



TESTIMONY OF DAVE HANZEL, DEPUTY DIRECTOR, BEFORE  
BANK REGULATORY AGENCIES REGARDING HOW TO  
ASSESS A FINANCIAL INSTITUTIONS'S PERFORMANCE UNDER  
THE COMMUNITY REINVESTMENT ACT (CRA)

July 19, 2010

Good Morning. My name is Dave Hanzel and I am the Deputy Director of the Association for Neighborhood and Housing Development in New York City. Thank you for this opportunity to testify about the need to develop a new approach to assessing bank performance.

ANHD is a not-for-profit membership organization of over 100 neighborhood-based housing groups across the five boroughs of New York City. Our members represent the full range of not-for-profit housing organizations - CDCs, affordable homeownership groups, supportive housing providers and community organizers. ANHD works with our members to advocate for comprehensive, progressive housing policies and programs to support affordable, flourishing neighborhoods for all New Yorkers, especially our lower income residents.

**Background: The Importance of the CRA in New York City**

Spurred by the CRA, banks have played a critical role in helping build wealth for households and revitalizing many neighborhoods across New York City through their support of community development efforts and providing access to capital. For example, over 294,000 units of low- and moderate-income housing have been developed and renovated in New York City with a mix of public subsidy and private financing over the past twenty years. Additionally, billions of dollars in CRA-motivated loans, investment, and grants have been central to transforming entire blocks and neighborhoods across the five boroughs, catalyzing the growth of small businesses, and assisting residents build assets.

However, the changing nature of the banking industry has led to retrenchment in both the quantity and quality of community development support, placing these vital resources at risk and leading to a situation where banks are less focused on helping to meet the credit needs of underserved populations and areas. ANHD recently released its first, "State of Bank Reinvestment in New York City" report (enclosed), which is based on data we received from 17 of New York City's largest commercial, savings, and wholesale banks and presents empirical evidence of this retrenchment between 2007 and 2008. For example, despite overall deposits growing by over 10%, there was:

- A decrease of \$560 million in community development lending, which represents a 20.2% reduction;
- A decrease of \$1.3 billion in multi-family lending, which represents a 24.2% cut;
- A decrease in the share of branches located in low-income tracts from 9.3% to 8.8%.

This reduced commitment is especially alarming to ANHD because it took place prior to the current recession and because one of the key markers ANHD looks for in determining which

institutions are being responsive to the city's credit needs is consistent improvement year-over-year across a bank's reinvestment activities.

### **Community Development**

*What are the opportunities to better encourage community development loans, investments and services to support projects that have a significant impact on a neighborhood? Should the agencies consider revisions to the Community Development Test or to the definition of community development? How might they balance incentives for meeting local needs as well as the needs of very distressed areas or those with emergency conditions?*

The structural changes in the banking industry have led to a substantial shift in the way banks' approach CRA-motivated lending and investment. The combination of fewer banks serving New York City and those that remain being "mega-banks" has had negative consequences on the ability of banks to serve the unique and varied credit needs of low- and moderate-income communities across the five boroughs. Indeed, banks have shifted from making local commitments with key community stakeholders that are rooted in actual credit needs and opportunities to large national programs that have big, broad goals but very few specifics and little accountability.

In addition to these structural changes, it is important to acknowledge that banks will focus their efforts on those activities that are most likely to get them a passing grade on their Performance Evaluation. Given the widespread understanding that community development lending only counts as "extra credit" toward their overall lending grade, it is not surprising that banks concentrate their efforts on home purchase and small business loans.

In New York City, where almost 90 percent of low- and moderate-income households live in multi-family rental housing, the availability of private financing to both maintain existing affordable housing and create new buildings is essential. However, banks have been reducing drastically their community development lending. In fact, between 2007 and 2008, there was a 29% reduction in the number of community development loans originated (from 507 to 360) in New York City. In dollar terms, the decrease was 20.2% (from \$2.8 billion to \$2.24 billion).

While these reductions are extremely troubling, there is more to the story. The integration of community development groups into the bank's commercial lending or investment bank has had a myriad of consequences. One of the most distressing from ANHD's perspective is the lack of staff who are knowledgeable about local subsidy programs and developers who are committed to serving the community over the long term.

Another result of this integration is that many banks seem to be competing for the largest, most straightforward deals with the highest capacity or high volume developers. While this may be defensible from a business perspective, it is not from the viewpoint of community accountability as there are many projects that are not receiving support which have the potential to make a tremendous positive impact on the lives of low- and moderate-income residents and neighborhoods.

