say too much about it until we have all the facts, because I'm not sure what happened. It happened in the midst of the last election. I was not chairman of the Banking Committee at the time, but I made a little note to myself that I would remember it and that we would come back and look at it.

I think it is always good for the legislative committee to constantly do oversight in an area like HUD, which has been an agency that has in the past had many problems, that has often needed continual encouragement to comply with the law, and has been an agency, under both Republicans and Democrats, that has had problems with fraud.

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Yes, ma'am?
Q Do you envision holding a series of oversight hearings of the Securities and Exchange Commission? And if so, what would you be looking for there?
SEN. GRAMM: Can I get you to say that again?
Q Do you envision holding a series of oversight hearings of the Securities and Exchange Commission? And if so, what would you be looking at there?
SEN. GRAMM: Well, we're going to reauthorize the Securities and Exchange Commission at some point. I assume that we would hold at least a subcommittee hearing on the Securities and Exchange Commission.
One area that I continue to be concerned about is that we are collecting three times as much money in fees that are imposed on transactions, on securities markets and on the transactions involving new issues, we're collecting three times as much money as we need to run the Securities and Exchange Commission. And basically, we're taxing to fund general government by taxing small businesses that are trying to get capital to create jobs, and it's something that I continue to be concerned about. And this is something that basically happened as a result of the Appropriations Committee trying to get revenues to fund programs they wanted to fund. I think it is fair to say that it will be my objective to end the situation where appropriators basically pass authorizing legislation related to the Banking jurisdiction.
Yes, ma'am?
Q Following up on CRA, where is your information coming from on these improper actions? Is it anecdotal information from banks?
SEN. GRAMM: Well, it's coming from, basically, the look that we have taken at the staff level here in Banking. We don't have very many good studies. We do know that the default rate on CRA loans is about six times the default rate on loans in general. We do know that there has been in some high profile cases situations where cash payments have been made. We believe that it is quite common, but the Federal Reserve Bank does not keep data on basically side settlements, so that under current practice, if a bank paid an organization a million dollars to testify before the Federal Reserve Bank examiners in favor of the granting of a merger, there would be no record on it, nor would it be illegal: or the payment of a million dollars not to testify.

And I've yet to run into anybody who thinks that it's proper, when we're supposedly holding hearings to gather facts, to have witnesses that are paid to say what they're saying. It seems to me that that circumvents the whole intent of the process.
But we have come up with a dozen or so examples and what we're doing is asking the Fed to do a major study. That is more of a long-term program. In the short term, I would simply like, as part of the community -- the Financial Services Modernization Bill, that if proponents of CRA want to expand its coverage to financial services holding companies that we, as part of that, deal with this problem of cash payments, kick-backs and bribes.
Yes, sir?
Q Senator, does that mean that you would deal with the CRA issue before you could pass out the modernization bill, then?
SEN. GRAMM: It means that I would like to come to a consensus, if possible, on how we deal with CRA in Financial Services Modernization. The Banking

Committee has made a change in CRA in the bill that Chairman Leach has introduced. I am hopeful that we can reach an agreement where we will either treat CRA separately in a separate bill which I could support or, if the proponents of CRA want to expand it to include financial services holding companies, that we deal with the problem in terms of determining who is in compliance and, secondly, deal with the problem of these cash payments to influence witnesses in hearings related to CRA.

Yeah?

Q Do you anticipate there will be comprehensive reform of RESPA or the Truth in Lending Act during this session?

SEN. GRAMM: We don't have it on our priority list as of right now. We are obviously soliciting input from virtually everyone in America as to problems they would like to see us deal with, and if -- as a result, everything is open, but it is not on our agenda right now.

Yes, sir?

Q Senator, there's a half a dozen House and Senate committees that have been looking into this issue of technology transfer to China. Is this committee going to handle it? And how so, as it deals with export controls?

SEN. GRAMM: Yes, this committee is going to handle it.

Q How?

SEN. GRAMM: Well, we want to reauthorize the Export Administration Act. It is within our jurisdiction, and we're going to make a decision about it.

And we are certainly not going to give the jurisdiction to anybody else.

Yeah?

Q Senator, you said that your discussions with other members on the Financial Services Modernization have been built around H.R. 10. Do you see major structural changes in the approach that H.R. 10 takes coming out of this process?

SEN. GRAMM: I think there will clearly be changes. H.R. 10 has been overrun by events in some cases.

I think that as we go through with individual members of the committee that there will be changes. I think we can make the bill a little tighter. When you are writing a bill, as quickly as we were writing it, you tend to have a lot of redundancies in it, a lot of things that you don't have to have. I think the simpler we can make it, the more certain both sides of the debate in the Senate can be sure that there is no hidden agenda.

So I think it can be simplified. I think it has been overrun by events in some cases. And I am going to listen to the input of every member of the Banking Committee. And as you know -- so many people wanted on the Banking Committee that we actually increased the size of the committee. So there are a lot of people to listen to, and I am sure they'll have ideas.

Q Senator?

SEN. GRAMM: Let me get everybody else. Is there anybody that has got a first question?

Q Yes. Senator Gramm, earlier you mentioned that huge fight over derivatives that -- (inaudible) -- on the committee. There is a huge turf battle going on among the regulators, as you know. The Commodity Futures Trading Commission has put out some proposals. Do you -- intend to weigh in on that issue at all?

SEN. GRAMM: Well, we intend to assert our jurisdiction over financial derivatives. And anything -- that is legislative related to it, we intend to

be the leader of.
We are going to look at what some have categorized as "bank regulator failure" in problems we have had in the recent past. And obviously, we are going to be sensitive to this whole issue. In those areas related to futures that are clearly within the jurisdiction of the Ag Committee, we intend to work together with them on a joint basis.
Q Senator, have you talked with Senator Lott about the timing of bringing a Financial Services bill to the floor? And do you think that the impeachment proceedings -- (inaudible)?
SEN. GRAMM: I think my only problem with bringing this bill to the floor at the end of February would be that Lott might want to try to kiss me in public. (Laughter.) Other than that, I don't anticipate any problems. (Laughter.) I think it would be very well received by this Congress on a bipartisan basis, if we had a major bill that could be considered early in this Congress.

- And I think, quite frankly, it's an opportunity that we ought to at least try to take. I've set out an ambitious goal in trying to report the bill from the committee by the end of February, but there's a big prize for doing that; we could be the first major bill -- this could be the first major bill considered in the new Senate -- in the new Congress, for that matter. And I think that as the first major bill, I think there will be a strong incentive on the parts of both the majority leader and the minority leader to move such a bill, if in fact it came to the floor of the Senate. And so if we can take advantage of that and give the Senate something important to do early on, I say that's a plus.
Yes, ma'am?
Q As a follow on to that, Senator Lott has said that he wanted the Senate to operate on a dual track. Obviously you're taking him at his word. But do you think you're going to be able to get people's attention when there's distraction by this impeachment trial?
SEN. GRAMM: I don't know. I'm kind of shocked at the number of people that are here today. Maybe you all just wanted to talk about something different. (Laughter.)
But I think I have the attention of the members of the committee. We are going to hold a series of breakfast meetings to review in detail the contents of H.R. 10 and update it. We are going to hold a subcommittee hearing on Export Administration probably next week. So I don't see -- we don't go into session on the impeachment trials until 1:00, and we get paid from 7:00 on in the morning, so I don't see any reason we can't do it.
Other first questions anybody's got?
Yeah?
Q In H.R. 10, are you going to keep the thrift charter restrictions that are in the D'Amato bill -- the restrictions on --
SEN. GRAMM: I do not oppose commercial companies owning financial charters for either thrifts or banks. If it were left up to me, I would remove those provisions from H.R. 10. My experience with commercial companies owning thrifts in a period of crisis is that they have had a broad financial base, they have produced institutions that are more stable than average, and I am not in the least bit swayed by the argument that commercial ownership of financial charters is a bad thing.
What the final bill will look like when Senator Sarbanes and I sit down

together, if we can reach an agreement, I think that's an open question that would have to be decided.

But where I individually stand on it -- if General Motors wants to own a bank charter, my guess is General Motors would be a stable owner, and they've got substantial financial assets that could make the charter more stable, could make deposits safer, and could be a benefit. But that's just my opinion. There are other people who have very strong feelings on the other side of the issue. And I'm going to sit down, listen to them, and try to put together a bipartisan bill. Obviously, that's one of the things we're going to have to deal with.

Yeah?

Q Senator, on IMF oversight, are you confident that IMF officials will appear in the committee? They seem to have --

SEN. GRAMM: I think that they -- I hope they will. I believe they will.

Yeah, first questions. Do -- anybody else got a first question? All right. Let me start over with second --

Q Senator --

SEN. GRAMM: Then we'll quit when we get through this group.

Q Senator, on CRA, you talked in favor of repeal of CRA last year on the floor of the Senate. Are you still in favor of repeal, or have you softened your opposition to it in general?

SEN. GRAMM: I do not support the government dictating to people how they use their assets. So my position on CRA has not changed, nor is it going to change.

I am not proposing that we repeal CRA; I am proposing that we do something about abuses within CRA. And I believe that if we deal with the abuses, that the political support for CRA might actually become stronger.

But had I been here in 1977, I would have cast the tie-breaking vote against CRA. But there are many things the government does today that I would not have supported, had I been here, and I learn to live with them, not joyfully, but I do. And I recognize -- and I think it's an important thing for a chairman to recognize -- that I don't have any monopoly on wisdom or good sense or judgment.