Regrettably, ANHD and our community-based housing groups recently have heard the following message from banks, "The cost of processing loans of this size is prohibitive; it costs us the same to process your loan as it costs us to process a multi-million dollar loan that will make us more money." One of our members who works in the Bronx is troubled by this justification. He says, "We heard this from banks in the 1970s when we were looking for \$50,000 boiler loans and we've been hearing it from the banks again in 2010 and the preceding years when we were

looking for \$500,000+ rehabilitation loans. Our response is still the same. These are the kinds of loans that we need in our communities and these are the kinds of loans that are *good* risks that will be *repaid*.”

Additionally, two of the city’s three largest banks have recently ended their multi-family<sup>1</sup> lending businesses because it was not profitable *enough*. Given these high-profile departures and the overall consolidation in the industry, it is not surprising that there was a substantial reduction in this activity. In fact, between 2007 and 2008, there was a 16% reduction in the number of multi-family loans originated (from 1,398 to 1,174) in New York City. In dollar terms, the decrease was 24.2% (from \$5.3 billion to \$4.0 billion).

Given the reduction in the dollars lent and the unresponsiveness of lenders to core credit needs, it is clear that community development is under-emphasized in the current system. ANHD recommends the creation of a new community development test for large banks. This is especially important as it would encourage banks to think more comprehensively about the range of products and policies it needed to provide to best fulfill its CRA obligations. The current community development test for a wholesale bank could be a model that is adapted for this purpose.

### **CRA Disclosures and Performance Evaluations**

*Should the agencies consider changes to data collection, reporting, and disclosure requirements, for example, on community development loans and investments? Should the agencies consider changes to how Performance Evaluations incorporate information from community contacts or public comments?*

Beginning in the spring of 2008, ANHD began submitting detailed information requests to 20 of New York City’s largest banks. ANHD has been encouraged by the willingness of most of the city’s banks to provide us with the requested data. Indeed, of the 20 banks we have submitted information requests to, 90 percent (18 banks) have returned at least partial responses. ANHD believes this strong response rate reflects the spirit of the CRA and banks’ recognition that public input is a vital component of their ability to identify credit needs and opportunities. That being said, it is an incredibly time consuming process for us and often requires repeated requests, follow-up calls and letters, and incomplete data for even those banks who do comply. If we did not have to spend so much time acquiring data, we could shift our efforts to more in depth analysis of the banks’ activities and more regularly weighing in on performance evaluations and/ or submitting comment letters to the regulators about the track record of individual institutions.

For the non-responsive banks, ANHD makes every attempt to acquire information by searching the bank’s annual reports and their most recent federal and state performance evaluations. However, the information found through these methods is imprecise for our purposes because data is either presented for different time periods and geographic areas or not disclosed at all.<sup>2</sup> And not surprisingly, the data that we were able to obtain for the non-responding institutions show that they are among the city’s lowest performers, which may explain why they were reluctant to respond.

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<sup>1</sup> ANHD distinguishes between multi-family lending, which tends to be permanent mortgage financing, and community development lending, which is more typically construction financing for affordable housing or economic development purposes.

<sup>2</sup> For example, data included in this analysis for New York Community Bank was compiled from their most recent state performance exam, which covered the period of 2005 and 2006, and some data for Signature Bank covers geographic areas outside of New York City.

Therefore, one of ANHD's key priorities for CRA reform is to expand data disclosure requirements and mandate banks to report important information related to their community development lending and investment on an annual basis.

In addition, community input should be a much more central component of the Performance Evaluation. In our recent conversations with regulators, we have heard that many will use "Community Contacts" conducted in other geographic areas or for earlier exams to satisfy this part of the exam. Additionally, ANHD has heard that even if the Community Contact is not knowledgeable about a given bank, the examiner counts the conversation as a contact. Finally, many examiners will not disclose the actual name of the bank being examined to the Community Contact, which obviously makes it difficult to comment on the performance and responsiveness of whatever institution is being examined.

While we recognize that bank examiners have limited resources, we do not feel the onus should be primarily on members of the community to find out when banks are being examined and submit written comments or request formal meetings with the bank's regulators. Rather, bank examiners should be required to conduct a certain amount of Community Contacts with knowledgeable members located in the bank's assessment area.

### **Ratings and Incentives**

*Is there an opportunity to improve the rules governing CRA ratings to differentiate strong, mediocre, and inadequate CRA performance more consistently and effectively? Are there more effective measures to assess the qualitative elements of an institution's performance? Are there regulatory incentives that could be considered to encourage and recognize those institutions with superior CRA performance?*

As others have proposed, ANHD believes there are other immediate and intermediate steps that can be taken to update the CRA regulatory framework so it continues to catalyze community development and other bank reinvestment activities.<sup>3</sup> Most critical is the need to strengthen the enforcement underpinnings of CRA by creating more leverage for community engagement and incentivizing banks to seek the highest CRA rating. Additionally, banks, regulators, and community advocates must consider the *outcomes* of a financial institution's reinvestment activities and not just the number and dollar amount. Indeed, ANHD believes the stability and profitability of these activities and the long-term financial and economic health of the community are inherently linked. Below is a list of four steps ANHD believes the regulators should take:

1. Tailor Assessment Criteria to the Local Performance Context and Place More Emphasis on Community Development

ANHD recognizes that many banks have tailored their business models in such a way that makes it difficult for them to provide certain products or engage in the full range of CRA-related activities. That being said, it is ANHD's belief that for the largest banks, it would be incredibly hard to justify not providing a product or program that impacts such a large segment of the assessment area's residents and neighborhoods. In New York City, this means that lending and investment supporting the creation and preservation of

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<sup>3</sup> December 15, 2009, Letter to the Federal Financial Institutions Examination Council. Signed by 19 institutions including tax credit syndicators, community development intermediaries, lenders and financial institutions, and advocacy organizations. Letter available at:

[http://www.enterprisecommunity.org/public\\_policy/documents/cra\\_letter\\_to\\_ffiec.pdf](http://www.enterprisecommunity.org/public_policy/documents/cra_letter_to_ffiec.pdf)

multi-family properties and community development activities would receive greater weight.

Indeed, community development loans and investment are central to building strong neighborhoods and supporting the work of CDCs, but currently count only for extra credit. These activities must receive additional credit to achieve parity with home purchase and small business lending, especially in cities like New York where the housing stock is comprised mostly of multi-family rental properties. In the rare case where banks cannot be induced to provide the full range of essential products, the banks should be required to demonstrate how they are meeting their obligations in other ways.

## 2. Develop Regulations that Value Both the Quantity and Quality of Lending, Investment, and Services in Performance Exams

It is clear that performance assessments have become increasingly volume driven. This gives an unfair advantage to the largest institutions and leads banks to support cookie cutter deals rather than develop innovative products and programs. Regrettably, it may also reward banks for engaging in activities that have had a negative impact on communities. For example, in New York City, it is likely that banks who underwrote “Predatory Equity”-backed deals received CRA credit for loans that have displaced low- and moderate-income families and de-stabilized neighborhoods.

More specifically, under the lending test, the bank is evaluated on both the number and dollar amount of their loans in low- and moderate-income areas as well as qualitative factors like the loan’s responsiveness, whether or not the loan meets a need that is not routinely met, and the loan’s innovativeness or complexity. Unfortunately, for the most part, banks are no longer going the extra mile to demonstrate their commitment to meeting the community’s credit needs by making conventional as well as non-cookie cutter loans. And regulators overly rely on quantitative criteria in determining whether or not the bank’s lending should be deemed satisfactory or not. One of ANHD’s primary recommendations for CRA reform is that regulators place greater emphasis on these qualitative indicators. It is ANHD’s sense that if banks knew these activities were rewarded, potentially at an even higher rate than their conventional loans, it would make them more willing to develop innovative products and make long-term investments in working class communities.

Examinations must move beyond simply rewarding dollar and unit volumes, and actually determine which activities have had a positive impact on strengthening communities. For example, credit enhancements that enable community development financing, such as letters of credit, should be given equal or near equal weight to loans and investments. Overall, regulations should be reworked to ensure exams are not merely checklists that are driven by volume, but the qualitative impact as well.

## 3. Require Local Strategic Plans and Reporting

An effective CRA program needs to be locally-focused and flexible so as to meet changing community needs and priorities. In New York City, priorities change from year to year, as new issues arise, and needs also differ among individual neighborhoods. ANHD has asked that all banks doing business in New York City develop a local CRA plan that responds to this reality. However, almost all banks have refused to do so and justify the refusal by saying that if they published a local plan for New York City, they

would have to do so in other places they do business. This is probably true, and frankly, we think banks should have such a plan in place wherever they have a physical presence.