Q But you no longer advocate the repeal of CRA?

SEN. GRAMM: Well, that's not an issue that is before us now. It's not something that I am pursuing. But my position on CRA is well known. I've spoken on it many times, and I'm sure that we will -- what I want to do is make a decision -- I think a better way to answer that is, we're going to try to reach a short-term compromise on CRA as it relates to the whole financial services modernization issue. And that will mean a compromise related to these two issues I've discussed.

We will probably later this year or early next year begin a major effort to look at CRA itself, and then we will make a decision as to what we want to do with the law and what its effect has been, and is there evidence to substantiate that there's discrimination in lending.

You would believe that if there were discrimination in lending that the rates of return on loans, if you forced banks to change their lending in areas where there had been discrimination, you would believe default rates would be lower, you would believe that the rates of profits would be higher because banks were acting non-economically, which is the definition of discrimination. I think the limited data we have strongly suggests that that's not true, but we don't have enough data to make a final decision.

So in terms of CRA, I'd want to look at the facts, then we'll make a decision some day about what to do about CRA. But my short-term objective is to try to get CRA out of the way of financial services modernization.

Yes, ma'am?

Q When do you expect the Humphrey-Hawkins report --

SEN. GRAMM: We'll be announcing that later. And the Humphrey-Hawkins process I think terminates this year, so this could be the last one we will have.

Yes, ma'am?

Q Yes, you invoked John Dingell as an inspiration to you. I'm wondering if you have any thoughts on the last Texan to head a major Banking Committee, and that would be Henry B. Gonzalez, who headed the House Banking Committee.

SEN. GRAMM: Well, Henry B. Gonzalez is a great man, a great role model in our state. Over the years he had some hostile things to say about me, but I am proud that I never, ever said anything hostile about him, and I'm not about -- after all these years of biting my tongue, such that there is actually one part of it missing -- (laughter) -- after all these years, I'm not about to deviate from that. I have found that if people say mean things about you and you refuse to respond, it makes it harder for them to keep saying them.

Yes, ma'am?

Q Given the outpouring of reaction on the new "Know Your Customer" rules, are you planning hearings on that?

SEN. GRAMM: We're planning to look at that, yes. I think there is some evidence that we have gone too far. And believe me, I hate drug dealers and money launderers, and I'd like to grab them by the throat and not let them go to get a better grip. But when we're trying to ask banks to track how much my mother is contributing to the church and how much your activities are, I think it's just gone too far, I think. So we're going to look at in some detail.

Yeah, let me take these three questions -- these four and we'll quit.

Yeah?

Q Should we interpret your comments on Humphrey-Hawkins as in opposition to the semi-annual reports?

SEN. GRAMM: Well, no. We've come to the end of the process as I understand it -- (to staff) -- that's right, isn't it Wayne? -- (returning) -- that this will be the last one. We will announce it. As I look at things we ought to do and work we've got to do, I don't see this as being very high on my priority list.

Having said that, let me say that there are other members of the committee, and if some of them feel strong about it, we'll look at it. But we had it in a period where Congress felt it was important, and it has had its day. And so I don't -- in looking at the agenda that I'd like to pursue, I don't see it on the agenda.

Now, as we talk to other members, that may change.

Yes.

Q Just on mutual holding companies, are you going to support parts of the legislation, portions of the legislation, the financial service reform that'll allow insurers to form mutual holding companies? Is that something --

SEN. GRAMM: I don't -- I haven't reached a judgment on it, the details of the

Merge

and has grown to more than 10,000 employees.

"He is generally considered to be [illegible] mary catalyst in shaping the [illegible] nology industry and h[illegible] nized as a philan[illegible] leader," said [illegible] dent a[illegible]

Sarah Rosen
456-2223

IN [illegible]

Mr. E[illegible] [Spe]aker, as Congress moves fo[illegible] consideration of spending for foreign [aff]airs, I would like to draw attention to the successes of the Christian Reformed World Relief Committee (CRWRC) headquartered in Grand Rapids, Michigan.

In 1997, CRWRC received a USAID grant of $75,000 for a Development Education project. In collaboration with Bread for the World Institute (BFW), CRWRC used the money to fund a national event which linked international development organizations with U.S. leaders who were interested in public policy, sustainable development, and hunger. The event was a huge success.

The Gathering, which took place in Washington, D.C. in June of 1997, was preceded by a number of training materials and publicity brochures and newsletters. Participants were divided into one of three groups: Track I, which involved over 300 people who were interested in poverty and hunger and wanted to learn more; Track II, the "leadership corps" or those who expressed a higher level of interest and would apply the "miltiplier effect" in their own regions after leaving the Gathering; and finally, Track III, the six foreign nationals who were development practitioners working in partnership with CRWRC overseas.

Attendance at the Gathering exceeded expectations, drawing over 500 people. The conference was a time to share stories and learn from others. According to the increase in learning based on the results of a baseline survey given at registration and a follow-up survey that followed the conference, each of the three groups was impacted significantly by new information. The follow-up survey showed that Track II participants tripled in their learning and Track I showed a positive increase as well. In addition, the visiting international developers were able to learn about the democratic process in the U.S. and the possibility of creating their own action in their own countries.

Other evidence of learning appeared in the comments from participants after the Gathering:

From Jean Claude Cerin, a development practitioner from Haiti, and one of the international presenters:

> There was a woman in my small group the first day of our meetings who felt forced to adopt international issues. [. . .] She said that's not what she's concerned about, she's [illegible]e interested in what's happening in her backyard. After going through the [work]shops and interchanges, she became so [intere]sted. She's interested in the mailing [list to] publish talks of folks at the Track II [worksh]ops in her local newsletter, and to be [in comm]unication with international folks [via] email. She said, "I'm able to con[nect] international issues to my own [backyard] now." *She caught the connection, [W]e are interconnected.* [emphasis [illegible]

[From a Tr]ack II participant: "Thanks again [for your sk]illed leadership and courage in [initi]ating funding and hosting the [Gatheri]ng. It's a milestone in raising [illegible]!"

[illegible] would like to emphasize the [illegible] this program and believe it [illegible] public dollars can go to serve [the world']s poor when coupled with private ef[fort].

THE DEPOSITORY INSTITUTION MERGER PLEDGE ENFORCEMENT ACT (H.R. 4420)

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1998

Mr. LAFALCE. Mr. Speaker, we find ourselves in an era of mega-mergers among financial institutions, and the trend is likely to continue. There is some public concern about these mergers, and with a good reason. Diversified financial services companies offer real opportunities for consumers, including easier access to a larger array of financial services at lower cost. But they also carry risks: higher or hidden fees; intrusions upon consumer privacy; and indifference to community needs and concerns on the part of institutions with only a tenuous link to the local community.

Today I am introducing legislation intended to help ensure that these larger conglomerates remain responsive to community needs, fulfill their community reinvestment obligations and honor their own community reinvestment pledges.

As part of the regulatory approval process for merger applications, the banking and thrift regulators are required to consider the financial institution's community reinvestment record. It is becoming increasingly typical for financial institutions to announce sizeable financial commitments to provide loans within low and moderate income communities in the context of these pending applications. These pledges are typically intended to enhance the institution's perceived performance; gain support or approval for the application; and assuage public concern or—in some cases—reduce community opposition.

Let me provide some examples. In the NationsBank/BankAmerica merger, a CRA commitment of $350 billion over 10 years was made: $180 billion for small business; $115 billion for affordable housing; $30 billion in consumer loans; and $25 billion in community development investments. Citibank-Travelers announced a commitment of $115 billion over 10 years in small business and consumer loans; mortgages and community investments. Washington Mutual/Great Western/H.F. Ahmanson committed to $120 billion in affordable housing, multifamily housing, small business and consumer loans.

These financial institutions and others are to be congratulated on the pledges they have made. The commitments have been substantial and wide-ranging. I believe they are seriously intended and I have confidence they will be pursued. But the public must have confidence as well, and the current regulatory oversight system does not provide any.

These commitments have typically been for ten years and generally involve sizeable, but unspecified pledges of credit for affordable housing, business loans, consumer loans and investments in community projects. Yet current supervisory oversight under CRA focuses on an institution's lending and investment activities during one-year periods only, and seeks to determine whether the institution is meeting minimum required levels of community reinvestment, not the higher levels promised in these commitments. Several recent studies have found that even these routine CRA examinations have been inadequate and that CRA ratings are generally "inflated."

The capacity to monitor the higher levels of lending and investment committed to in conjunction with proposed mergers does not now exist either among the regulators or the community groups. As a result, the community investment pledges we are now routinely seeing cannot and will not be measured or monitored over time. But they must be, if they are to be more than empty promises. It is difficult for the public and community groups to have confidence that the generalized pledges of these institutions will take concrete and positive shape within their communities if there is no way to monitor pledge implementation.

Some of the regulators have suggested that community organizations should enforce community investment pledges by banks. I fear that may be unrealistic as few such groups would have adequate enforcement capacity. Moreover, it is difficult to enforce commitments as highly generalized as some we have seen.

Community groups are pressing for commitments that involve highly specific goals for improvement in specific types of lending in more narrowly targeted communities. That approach may have merit. Some institutions have taken it with substantial success, while others are strongly resistant.

My legislation attempts to strike a middle ground. The bill would direct the Federal banking regulators to develop and maintain procedures to monitor compliance with community reinvestment pledges made by financial institutions. In addition, it would:

Require the regulatory agencies to notify institutions when commitments are not being met and make such non-compliance public; and

Authorize the regulators to take an institution's record of compliance with these pledges into account in any future decision-making regarding the institution.

The community investment pledges being made by financial institutions are becoming an integral element of the mega-merger trend. They must be taken seriously by the regulators as well as the institution which makes them. Community groups and the public at large must have confidence in the integrity and meaningfulness of these pledges. The development of a mechanism for monitoring compliance can afford that confidence without undue regulatory intrusion.

These pledges must be more than public relations devices. If public concern about the wave of mega-mergers is to be assuaged, these commitments must show tangible results in local communities. I believe my bill will help accomplish that important objective, and I would welcome the support of my colleagues.

The text of the bill follows:

H.R. 4420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institution Merger Pledge Enforcement Act".

SEC. 2. ENFORCEMENT OF COMMITMENTS MADE IN CONNECTION WITH ACQUISITION OR MERGER APPLICATIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(t) ENFORCEMENT OF MERGER AND ACQUISITION PLEDGES.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall establish and maintain procedures for monitoring, on an ongoing basis, compliance by any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person with any pledge or commitment made by any such person in connection with the approval of any application by any such person under subsection (c), section 44, sections 2, 3, or 4 of the National Bank Consolidation and Merger Act, section 3 or 4 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act, including any pledge or commitment relating to community lending and investment.

"(2) REPORT OF NONCOMPLIANCE.—Whenever any appropriate Federal banking agency determines that any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person is failing to maintain compliance with any pledge or commitment referred to in paragraph (1) at any time during the effective period of the pledge or agreement, the agency shall—

"(A) notify the institution, company, bank, or affiliate of such determination; and

"(B) shall publish a notice of such determination in the Federal Register.

"(3) NONCOMPLIANCE TAKEN INTO ACCOUNT IN CONNECTION WITH SUBSEQUENT APPROVALS.—If an appropriate Federal banking agency makes a determination of noncompliance under paragraph (2) with regard to any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person, the agency may take such noncompliance into account in making decisions in the future regarding the institution, company, bank, or affiliate.".

A TRIBUTE TO THE MEDFORD, LONG ISLAND FIRE AND RESCUE VOLUNTEERS

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1998

Mr. FORBES. Mr. Speaker, I rise today to salute the brave volunteers of the Medford Fire Department for their valiant efforts to contain and extinguish a huge blaze at the Gershow Recycling plant in eastern Long Island, New York on July 23, 1998. I also commend the Medford Ambulance Corps volunteer members who worked tirelessly at the scene of the fire treating firefighters for smoke inhalation and heat exhaustion even as black smoke billowed around them.

A towering inferno erupted at the car recycling plant in Medford on that Thursday at around 3:45 p.m., emitting intense heat and flames until well into the next afternoon. The fire consumed tons of metal, petroleum and rubber tires from scrap automobiles measuring approximately two acres wide and 60 feet high. The Medford fire and rescue volunteers were first to arrive at the scene of the blaze and quickly unleashed torrents of water to prevent the fire from spreading to nearby homes and businesses.

The Medford volunteers were able to contain the inferno to the recycling plant site while awaiting mutual aid from 73 fire departments and emergency companies who responded to an Islandwide call for assistance. Thanks to the unrelenting efforts of the Medford firefighters, no one was seriously injured and no buildings or homes surrounding the recycling plant were damaged. Yet, the Medford Ambulance Corps, along with several other local emergency medical services, performed admirably in treating 36 firefighters for heat exhaustion, minor cuts and burns.

The quick response of the Medford fire and rescue volunteers ensured the containment of the blaze and kept the fire from resulting in tragedy. These volunteers work round the clock at perfecting their firefighting and emergency preparedness skills, and stand ready to help their neighbors at a moment's notice. They deserve our praise and heartfelt thanks for another job well done.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in honoring the brave volunteers of the Medford Fire Department and Ambulance Corps and to recognize their commitment and dedication to protecting the lives of my eastern Long Island constituents. We are truly blessed to count on these volunteers in our time of need.

PAYCHECK PROTECTION ACT

HON. MARK W. NEUMANN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1998

Mr. NEUMANN. Mr. Speaker, I appreciate this opportunity to briefly address the House about the Paycheck Protection Act. I regret that the campaign finance bill approved today does not effectively prevent organizations from forcing individuals to financially support campaigns. The Paycheck Protection Act authored by my friend from Colorado, Congressman BOB SCHAFFER, includes this fundamental principle of American democracy. Despite my concerns that the Paycheck Protection Act's language as originally drafted may not apply this principle equally to unions and corporations, I remain supportive of Congressman SCHAFFER's efforts. Congressman SCHAFFER has already made some improvements to the bill and I look forward to working with him in the future.

ESTABLISHING A PERMANENT DIVISION OF CHIROPRACTIC SERVICES IN THE VETERANS HEALTH ADMINISTRATION—H.R. 4421

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1998

Mr. EVANS. Mr. Speaker, today I am introducing legislation to authorize the employment of doctors of chiropractic as full-time health care professionals by the Department of Veterans Affairs and establish a permanent division of chiropractic services in the Veterans Health Administration. Joining me as original cosponsors of the bill in the House are Representatives PAUL KANJORSKI, DALE KILDEE, BOB FILNER, JIM MCDERMOTT, THOMAS MANTON, NEIL ABERCROMBIE, JOSEPH KENNEDY, LUIS GUTIERREZ, ELEANOR HOLMES NORTON, GEORGE BROWN, MARTIN FROST, and CHARLES RANGEL, ENI F.H. FALEOMAVAEGA, JAMES LEACH, PATRICK KENNEDY, BENNIE THOMPSON, and VIRGIL GOODE, JR.

Each day in the U.S. more than one million Americans seek the services of doctors of chiropractic, receiving effective, safe and appropriate care from highly trained, state licensed providers. Beneficiaries in federal programs such as Medicare, Medicaid and federal workers compensation, have routine availability to chiropractic services to meet their health care needs. In contrast, the Department of Veterans Affairs has not routinely provided veterans access to this beneficial form of health care regardless of their specific needs or personal wishes.

The research record continues to validate the use of chiropractic for a wide range of conditions. Even the U.S. Public Health Service, through the Agency for Health Care Policy and Research, rates "manual manipulation" as one of the top choices for back problems in adults because of its effectiveness and low cost. Chiropractic offers veterans a drugless, non-surgical option—an option that is a much-needed addition to the care available through VA.

In virtually all other areas of the Federal health-care delivery system, Congress has recognized the role of chiropractic care, thereby ensuring that beneficiaries have a voice in choosing health care options that are best for them. My legislation will provide veterans the same ability to make health care choices that best address their specific needs.

It is time to end this long-standing inequity in federal health care programs and give veterans a real choice in their health care. Our veterans deserve no less.

RAIL SERVICE IMPROVEMENT ACT OF 1998

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 6, 1998

Mr. MORAN of Kansas. Mr. Speaker, rail transportation has long played an important role in shaping the American landscape. In recent years, however, this landscape has made for difficult situations for shippers, railroads, and farmers looking to move their grain to export markets.

105TH CONGRESS
2D SESSION

H. R. 4420

To amend the Federal Deposit Insurance Act to require the Federal banking agencies to monitor compliance by depository institutions and depository institution holding companies with commitments made by such institutions in connection with a merger or acquisition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 6, 1998

Mr. LAFALCE introduced the following bill; which was referred to the Committee on Banking and Financial Services

---

A BILL

To amend the Federal Deposit Insurance Act to require the Federal banking agencies to monitor compliance by depository institutions and depository institution holding companies with commitments made by such institutions in connection with a merger or acquisition, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Depository Institution Merger Pledge Enforcement Act".

company, savings and loan holding company, foreign bank, or any affiliate of any such person is failing to maintain compliance with any pledge or commitment referred to in paragraph (1) at any time during the effective period of the pledge or agreement, the agency shall—

"(A) notify the institution, company, bank, or affiliate of such determination; and

"(B) shall publish a notice of such determination in the Federal Register.

"(3) NONCOMPLIANCE TAKEN INTO ACCOUNT IN CONNECTION WITH SUBSEQUENT APPROVALS.—If an appropriate Federal banking agency makes a determination of noncompliance under paragraph (2) with regard to any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person, the agency may take such noncompliance into account in making decisions in the future regarding the institution, company, bank, or affiliate.".