As noted above, as banks have become larger national and global institutions, they have grown increasingly distant from the local community. Banks must adhere to the spirit of the CRA by developing local plans for how they intend to help meet community credit needs. These plans should detail their strategy, including community context analysis and quantitative and qualitative goals, to meet the lending, investment, and service needs of low- and moderate-income borrowers. Furthermore, the plan should explain the products and programs the bank has developed to respond to local needs and opportunities. On an annual basis, banks should release Annual Reports that document how their activities have been targeted to meet the goals outlined in these plans. The plan and accompanying annual reports should be incredibly helpful to regulators to more fully incorporate both quantitative and qualitative measures in their performance assessments.

ANHD believes these plans will also significantly strengthen the CRA by more effectively engaging the community. The CRA was designed, from its inception, to involve the local community in a dialogue with banks as part of the CRA exam process and during mergers and acquisitions. This important aspect of CRA enforcement has been weakened by industry consolidation which has resulted in institutions so large that the local community is unable to understand or obtain information about a bank's local activities. Requiring a publically available, local plan would invite informed community input and dialogue with the banks, even as consolidation continues. Again this change would also assist the regulators during the "Community Contacts" portion of an exam as it would result in a larger number of engaged, informed partners.

#### 4. Enhance Meaning of "Outstanding" Rating and Increase Incentives for Banks to Strive to Achieve It

Currently, over 95% of banks receive at least a "Satisfactory" rating from their regulator. As the number of banks receiving a passing grade has expanded, the value of achieving an "Outstanding" rating has diminished. In order to encourage banks to be leaders in community reinvestment, it is clear that additional incentives, as well as sanctions, must be created. Ideas include: cheaper credit from the Federal Reserve Bank's discount window, an exemption from undergoing a merger-driven exam, or extra credit for non-standard products, grants, and letters of credit.

### **Affiliate Activities**

*Should the agencies revise the regulation and, instead, require that examiners routinely consider activities by affiliates?*

For the past two years, ANHD has been working to protect tenants living in buildings owned by predatory equity-backed landlords across the city.<sup>4</sup> Many of the disreputable owners operating in the Bronx obtained financing from New York Community Bank and Deutsche Bank, which were either negligent in failing to recognize the unsupportable nature of the loan or complicit in the business model to push out rent regulated tenants in favor of more affluent residents.

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<sup>4</sup> "Predatory Equity: Evolution of a Crisis. The threat to New York's affordable rental housing: 2005 – 2009." November 2009. Available at [www.anhd.org](http://www.anhd.org).

Deutsche Bank did not appear to seek CRA credit for these loans since they were originated by Deutsche Bank Mortgage Capital (DBMC)<sup>5</sup> and not the bank's Community Development Finance Group, which is responsible for meeting the institution's CRA obligations. DBMC, which provides financing for commercial real estate deals, originated and securitized millions of dollars in multi-family loans in low- and moderate-income neighborhoods. ANHD has obtained information on many of these deals that are clearly underwritten with the intention to displace current tenants. For example, one of these deals was a \$35 million loan to Millbank Real Estate Services, Inc., a Los Angeles-based company, to buy ten buildings in the Bronx. The properties went into foreclosure in March 2009, are in poor condition, and have seen high rates of tenant turnover.

In ANHD's experience, the attempt by Deutsche Bank to distinguish between loans that have a community development focus and those that are purely profit motivated is a departure from how most banks approach the categorization of CRA-eligible activity as they try to maximize the volume they report to the regulators. Given the spirit of CRA, it is puzzling to ANHD that one part of the bank could be applauded for its community development efforts while another is playing a very damaging role. ANHD believes regulators must examine the entire institution's record to more accurately determine the qualitative impact of an institution's lending, investment and services.

### **Conclusion**

Given their role in exacerbating the housing bubble and de-stabilizing the economy and our communities, financial institutions should play a leadership role in the nation's and New York City's recovery. Regrettably, the majority of banks have not been creative or proactive in the development of strategies for stabilizing working class households and neighborhoods during this period of economic turmoil.

The ongoing ability of working class residents to build wealth and the continued vitality of New York City's neighborhoods are dependent on banks affirming their commitment to providing a meaningful amount of CRA-motivated loans, investment, and services that are responsive to local needs. To ensure this commitment is continued going forward, significant reform to the regulatory system governing CRA, especially how performance evaluations are carried out, is crucial. ANHD thanks you for your attention to this issue and looks forward to future conversations.

Thank you for this opportunity to submit comments.

Please feel free to contact ANHD if you have any follow-up questions at:

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<sup>5</sup> Deutsche Bank Mortgage Capital Brochure. Available at:  
[http://www.corporatefinance.db.com/home/docs/DBMC\\_brochure\\_final.pdf](http://www.corporatefinance.db.com/home/docs/DBMC_brochure_final.pdf)

# THE STATE OF BANK REINVESTMENT IN NEW YORK CITY: 2009

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Evidence of a Declining Commitment to  
Low- and Moderate-Income Communities





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## EXECUTIVE SUMMARY

Since its passage in 1977, the Community Reinvestment Act (CRA) has required banks to help meet the credit needs of low- and moderate-income (LMI) residents and neighborhoods in a safe and sound manner.<sup>1</sup> Spurred by the CRA, banks have played a critical role in helping build wealth for households and revitalizing many neighborhoods across New York City through their support of community development efforts and providing access to capital. For example, over 294,000 units of low- and moderate-income housing have been developed and renovated in New York City with a mix of public subsidy and private financing over the past twenty years. Additionally, billions of dollars in CRA-motivated loans, investment, and grants have been central to transforming entire blocks and neighborhoods across the five boroughs, catalyzing the growth of small businesses, and assisting residents build assets.

However, as detailed in ANHD's July 2009 white paper, *Community Development At-Risk: The Troubled Future of Bank Reinvestment in New York* the changing nature of the banking industry has led to retrenchment in both the quantity and quality of community development support, placing these vital resources at risk and leading to a situation where banks are less focused on helping to meet the credit needs of underserved populations and areas.

This report, *The State of Bank Reinvestment in New York City: 2009* is based on data ANHD received from 17 of New York City's largest commercial, savings, and wholesale banks and presents empirical evidence of this retrenchment between 2007 and 2008. These reductions are denoted by red arrows in Appendix A. This reduced commitment is especially alarming to ANHD because it took place prior to the current recession and because one of the key markers ANHD looks for in deter-

“The changing nature of the banking industry has led to a situation where banks are less focused on helping to meet the credit needs of underserved populations and areas.”

<sup>1</sup> For the purpose of CRA, “Low” income is defined as a household earning 50% of the Area Median Income (AMI) and “Moderate” income represents households earning up to 80% AMI. See joint rule promulgated by the Comptroller of the Currency: 12 C.F.R. §§ 25.12(h)(2) Available at <http://www.occ.treas.gov/fr/cfrparts/12cfr25.htm>.

mining which institutions are being responsive to the city’s credit needs is consistent improvement year-over-year across a bank’s reinvestment activities.

The experience of Cypress Hills LDC, a Community Development Corporation (CDC) and active member of ANHD, illustrates how this retrenchment is severely impacting the ability of CDCs to respond to the community development and credit needs of New York City’s low- and moderate-income neighborhoods. Cy-

press Hills has a 26 year track record of building and preserving affordable housing for low- and moderate-income families in East New York, Brooklyn. In summer 2008, Cypress Hills was preparing to develop its newest project, Cypress Village, which was to be built on 12 vacant lots awarded to the organization through the city’s New Foundations program. Looking to meet the huge demand for affordable homeownership opportunities that residents articulated, Cypress Hills proposed to include 29 condos and 9 two- and three-family homes in the project. Additionally, the homes were designed to have numerous green components and be deeply affordable, serving households earning less than 80% of Area Median Income (AMI), which would allow the mission-driven developer to help working class families become first-time homeowners.

“ It is imperative to remember that every dollar lost means another family may not have access to safe, affordable housing. ”

The project received a tremendous amount of public and private investment including various subsidies and grants.<sup>2</sup> This level and range of investment typically makes it easier to attract private financing since the bank recognizes the lower-risk associated with a deeply subsidized project. On the private side, Cypress Hills was looking for a \$5 million loan, which would be taken out by the condo sales. Despite the strong public and private commitment and significant market demand for affordable condos, numerous banks including Bank of America, Banco Popular, BPD, JPMorgan Chase, and Wells Fargo were not interested in financing this project. M&T Bank and Amalgamated have demonstrated a good faith effort to support the project and Cypress Hills is optimistic that the remaining financing will be secured, especially if it is converted to a rental project.<sup>3</sup>

Unfortunately, the experience of Cypress Hills was not unique. Indeed, as the findings of this report demonstrate, there was a substantial decrease in the amount of CRA-related lending in neighborhoods across the city between 2007 and 2008. ANHD is troubled by this retrenchment and the lack of responsiveness by the city’s financial institutions to support many of those activities that truly make a difference in helping working class residents and communities flourish.