CRA

Office of Thrift Supervision
Department of the Treasury
1700 G Street, N.W., Washington, DC 20552

FAX COVER SHEET

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Michelle

OTS Form 1609
Rev. March 1997

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From the office of

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Roxbury, MA 02118
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Congressman Joseph P. Kennedy II: 8th District, Massachusetts

DATE: 8/6/98

TO: The Honorable Ellen Seidman FAX # 202 898-0230

ORGANIZATION: Director, Office of Thrift Supervision

FROM: Joe Kennedy / Scott Olson

NUMBER OF PAGES (not including this cover page) 3

COMMENTS:

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JOSEPH P. KENNEDY II
8TH DISTRICT, MASSACHUSETTS

COMMITTEE ON BANKING AND FINANCIAL SERVICES
SUBCOMMITTEES:
HOUSING AND COMMUNITY OPPORTUNITY, RANKING MINORITY MEMBER
DOMESTIC AND INTERNATIONAL MONETARY POLICY

COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEES:
HOSPITALS AND HEALTH CARE
COMPENSATION, PENSION, INSURANCE AND MEMORIAL AFFAIRS

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601 TREMONT STREET
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Congress of the United States
House of Representatives

DIRECTOR

RECEIVED

August 6, 1998

The Honorable Alan Greenspan
Chairman
Board of Governors of the Federal Reserve
20th and C Streets, N.W.
Washington, DC 20551

The Honorable Donna Tanoue
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20552

The Honorable Julie Williams
Acting Comptroller of the Currency
250 E Street, S.W.
Washington, DC 20219

The Honorable Ellen Seidman
Director
Office of Thrift Supervision
1700 G Street, N.W.
Washington, DC 20552

Dear Federal Banking Regulators:

We are writing to express serious concerns over a pattern of banking regulators giving high Community Reinvestment Act ratings to banks at the same time that lending to low-income and minority housholds is losing ground.

The latest Home Mortgage Disclosure Act figures show an 8.6% increase in the number of African-Americans denied home mortgage loans and a 10% increase for Latinos. In fact, the overall denial rate of 53% for African-American loan applicants means that black households are more likely than not to be turned down for a home loan -- denying those families a rung up the ladder of the American dream. Just as foreboding, the absolute number of Latino home-loan borrowers actually declined by 2% over the last year.

Despite evidence of declining commitment to fair lending practices, banking regulators gave CRA "non-compliance" ratings to only nine federally insured financial institutions in 1997 -- less than one quarter of one percent of all rated lenders. Moreover, less than 2% of rated lenders received a CRA rating below "satisfactory" in 1997. Almost identical rates for these categories were handed out in the first half of 1998.

CRA plays a critical role in holding federally insured financial institutions accountable in meeting the credit needs of their communities, including low and moderate-income neighborhoods. But CRA can only be effective in this critical role if CRA exams unfailingly signal out institutions that are not doing a good job of meeting such credit needs.

CRA ratings over the last two years simply do not represent a tough-minded evaluation of lending practices by our nation's financial institutions. Just six years ago, the percentage of CRA ratings below "satisfactory" was 10% of the 5,600 institutions examined. The 2% level of the last few years represents an 80% decline over this six-year period. According to such numbers, our nation's lenders have made a terrific improvement in their business practices, helping families in low-income and minority communities all across the country become homeowners.

But as we've pointed out, the lending facts tell a different story. How can so few banks be held accountable for poor CRA performance when African-Americans are still more than twice as likely to be denied a loan than a white applicant, and Latinos are 50% more likely to be denied a loan than a white applicant?

Why are so many banks getting satisfactory ratings when lending to higher-income borrowers increased three times as fast over the last year as lending to lower-income households?

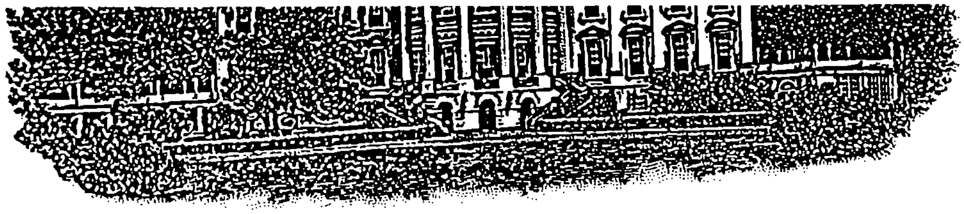
The simple truth is that the national homeownership rate for minorities lags the national homeownership rate for non-minorities by over 20%. Given this huge discrepancy, and recent HMDA data, it is not realistic to expect a sharply downward trend in poor CRA ratings.

Therefore, we urge you to reevaluate and revamp your CRA examination process, to hold federally insured financial institutions fully accountable for their community reinvestment obligations.

Thank you for consideration in this matter.

Sincerely yours,

[illegible]	Nydia M Velázquez
Luis V Gutierrez	[illegible]
[illegible]	Carolyn C. Kilpatrick
Charles B. Rangel	Lucille Roybal-Allard
[illegible]	Maxine Waters
Tom Barrett	



THE WHITE HOUSE

SARAH ROSEN
SENIOR ADVISOR
NATIONAL ECONOMIC COUNCIL
(202) 456-2223 (Fax)

TO: Michael Barr

PHONE:

FAX: 622-4774

DATE: 1/28

PAGES TO FOLLOW: 3

COMMENTS: Ok?

If this fax is incomplete or you need to give clearance information for a meeting, please call Sonyia Matthews at 456-5351. Thank you.

Office of Thrift Supervision
Department of the Treasury
1700 G Street, N.W., Washington, DC 20552

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Jim AT PH: ______ AS SOON AS POSSIBLE

COMMENTS:

OTS Form 1609
Rev. March 1997

January 28, 1999

Sarah:

Here's a revised "CRA Fact Sheet" for you to consider. It differs from the version you sent over last night in a few material respects:

1. We deleted the "What is CRA?" intro. We think that it isn't necessary in this document. There is no easy way to ensure that all folks will be able to reconcile the statutory purpose that is linked pretty clearly to "credit needs" to the regulatory tests that also include "services" as explained in the fact sheet. Further, the "redlining" link fans the flames.

2. We added language that explains briefly how the regulation is tailored to specific types of institutions by including different tests.

3. We added language about the applications process in the bullet relating to public comment. We think this is pretty essential and not mentioning it looks like we are hiding the ball.

4. We added a new bullet that touches on the increased importance/emphasis on CRA since the early 1990's – HMDA changes, public CRA ratings, etc, all things that have raised sensitivity.

5. We combined the sections on community and small business benefits.

6. We deleted references to increases in minority lending. The CRA and the regulations focus on low and moderate income persons and communities – not minorities, per se. Inclusion plays into the hands of the "affirmative action" critics, and those who already can't separate fair lending from CRA.

7. We modified the discussion of small business lending. The "two-thirds" remark concerned us somewhat. We weren't sure how total small business lending was measured. We assumed that it is SBA lending. If it is, then there is no comparison between what is collected and reported under CRA and SBA loan figures.

There are also some editorial changes that are reflected on the new draft.

Thanks,

Tim
906-5629
898-0230 (fax)

CRA FACT SHEET

How does CRA work?

- Federal bank and thrift supervisors assess each financial institution's performance: loans made, services provided, and investments made in their communities. The CRA regulation tailors examinations to specific types of institutions by providing a streamlined examination for small banks and thrifts (generally those with assets under $250 million), a community development test for wholesale and limited purpose institutions, and a strategic plan option for all institutions. Examinations are typically done on 24 to 36 month cycles.

- Banks and thrifts make their CRA ratings public. The public can comment on an institution's CRA performance at any time, including before the start of scheduled examination and in connection with the filing of certain types of applications such as those for mergers and acquisitions, the establishment of a new institution, and additional deposit facilities.

- Since 1991, CRA activities of banks/thrifts have received increased emphasis by the public, regulators and institution management as a result of changes to the HMDA reporting requirements, the public release of CRA evaluations and ratings, and changes to the CRA regulations.

What are the benefits of CRA to communities and small businesses?

- CRA is helping to restore healthy markets in distressed communities and provide homeownership opportunities for low and moderate income individuals:
    - Since 1992, nonprofit community organizations estimate that the private sector has pledged over $1 trillion in loans for homeownership and community development in low and moderate income and distressed communities across America.
    - 1997 HMDA data show that lending to low and moderate income borrowers is on the rise. For example, since 1993, the number of home mortgage loans to low and moderate income borrowers has increased by 38 percent.
    - In 1997 alone, commercial banks made $18.6 billion in community development investments.

- In 1997, large banks and thrifts reported making 2.6 million small business loans for a total of $159 billion. More than one-fifth of those loans were made to small businesses in low and moderate income communities.

What are the benefits of CRA to banks and thrifts?

- CRA is good banking business.
    - "Businesses that learn how to meet [community reinvestment] demand profitably, and integrate it into their business lines, will gain a tremendous competitive advantage." Richard Rosenberg, former Chairman and CEO, BankAmerica Corporation.
    - "CRA-related activities can help develop new markets, potentially profitable business, and improve a bank's public image." Lawrence Lindsey, former Governor, Federal Reserve System.

Mergers

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THE DEPOSITORY INSTITUTION MERGER PLEDGE ENFORCEMENT ACT (H.R. 4420) -- HON. JOHN J. LAFALCE (Extension of Remarks - August 07, 1998)

[Page: E1570]

HON. JOHN J. LAFALCE

in the House of Representatives

THURSDAY, AUGUST 6, 1998

- Mr. **LaFALCE.** Mr. Speaker, we find ourselves in an era of mega-mergers among financial institutions, and the trend is likely to continue. There is some public concern about these mergers, and with a good reason. Diversified financial services companies offer real opportunities for consumers, including easier access to a larger array of financial services at lower cost. But they also carry risks: higher or hidden fees; intrusions upon consumer privacy; and indifference to community needs and concerns on the part of institutions with only a tenuous link to the local community.

- Today I am introducing legislation intended to help ensure that these larger conglomerates remain responsive to community needs, fulfill their community reinvestment obligations and honor their own community reinvestment pledges.

- As part of the regulatory approval process for merger applications, the banking and thrift regulators are required to consider the financial institution's community reinvestment record. It is becoming increasingly typical for financial institutions to announce sizeable financial commitments to provide loans within low and moderate income communities in the context of these pending applications. These pledges are typically intended to enhance the institution's perceived performance; gain support or approval for the application; and assuage public concern or--in some cases--reduce community opposition.

- Let me provide some examples. In the NationsBank/BankAmerica merger, a CRA commitment of $350 billion over 10 years was made: $180 billion for small business; $115 billion for affordable housing; $30 billion in consumer loans; and $25 billion in community development investments. Citibank-Travelers announced a commitment of $115 billion over 10 years in small business and consumer loans; mortgages and community investments. Washington Mutual/Great Western/H.F. Ahmanson committed to $120 billion in affordable housing, multifamily housing, small business and consumer loans.

- These financial institutions and others are to be congratulated on the pledges they have made. The commitments have been substantial and wide-ranging. I believe they are seriously intended and I have confidence they will be pursued. But the public must have confidence as well, and the current regulatory oversight system does not provide any.

- These commitments have typically been for ten years and generally involve sizeable, but unspecified pledges of credit for affordable housing, business loans, consumer loans and investments in community projects. Yet current supervisory oversight under CRA focuses on an institution's lending and investment activities during one-year periods only, and seeks to determine whether the institution is meeting minimum required levels of community reinvestment, not the higher levels promised in these commitments. Several recent studies have found that even these routine CRA examinations have been inadequate and that CRA ratings are generally `inflated.'

- The capacity to monitor the higher levels of lending and investment committed to in conjunction with proposed mergers does not now exist either among the regulators or the community groups. As a result, the community investment pledges we are now routinely seeing cannot and will not be measured or monitored over time. But they must be, if they are to be more than empty promises. It is difficult for the public and community groups to have confidence that the generalized pledges of these institutions will take concrete and positive shape within their communities if there is no way to monitor pledge implementation.

- Some of the regulators have suggested that community organizations should enforce community investment pledges by banks. I fear that may be unrealistic as few such groups would have adequate enforcement capacity. Moreover, it is difficult to enforce commitments as highly generalized as some we have seen.

- Community groups are pressing for commitments that involve highly specific goals for improvement in specific types of lending in more narrowly targeted communities. That approach may have merit. Some institutions have taken it with substantial success, while others are strongly resistant.

- My legislation attempts to strike a middle ground. The bill would direct the Federal banking regulators to develop and maintain procedures to monitor compliance with community reinvestment pledges made by financial institutions. In addition, it would:

- Require the regulatory agencies to notify institutions when commitments are not being met and make such non-compliance public; and

- Authorize the regulators to take an institution's record of compliance with these pledges into account in any future decision-making regarding the institution.

- The community investment pledges being made by financial institutions are becoming an integral element of the mega-merger trend. They must be taken seriously by the regulators as well as the institution which makes them. Community groups and the public at large must have confidence in the integrity and meaningfulness of these pledges. The development of a mechanism for monitoring compliance can afford that confidence without undue regulatory intrusion.

- These pledges must be more than public relations devices. If public concern about the wave of mega-mergers is to be assuaged, these commitments must show tangible results in local communities. I believe my bill will help accomplish that important objective, and I would welcome the support of my colleagues.

- The text of the bill follows:

[Page: E1571]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Depository Institution Merger Pledge Enforcement Act'.

SEC. 2. ENFORCEMENT OF COMMITMENTS MADE IN CONNECTION WITH ACQUISITION OR MERGER APPLICATIONS.

Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

`(t) **Enforcement of Merger and Acquisition Pledges**:

`(1) **In general**: Each appropriate Federal banking agency shall establish and maintain procedures for monitoring, on an ongoing basis, compliance by any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person with any pledge or commitment made by any such person in connection with the approval of any application by any such person under subsection (c), section 44, sections 2, 3, or 4 of the National Bank Consolidation and Merger Act, section 3 or 4 of the Bank Holding Company Act of 1956, or section 10 of the Home Owners' Loan Act, including any pledge or commitment relating to community lending and investment.

`(2) **Report of noncompliance**: Whenever any appropriate Federal banking agency determines that any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person is failing to maintain compliance with any pledge or commitment referred to in paragraph (1) at any time during the effective period of the pledge or agreement, the agency shall--

`(A) notify the institution, company, bank, or affiliate of such determination; and

`(B) shall publish a notice of such determination in the Federal Register.

`(3) **Noncompliance taken into account in connection with subsequent approvals**: If an appropriate Federal banking agency makes a determination of noncompliance under paragraph (2) with regard to any insured depository institution, bank holding company, savings and loan holding company, foreign bank, or any affiliate of any such person, the agency may take such noncompliance into account in making decisions in the future regarding the institution, company, bank, or affiliate.'.

Bill Summary & Status for the 105th Congress

Item 16 of 20

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H.R.4420
SPONSOR: **Rep LaFalce** (introduced 08/06/98)

Jump to: Titles, Status, Committees, Amendments, Cosponsors, Summary

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TITLE(S):

- SHORT TITLE(S) AS INTRODUCED:
  Depository Institute Merger Pledge Enforcement Act
- OFFICIAL TITLE AS INTRODUCED:
  A bill to amend the Federal Deposit Insurance Act to require the Federal banking agencies to monitor compliance by depository institutions and depository institution holding companies with commitments made by such institutions in connection with a merger or acquisition, and for other purposes.

STATUS: Floor Actions

NONE

STATUS: Detailed Legislative Status

House Actions

Aug 6, 98:
Referred to the House Committee on Banking and Financial Services.

STATUS: Congressional Record Page References

08/07/98 Introductory remarks on Measure (CR E1570-1571)
08/07/98 Full text of Measure as introduced printed (CR E1571)

COMMITTEE(S):

- COMMITTEE(S) OF REFERRAL:
  House Banking and Financial Services

AMENDMENT(S):

NONE

COSPONSOR(S):

NONE

SUMMARY:

NONE

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No bills were found with the number H.R.4420

The bill database is not updated as quickly as the Congressional Record. It is possible that the bill has not yet been entered into the database.

Leticia Sierra
01/22/99 01:51:39 PM

Record Type: Record

To: Michelle A. Enger/OMB/EOP, Alice Veenstra/OMB/EOP

cc: See the distribution list at the bottom of this message
Subject: FYI -- HR173 -- Community Reinvestment Improvement Act of 1999

The Community Reinvestment Improvement Act of 1999, introduced by Rep. Bill McCollum (R-Fla.) on January

The Committee on Banking and Financial Services, to which the bill has been referred, has not scheduled actio

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HR 173 IH

106th CONGRESS

1st Session

H. R. 173

To amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requireme financial institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

January 6, 1999

Mr. MCCOLLUM introduced the following bill; which was referred to the Committee on Banking and Financial S

A BILL

To amend the Community Reinvestment Act of 1977 to reduce onerous recordkeeping and reporting requireme financial institutions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Community Reinvestment Improvement Act of 1999'.

SEC. 2. MODIFIED EVALUATIONS.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by adding at the end the f section:

`SEC. 809. MODIFIED EVALUATIONS.

`(a) SCOPE- In lieu of being evaluated under section 804 and receiving a written evaluation under section 8 institution's record of meeting the credit needs of its entire community with respect to any calendar year sh pursuant to this section if the institution--

`(1) has not been found to be in violation of section 701(a) of the Equal Credit Opportunity Act, or any provision of such Act, during the five-year period preceding such calendar year;

`(2) has not received a rating of `needs to improve' or `substantial noncompliance' from the supervisor the most recent evaluation of the institution under section 807;

`(3) has not been disqualified from evaluation under this section by the supervisory agency pursuant to of this section; and

`(4) has, as of the December 31 preceding the beginning of such calendar year, total assets of less tha $500,000,000.

The dollar amount in this subsection shall be adjusted annually after December 31, 1998, by the annual per increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau Statistics.

`(b) MODIFIED EVALUATION- An institution which is described in subsection (a) with respect to any calend shall, during such year--

`(1) maintain internal policies to help meet the credit needs of its local community consistent with the s sound operation of such institution;

`(2) declare in writing to the supervisory agency, at such time as the agency shall prescribe by regulatio institution--

`(A) is an institution described in subsection (a); and

`(B) is in compliance with this subsection;

`(3) display any notices as required by the supervisory agency concerning the institution's compliance requirements of this Act; and

`(4) make available for public inspection the following information regarding the record of such institutic meeting the credit needs of its entire community--

`(A) an identification of the community it serves;

`(B) a list of the types of credit offered by the institution;

`(C) public comments received during such year or any of the two years immediately preceding such regarding the institution's service of the entire community's credit needs; and

`(D) copies of any declaration submitted under subparagraph (2).

`(c) Regulatory Evaluation-

`(1) IN GENERAL- The supervisory agency shall conduct an evaluation of an institution's compliance wit section in connection with its examination of such institution, or every two years, whichever is more fre

`(2) NOTICE- Upon commencing a compliance evaluation pursuant to the section, the supervisory agenc provide public notice stating that it is conducting such evaluation of the institution.

`(3) PROCEDURE- In performing periodic evaluations of institutions pursuant to subsection (c) of this se supervisory agency--

`(A) shall review the institution's existing business records and shall not require the institution to pr documentation other than existing business records, and

`(B) shall review any additional information provided by the institution or other interested parties.