## FINDINGS

ANHD undertook this research with the hope of gaining a better understanding of where banks have fulfilled their CRA obligations and where they are falling short. By analyzing this data and conducting dozens of conversations with lend-

2 The Cypress Village project received support from the federal Neighborhood Stabilization Program, the New York State Affordable Housing Corporation, Brooklyn Borough President Marty Markowitz, Senator Martin Malavé Dilan, The Home Depot Foundation, TD Bank, Raza Development Fund, LISC, and Enterprise Green Communities..htm.

3 Cypress Hills is considering converting this project from homeownership to rental-to-homeownership or strictly rental due to difficulty obtaining construction financing and HPD’s decision to shift resources from homeownership to preservation deals. In terms of timing, it should be acknowledged that HPD did not announce this shift until February 2010 so the banks’ decision to not provide financing was made independent of this change in city policy.

4 Assessment Areas must consist only of whole geographies; may not reflect illegal discrimination; may not arbitrarily exclude low- or moderate-income geographies, taking into account the bank’s size and financial condition; and may not extend substantially beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond an MSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the MSA. See: <http://law.justia.com/us/cfr/title12/12-3.0.1.1.9.3.8.1.html>

ers, regulators, policy experts and community members, it became clear that the majority of banks, despite their growth, are struggling to prioritize the commitment of the necessary resources to do their part in helping to meet the tremendous credit needs of low- and moderate-income communities. It should be noted that ANHD believes a bank's CRA obligations for a given assessment area<sup>4</sup> should reflect its size. To the right is a summary of the report's five key findings, which will be explained in much greater detail in Part I.

While the quantifiable reductions in lending and services are stunning, it is imperative to remember that every dollar lost means another family may not have access to safe, affordable housing, or that a small business owner may not be able to obtain the capital to stay competitive, or the community-revitalization efforts that have begun to transform a neighborhood may be reversed. Certainly, the impact has been particularly devastating on activities that focused on community development and the renewal of physical space.

The banks' lack of response to the foreclosure crisis has been particularly disappointing. Since ANHD did not request this information, we relied on data available for the federal Home Affordable Modification Program (HAMP). As of March 2010, the city's largest banks have served only a fraction of the homeowners facing foreclosure. Indeed, only 26% of the mortgages being serviced by Bank of America, the city's largest servicer, that were eligible for modification were either in a trial or permanent modification.

## BANK RANKINGS FOR 2007 AND 2008

The rankings presented in the *State of Bank Reinvestment in New York City: 2009* report are not intended to characterize banks as either "good" or "bad." Rather, they are meant to provide a snapshot of how well banks doing business in the city served the credit needs of LMI households and neighborhoods compared to their peers in 2007 and 2008. Complete rankings for commercial, savings, and wholesale banks are listed in the Centerfold pullout of this publication.

As the Methodology section below explains, ANHD compiled data on 37 different reinvestment activities including branching, staffing, community development lending, multi-family lending, home purchase lending, CRA-qualified investment, and philanthropy. To determine the rankings, ANHD selected nine indicators that represent core reinvestment activities and those areas where the most data was provided by the banks. To further simplify the rankings, ANHD chose not to weight the indicators. In other words, it is the relative ranking that matters in this methodology, not the magnitude of the differential between one bank's level of lending, investment, or services and another's.