`(4) DISQUALIFICATION- In addition to any administrative enforcement action authorized under any oth provision of law, if the supervisory agency determines after an evaluation under this subsection that the not in compliance with this section, then the supervisory agency may determine that the institution shall disqualified from evaluation under this section for such period as the agency may determine to be appro

`(e) PENALTIES- In addition to any criminal or civil penalty or any administrative enforcement action authori any other provision of law, if the supervisory agency finds that an institution has intentionally submitted fal the supervisory agency or otherwise willfully violated the requirements of subsection (b), the institution shal disqualified from evaluation under this section such period, not to exceed ten years, as the agency may det appropriate.

`(f) DEFINITIONS-

`(1) `Institution' means a regulated financial institution meeting the requirements of subsection (a).

`(2) `Supervisory agency' means the appropriate Federal financial supervisory agency of a regulated fin institution.'.

SEC. 3. EVALUATION EXEMPTION.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section added by section 2 of this Act) the following new section:

`SEC. 810. EVALUATION EXEMPTION.

`A regulated financial institution shall not be subject to the evaluation requirements of this title or any regul under this title if--

`(1) the main office and each branch of such institution is located in an incorporated city or town, or an unincorporated place recognized by the Census Bureau that has a population of not more than twenty-fi thousand persons; and

`(2) the aggregate assets of the institution and any company which is a depository holding company wi such institution (as defined in section 3(w) of the Federal Deposit Insurance Act) are less than $100,00

The dollar amount in this section shall be adjusted annually after December 31, 1998, by the annual percen in the Consumer Price Index for Urban Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.'.

SEC. 4. SAFE HARBOR.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended by inserting after section added by section 3 of this Act) the following new section:

`SEC. 811. SAFE HARBOR.

`Notwithstanding section 804(a)(2), an application for a deposit facility by a regulated financial institution s denied on the basis of such institution's compliance with this Act if such institution in the previous twenty-

`(1) has received a rating of `Outstanding' or `Satisfactory' from the appropriate Federal financial supe agency in an evaluation of the institution under section 807 conducted, or

`(2) has been found to be in compliance with section 809 in a regulatory review conducted under secti

unless such institution's compliance has materially deteriorated since such evaluation.'.

END

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Sarah Rosen/OPD/EOP
Roger S. Ballentine/WHO/EOP

Leticia Sierra
01/22/99 01:58:16 PM

Record Type: Record

To: Michelle A. Enger/OMB/EOP, Alice Veenstra/OMB/EOP

cc: See the distribution list at the bottom of this message

Subject: FYI -- HR190 -- Credit Opportunity Amendments Act of 1999

The Credit Opportunity Amendments Act of 1999, introduced by Rep. Bill McCollum (R-Fla.) on January 6, has

The Committee on Banking and Financial Services, to which the bill has been referred, has not scheduled actio

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HR 190 IH

106th CONGRESS

1st Session

H. R. 190

To amend the Community Reinvestment Act of 1977, the Equal Credit Opportunity Act, and the Fair Housing A the administration of such Acts, to prohibit redlining in connection with the provision of credit, and for other pu

IN THE HOUSE OF REPRESENTATIVES

January 6, 1999

Mr. MCCOLLUM (for himself, Mr. ROYCE, Mr. PAUL, Mr. RILEY, and Mr. HILL of Montana) introduced the follo bill; which was referred to the Committee on Banking and Financial Services, and in addition to the Committee for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as jurisdiction of the committee concerned

A BILL

To amend the Community Reinvestment Act of 1977, the Equal Credit Opportunity Act, and the Fair Housing A the administration of such Acts, to prohibit redlining in connection with the provision of credit, and for other pu

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `Credit Opportunity Amendments Act of 1999'.

SEC. 2. AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT OF 1977.

(a) RECORD OF MEETING COMMUNITY NEEDS TAKEN INTO ACCOUNT IN EXAMINATION OF MANAGEMENT- Section 804(a) of the Community Reinvestment Act of 1977 (12 U.S.C. 2903(a)) is amend

(1) in paragraph (1), by striking `; and' and inserting `to assure the accuracy of the disclosures required 807.';

(2) by striking `shall--' and all that follows through `assess' and inserting `shall assess'; and

(3) by striking paragraph (2).

(b) DISCLOSURE REQUIREMENT- Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 29 amended to read as follows:

`SEC. 807. DISCLOSURE OF COMMUNITY REINVESTMENT ACTIVITIES.

`Each regulated financial institution shall prepare and make available to the public at each office of such ins deposits are accepted a written description of the lending programs and other activities of the institution w designed to enhance the availability of credit in the community, including low- and moderate-income neighb served by the institution.'.

SEC. 3. AMENDMENTS TO EQUAL CREDIT OPPORTUNITY ACT.

(a) REDLINING PROHIBITED- Section 701(a) of the Consumer Credit Protection Act (15 U.S.C. 1691(a)) is amended--

(1) in paragraph (2), by striking `or' at the end;

(2) in paragraph (3), by striking the period at the end and inserting `; or'; and

(3) by inserting after paragraph (3), the following new paragraph:

`(4) on the basis of the racial or ethnic characteristics of the neighborhood surrounding the applicant's business.'.

(b) AUTHORITY OF ATTORNEY GENERAL LIMITED TO REFERRAL CASES- Section 706(h) of the Consumer Credit Protection Act (15 U.S.C. 1691e(h)) is amended by striking `or whenever he has reason to believe o creditors are engaged in a pattern or practice in violation of this title,'.

(c) CLARIFICATION OF CAUSES OF ACTION- Section 706 of the Consumer Credit Protection Act (15 U.S.C 1691e) is amended by adding at the end the following new subsection:

`(l) DISPARATE IMPACT CASES- No provision of this title shall be construed as allowing statistical data wh to show that the credit decisions of a creditor have had a disparate impact on various classes of credit appli used as evidence, in any action under this section, that the creditor engaged in a pattern or practice in viola without additional evidence that--

`(1) the pattern or practice actually discriminated against any person or class on a prohibited basis; and

`(2) the creditor engaged in such pattern or practice with the purpose or intent to engage in an activity of this title.'.

SEC. 4. AMENDMENTS TO FAIR HOUSING ACT.

(a) REDLINING PROHIBITED- Section 805(a) of the Fair Housing Act (42 U.S.C. 3605(a)) is amended by ins `or on the basis of the racial or ethnic characteristics of the neighborhood surrounding the person's dwellin period at the end.

(b) AUTHORITY OF ATTORNEY GENERAL LIMITED TO REFERRAL CASES- Section 814 of the Fair Housing Act (42 U.S.C. 3614) is amended by striking subsection (a).

(c) CLARIFICATION OF CAUSES OF ACTION- Section 813 of the Fair Housing Act (42 U.S.C. 3613) is amended by adding at the end the following new subsection:

`(f) DISPARATE IMPACT CASES- No provision of this title shall be construed as allowing statistical data wh to show that the business decisions of any person have had a disparate impact on various classes of individ used as evidence, in any action or proceeding under this title, that such person engaged in a pattern or prac violation of this title without additional evidence that--

`(1) the pattern or practice actually discriminated against any individual or class on a prohibited basis; a

`(2) such person engaged in such pattern or practice with the purpose or intent to engage in an activity of this title.'.

END

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VOLUME 4, ISSUE 10 October 1998

Fair Lending/CRA COMPASS

KPMG Barefoot Marrinan McGraw-Hill

Another Timesaving Publication of KPMG BAREFOOT MARRINAN and MCGRAW-HILL

Pathfinding

■ Fighting like cats and dogs

The Congressional debate over whether to extend Community Reinvestment Act (CRA) coverage to "woofies" is a sign of the degree to which this issue is still polarized, and still able to make the political fur fly. Even as Congress grapples with assimilating the Starr report and preparing for fall elections, work has continued on banking reform. And, as this *Fair Lending/CRA Compass* reports, a major theme of banking reform is improving CRA.

But, what is improvement? After more than two decades, there is still a profound schism in the way conservatives and liberals view CRA. This year's legislative proposals are not about fine-tuning the law, shaving marginal costs from implementation, or guiding the hand of regulators. This fall's debate goes straight to the heart of what CRA should be, and how it should work. The two sides are not only disagreeing. They are running flat-out in precisely opposite directions, toward visions of the law that are entirely incompatible.

Covering woofies

At this writing, the Senate Banking Committee has passed a bill compromising on how to handle so-called woofies, or uninsured wholesale financial institutions. The compromise would cover only those entities that are affiliated with banks, thus preserving the original, seminal idea of CRA—that it is essentially a quid pro quo obligation tied to a banking charter.

However, the serious effort to cover *nonaffiliated* woofies reveals the extent to which CRA is becoming severed from those conceptual roots. This drive to extend coverage makes strange bedfellows. Community activists want to bring nonbanking companies into the CRA net, and thus within reach for CRA-style protest and negotiation. And significant elements of the industry itself, through the years, have similarly argued that the playing field should be leveled, so that if CRA can't be repealed, its costs and pressures should be extended to nonbank competitors.

Meanwhile, the market, as it so often does, has simply bypassed much of this political debate. Banking, itself, is being torn from its traditional, local community taproot by the forces of technology and competition. As "banks" increasingly take on new forms that deliver services anywhere, every way, it will be harder and harder to make the core CRA obligation to meet the credit needs of the entire "local community" mean anything.

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Signals

Senator Phil Gramm (R-TX) on CRA provisions in the House-passed version of H.R. 10 8

CRA is on a collision course with this reality. The woofie debate is just one crossing-gate warning of the problems ahead in making this old law fit the new market.

Barking or biting

Meanwhile, the legislative debate is even more animated over whether to make CRA's bite match its bark. Community advocates supported a provision that would require financial holding companies, as they get new powers, to divest themselves of subsidiaries if their banking subsidiaries do not maintain satisfactory or better CRA ratings. In other words, they want to make failure to perform on CRA carry penalties that really would hurt. (The Senate Banking Committee dropped this provision from the bill it approved—but it could come back in a conference between the House and Senate.)

At the same time, in the same debate, conservatives led by Senator Phil Gramm of Texas are proposing huge changes that would take the sting out of CRA. Under this approach, every bank with a rating of at least satisfactory would be insulated from CRA protests of merger or other regulatory approvals. Since low CRA ratings are rare, and agency denials of applications on CRA grounds are much rarer, fear of protest is the thing that puts the teeth in CRA today. Removal of protest leverage would eliminate a huge share of the risk arising from poor performance. As a result, banks driven by risk avoidance rather than commitment to the CRA market would find their motivation greatly reduced.

This could be especially significant for the largest banks, which often have outstanding ratings but still typically sweeten their merger and acquisition plans with big community commitments to avoid the delays and risks that the CRA protest process can engender. Loss of the protest lever would be a setback to community advocates unmatched by any change in CRA's two-decade history.

As this goes to press, these changes are not in the Senate committee bill, and in fact, no bill may emerge from this Congress. The issues, however, will not be going away.

Jo Ann S. Barefoot

Jo Ann S. Barefoot
Partner

Issues Outlook

■ 1997 CRA lending data released

The Federal Financial Institution Examinations Council (FFIEC) released data on small business, small farm, and community development lending by "large retail" financial institutions (banks and thrifts with total assets of $250 million or more, or belonging to a holding company with total assets of at least $1 billion) during 1997. Individual disclosure statements are being sent to reporting financial institutions, and aggregate reports are going to central data depositories in each Metropolitan Statistical Area (MSA).

The data are required by the revisions made in 1996 to the regulations implementing the Community Reinvestment Act (CRA). This is the second year for which data collection has been required. The CRA changes represented an effort by the financial institution supervisory agencies to make the CRA compliance, evaluation, and rating processes more performance oriented and less focused on paperwork.

FAIR LENDING/CRA COMPASS NEWSLETTER is published monthly by **McGraw-Hill**, 1333 Burr Ridge Parkway, Burr Ridge, Illinois 60521. **Publisher:** Kelli Christiansen. **Editor in Chief:** Jo Ann S. Barefoot. **Editor:** Paul Miller. **Contributing Editor:** William J. Showalter. **Contributing Writers:** Janet Gordon, Phyllis J. Strand, Karen S. Godfrey. **Subscription rates:** $150/one year. For subscription orders and inquiries about discounts for multiple subscriptions, please contact McGraw-Hill Subscription Customer Service by mail at P.O. Box 182764, Columbus, Ohio, 43218-2764 or by phone at 1-800-773-4607. PLEASE NOTE: This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that neither McGraw-Hill nor KPMG Barefoot Marrinan is engaged in rendering legal services. If legal advice is required, the services of a licensed professional should be sought. KPMG Barefoot Marrinan is a business unit of KPMG Peat Marwick LLP.

For any branches with loan-to-deposit ratios below the applicable host state ratios, take appropriate ~~remedial~~ action to bring their lending activity up to acceptable levels, or at least assure that these branches are meeting the credit needs of the communities in which they are located (the second supervisory screen).

Adjust internal policy and procedures to assure that this monitoring of interstate branch loan-to-deposit ratios is performed regularly, preferably at least annually.

■ Financial modernization CRA provisions stripped

The financial modernization bill (designated H.R. 10) that is slowly making its way through Congress has been lightened of some provisions that would have impacted compliance with the Community Reinvestment Act (CRA). The prospects for passage of H.R. 10 are unclear at this late stage of the 105th Congress.

Original CRA provisions

H.R. 10 is an omnibus banking reform bill addressing a wide variety of banking regulation issues—from Glass-Steagall rescission to bank insurance powers—that include several CRA issues. As passed by the House of Representatives, H.R. 10 would have made the following changes to CRA:

- Require that the banking units of a financial services holding company earn at least a "satisfactory" CRA rating before the new financial powers to be authorized by H.R. 10 could be approved for the holding company. This section also would allow the Federal Reserve Board (FRB) to require divestiture of a subsidiary when its parent company does not maintain at least a "satisfactory" CRA rating.
- Expand CRA to include all bank operations, including uninsured wholesale financial institutions (known as "woofies").
- Require banks operated by new, diversified financial holding companies to provide low-cost (lifeline) banking accounts.

Senatorial resistance

When this House-passed bill reached the Senate Banking Committee, two conservative Republican members continued an anti-CRA fight they had begun during consideration of an earlier credit union bill. Senators Phil Gramm (R-TX) and Richard Shelby (R-AL) insisted that H.R. 10 be stripped of all references to CRA. They are opposed to any expansion of CRA and are even trying to force a rollback.

Senate Committee Chairman Alphonse D'Amato (R-NY) forged a compromise that won the support of all committee members, except for Shelby and Gramm, and passed an amended H.R. 10 by a bipartisan 16-2 vote. The CRA provisions in the version of the bill passed by the Senate Banking Committee are:

- Require that the banking units of a financial services holding company earn at least a "satisfactory" CRA rating before the new financial powers to be authorized by H.R. 10 could be approved for the holding company. The FRB would retain broad enforcement authority, but not the power to require divestiture of a subsidiary when its parent company does not maintain at least a "satisfactory" CRA rating.
- Expand CRA to include only woofies that are affiliated with banks.

The lifeline account requirement was stricken by the Senate committee.

Outlook

The chances that the full Senate ultimately will vote on financial services restructuring legislation were enhanced by the strong bipartisan vote in the Senate Banking Committee. However, the short time available before the end of this Congress, the possibility of filibuster on the Senate floor, and the potential for extensive floor debate on amendments—including CRA rollbacks Senators Gramm and Shelby say they will argue for—limit the likelihood that financial reform will pass in this Congress. Then, it's back to square one next year with a new Congress.

■ CRA ratings on-line

The Federal Financial Institution Examinations Council (FFIEC) created a centralized electronic access function to search for the latest Community Reinvestment Act (CRA) ratings of financial institutions regulated by the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS). The site performs inquiries against a population of CRA ratings from all four agencies. The database contains CRA ratings dating from July 1, 1990, and will be updated quarterly.

The FFIEC Interagency CRA Rating Search (Rating Search) allows the user to choose selection criteria and customize the search. The user may select the specific CRA rating, bank name, agency, examination method, examination period, and asset size. The search may also provide a list of financial institutions under the selected criteria and will sort by bank name, exam date, CRA rating, agency, examination method, asset size, or state.

The Rating Search page also includes a link to frequently asked questions on conducting rating searches, as well as links to the individual agency web sites. The FRB site allows the user to create lists of institutions similar to the lists generated by the FFIEC Ratings Search, as well as ratings of a particular bank over time. The OCC site provides for electronic access of CRA public evaluations. At the time of this writing, the FDIC and OTS CRA search sites were not directly linked to the Rating Search page. The FDIC link posted a notice that the page was moved due to server reorganization and offered a homepage link and subsequent access to public evaluations. The OTS link did not respond.

The address to the Interagency CRA Rating Search is http://www.ffiec.gov/cracf/crarating/main.cfm.

Signals

"Any expansion in CRA is going to require some reform in the program."

—Senator Phil Gramm (R-TX) on CRA provisions
in the House-passed version of H.R. 10

McGraw-Hill
1333 Burr Ridge Parkway
Burr Ridge, IL 60521

THE WHITE HOUSE

Office of the Press Secretary
(New York, New York)

For Immediate Release

January 15, 1999

REMARKS BY THE PRESIDENT TO THE WALL STREET PROJECT CONFERENCE

Windows on the World Restaurant
World Trade Center
New York, New York

2:15 P.M. EST

• • •

In the past five years -- I'd like to say one thing about the banking community that I think is important -- we've worked very hard to both streamline and strengthen the Community Reinvestment Act. It was also under fire, has been under fire, still is under fire by some. That Community Reinvestment Act has been on the books for more than 20 years, but 95 percent of all the financial commitments made under the law in the last 20 years have been made in the last five years. That's more than $1 trillion in long-term commitment to invest in people. (Applause.)

And I might say, our banks are more profitable than they were 10 years ago. This is not bad for business, this is good for business. I guess the presence of the business leaders and the Wall Street people here among the previous speakers ought to make that general point. This is not a welfare program, it is not a charity program. We are not asking anybody to do anything we do not think they will make money out of; and if they can't make money out of it we can't ask them to do it. What we're trying to do is to create an environment and create the conditions in which it is more likely that more people will take a chance. We believe they will be rewarded by the chances they take. (Applause.)

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DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1500 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
September 9, 1998

Contact: John Longbrake
(202) 622-2960

STATEMENT BY TREASURY SECRETARY ROBERT E. RUBIN

The Administration has expressed strong opposition to the Financial Modernization legislation, H.R. 10, in its current form and has stated that the bill will be vetoed unless significant changes are made.

A key issue in the current discussions about H.R. 10 involves the obligations of financial institutions to serve the credit and other banking needs of low- and middle-income Americans. Recent reports indicate that proposals may be considered that would undermine the Community Reinvestment Act. I want to make clear that any efforts to undercut CRA, as well as any proposals that would provide the opportunity for depository institutions to evade CRA responsibilities, would be unacceptable to the Administration.

The failure to extend CRA to all wholesale financial institutions, which will enjoy access to such benefits as the discount window and the payments system, would open opportunities for significant evasion of CRA and are not justified. The elimination of the requirement in the House-passed version of H.R. 10 for a satisfactory CRA rating as a prerequisite for eligibility for new powers would erode CRA enforcement by removing an important incentive for banks to demonstrate CRA performance. Finally, restrictions that would prohibit banks from conducting new financial activities through subsidiaries, which we have opposed for other reasons as well, would tend to force bank resources into affiliates and would thus have seriously adverse consequences for CRA .

-30-

RR-2672

McCall ->

Sarah Rosen
12/21/98 10:31:59 AM

Record Type: Record

To: Sonyia Matthews/OPD/EOP

cc: See the distribution list at the bottom of this message

Subject: Re: CRA Next Meeting

White House and Treasury officials met on Tuesday with Senate Banking Committee Democratic staff (Harris and Gruenberg). We had a conversation about what to expect and how to best handle it, very similar to the discussion at the NEC-DPC internal meeting the day before. However, they had some very explicit requests of information and analysis for the Administration to prepare for them. (I suspect they have communicated much of the same to the agencies directly.)

I thought it would be helpful to specify what I understand various folks will be working on between now and January 11th. Much of this was discussed at our internal meeting, although assignments were not explicit. Some may be new, as a result of the Senate Dems request.

Intergovernmental and other folks not part of earlier discussions, please note that activity below may require your assistance. Please call me if you have questions (65386).

If the parties identified are not the proper ones for various responsibilities, please feel free to correct the recordd. Also, if there are steps I missed that you are undertaking, please add them.

I would ask that, to the extent possible, those with assignments try to bring paper (where appropriate) representing their progress on this work to our next meeting on January 11th.

Note: Where it says "Treasury," Karen should work with Carnell and Barr to identify a lead for each step so we know where to turn. Thanks.

THANKS ALL AND HAPPY HOLIDAYS!

<u>**Continuing Need for CRA**</u>

Collect and summarize credible articles discussing lack of access to credit, disparities in lending, disinvestment in low/mod communities
Treasury (coordinate with OTS and OCC -- consult with Fed)

<u>**CRA Success Stories**</u> Michael Barr

Identify urban and rural success stories (communities changed, banks pleased with role)
OCC, OTS, and Treasury (OCC lead)

Develop possible strategy to communicate success stories in advance of hearings, work to get Op Eds, etc.
Treasury, Boorston (sp?), Jake Siewert

Coordinate with Conf. of Mayors for strong statement of support for CRA at Jan 17-21 conf. --

Sarah

coordinate all Administration officials speaking to also make strong statements
Treasury (consult with Ibarra -- WH Intergovernmental); Ibarra, Rosen, Weinstein

Identify list of bankers willing to make statements in support of CRA
Treasury (with input from OCC and OTS)

Stress Importance of CRA to Administration

Stein and Rubin conversations with new Senators on Committee
Ballentine and Robertson

→ Andrew Conf. of Mayors

Identify opportunities to communicate strength of Administration support
Weinstein, Rosen, Ballentine, Orszag, Siewert

→ 15th

Prepare Response to Extortion Argument

Collect record of all protested cases since (____)
Treasury (coordinate with OTS and OCC)

Identify "Troublesome Cases"
Treasury (coordinate with OTS and OCC)

Analyze "Troublesome Cases" (is it a misreading of record, are safeguards now in place, etc.)
Treasury (coordinate with OTS and OCC)

Analyze timetables for CRA-protested applications (How long typically take, what are outliers, how has timing changed with new regulations, etc.?)
OCC (support from OTS)

Collect data on number of applications challenged as percentage, types of institutions affected, number denied on CRA grounds, nature of settlements, nature of pledges, etc.
OCC (support from OTS)

Special Analysis of Impact of CRA on Small banks

Number of small banks subject to CRA protests, workload hours for small banks, how reduced
OCC (support from OTS)

CRA lending is good business

Summary of credible studies on performance of low-mod lending
??? who best

Prepare for release of paperwork reduction act burden hours

Provide final numbers and talking points explaining
OCC

Next steps

Coordination -- Meet with community advocates (after analysis in better shape)
WH to coordinate (Ibarra, Weinstein, Rosen)

Message Copied To:

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"KORNBLUHK%DOM3.DOPO5" <KAREN.KORNBLUH @ MS01.DO.treas.sprint.com>
01/11/99 10:38:45 AM

Record Type: Record

To: Sarah Rosen/OPD/EOP

cc:
Subject: CRA -Reply -Forwarded

Date: 01/11/1999 11:26 am (Monday)
From: Karen Kornbluh
To: ex.mail:Sarah_Rosen@opd.eop.gov
Subject: CRA -Reply -Forwarded

fyi

Subject: CRA -Reply
To:
Cc:
Message-id: <"64831111109991/9175 MONEY*"@MHS>
MIME-version: 1.0
Content-type: MULTIPART/MIXED; BOUNDARY="Boundary_(ID_cXEj+m6GTdWhjWtmNBE6xQ)"

This is correct and helpful. Thanks.

> > > Karen Kornbluh 01/05/99 04:40pm > > >
Here are my notes from this morning's meeting on all the hard work everyone is doing. I hope this is helpful.

CRA rollout plan -- Marne (with input from the appropriate sources, incl. public affairs) -- to share with the group by end of the week.

Paperwork burden analysis rollout plan -- Greg and Rick (with input from the appropriate sources, incl. public affairs and legislative affairs) after touching base with OCC, OTS and Fed to see if a coordinated release is possible -- update by end of the week?

Topics Steve and Marty asked for in their outline

I What is CRA -- being done by Sarbanes' staff

II Legislative History -- being done by Sarbanes staff

III The Continuing Need for CRA -- being coordinated by Michael Barr -- done this week

IV CRA Has Been Successful
(A) Statistical evidence of increased lending and development in low/mod comunities -- Michael Barr?
(B) CRA success stories -- Michael Barr -- done next week
(C) Statements in support of CRA - -Michael Barr working wtih Lisa Andrews and agencies -- ongoing

V. Arguments Against CRA
Talking points being coordinated by Michael Barr -- done next week?
Analysis of history of protested cases being done by Rick and Greg -- done week of 18th
VI. Past Amendment Offered to Weaken CRA -- Done

VII. CRA Protests -- Rick's and Greg's analysis

Additional topic we discussed this morning

Review press stories and Congressional statements to find negative examples and prepare defense -- Rick will try to find OCC resources to do this

Additional topics on Sarah's plan

Stein and Rubin conversations with new Senators -- Marne is working on

Identify and analyze "Troublesome Cases" -- this is the review of press stories and Congressional statements and preparation of defense

Special analysis of impact of CRA on small banks -- I have a note that this has been done

CRA Fact Sheet

What is CRA?

- Congress enacted CRA in 1977 to combat the practice of "red-lining" communities by publicly-insured banks and thrifts.

- CRA encourages banks and thrifts to meet the credit needs of their communities, consistent with safe and sound banking practices.

How Does CRA work?

- Federal bank and thrift supervisors assess financial institution's performance: loans made, services provided, and investments in their communities. The CRA regulation provides a streamlined examination for banks and thrifts with assets under $250 million.

- Banks and thrifts make their CRA ratings public. The public has an opportunity to comment on CRA performance before the start of a scheduled examination.

What are the benefits of CRA to communities?

- CRA is working to restore healthy markets in distressed communities.

- 1997 Home Mortgage Disclosure Act data show that lending to minority and low income borrowers is on the rise. For example, since 1993, the number of home mortgage loans to African Americans increased by 58 percent, to Hispanics by 62 percent, and to low and moderate income borrowers by 38 percent, well above the overall market.

- In 1997, commercial banks made $18.6 billion in community development investments.

- Since 1992, nonprofit community organizations estimate that the private sector has pledged over $1 trillion in loans going forward for community development.

What are the benefits of CRA to small businesses?

- Small business lending is an integral part of bank CRA compliance. Banks are assessed on their effort to support small businesses under the lending, investment and services tests. For the first time, large banks are reporting small business loan data by census tract. In 1997, banks and thrifts subject to CRA made 2.6 million small business loans for a total of $159 billion, two-thirds of all small business loans made that year. More than one-fifth of those loans were made to small businesses in low and moderate income communities.

What are the benefits of CRA to banks?

- CRA is good banking business. "Businesses that learn how to meet [community reinvestment] demand profitably, and integrate it into their business lines, will gain a tremendous competitive advantage." Richard Rosenberg, former Chairman and CEO, BankAmerica Corporation.

- "CRA-related activities can help develop new markets, potentially profitable business, and improve a bank's public image." Lawrence Lindsey, former Governor, Federal Reserve System.

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