The rankings do not account for several qualitative indicators, such as the development of a local CRA plan, which ANHD has identified as being cen-

## THE FIVE KEY FINDINGS:

- 1)** 17 of New York City's largest banks, as measured by deposits, grew by over 10% between 2007 and 2008.
- 2)** Despite this growth, the 17 banks reduced substantially the amount of loans and services targeted to low- and moderate-income communities between 2007 and 2008. A few key statistics that capture the magnitude of this reduction include:
  - A decrease of \$560 million in community development lending, or a 20.2% reduction;
  - A decrease of \$1.3 billion in multi-family lending, which represents a 24.2% cut;
  - A decrease in the share of branches located in low-income tracts from 9.3% to 8.8%
- 3)** An expanding appetite for CRA-eligible investment, including Low Income Housing Tax Credits. The amount of investment grew by over \$170 million, a 27.2% increase.
- 4)** Discouraging trends in how the banks carry out their CRA-related activities that have had a negative effect on what was once a much more robust, responsive system. For example, many banks have dismantled their specialized community development lending groups, which has had harmful consequences for the availability of both innovative products and staff that is knowledgeable about community development programs in the New York City market.
- 5)** Regulators seem to lack recognition of or interest in reversing these trends by requiring that banks maintain a robust, responsive strategy and develop a local CRA plan.

tral to determining a bank's responsiveness. Although it is our intention to incorporate these factors in the next year's *State of Bank Reinvestment* report, we made every attempt to note in the narrative those institutions that were excelling or falling short in these areas.

There are numerous banks that continue to be responsive partners; as a whole, however, ANHD is disappointed with the direction the banking industry has taken related to serving low- and moderate-income populations in New York City. Given the recent experiences of our 99 community based members, we are not optimistic that the banks' 2009 numbers will be more encouraging.

## RECOMMENDATIONS

ANHD believes there are several key steps that can be taken in both the immediate and intermediate terms to reverse the trends affecting how well low- and moderate-income communities are served by the city banks as well as modernize the regulatory system to ensure financial institutions are responsive to the credit needs of all New Yorkers. As Part III notes, these include strengthening the enforcement underpinnings of CRA by creating more leverage for community engagement and incentivizing banks to seek the highest CRA rating.

Additionally, banks, regulators, and community advocates must consider the outcomes and impact of a financial institution's reinvestment activities and not just the number and dollar amount. Indeed, ANHD believes the stability and profitability of these activities and the long-term financial and economic health of the community should be inherently linked. In order to better balance the profit-oriented motivation of banks with the credit needs of working class communities, we propose the following immediate and intermediate actions:

### IMMEDIATE TERM

- Encourage regulators to tailor assessment criteria to the local performance context and place more emphasis on community development such as the creation and preservation of multi-family rental housing and activities that promote economic development and neighborhood revitalization and stabilization.
- Strengthen the regulatory system by developing regulations that value both the quantity and quality of lending, investment, and services in performance exams.
- Incentivize development of local plans and reporting.
- Enhance meaning of "Outstanding" rating and increase incentives to achieve it. Establish a clear CRA commitment for Bank Holding Companies and all non-bank affiliates.

- Maximize consistency and transparency across the four federal regulatory agencies.

## INTERMEDIATE TERM

- Pass a local “Responsible Banking” Ordinance that requires banks doing business with the City of New York to submit a report that documents their investment in local communities and that informs what institutions the city decides to do business with.
- Pass federal CRA Modernization legislation that would expand the type of institutions covered by CRA, create a community development test for commercial banks, require federal regulatory agencies to hold more public hearings and meetings when banks merge, and enhance accountability through data disclosure.
- Create a fully empowered, independent Consumer Financial Protection Agency.

Given their role in exacerbating the housing bubble and de-stabilizing the economy and our communities, New York City’s financial institutions should play a leadership role in the city’s recovery. Regrettably, the majority of banks have not been creative or proactive in the development of strategies for stabilizing working class households and neighborhoods during this period of economic turmoil.

The ongoing ability of working class residents to build wealth and the continued vitality of our city’s neighborhoods are dependent on banks affirming their commitment to providing a meaningful amount of CRA-motivated loans, investment, and services that are responsive to local needs.



# INTRODUCTION

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Passed in 1977 in response to the devastating impact that redlining and disinvestment had on urban areas, the Community Reinvestment Act (CRA) states that banks have an affirmative obligation to help meet the credit needs of low- and moderate-income residents and neighborhoods in a safe and sound manner. This obligation stems from the banks being publicly chartered, receiving low-cost deposit insurance and having access to inexpensive credit from the Federal Reserve Bank's discount window. Spurred by the CRA, banks have played a critical role in helping build wealth for households and revitalizing many neighborhoods across the city through their support of community development efforts and providing access to capital.

Since 1987, over 294,000 units of low- and moderate-income housing have been developed and renovated in New York City with a mix of public subsidy and private financing. The vast majority of these affordable housing deals were made possible by bank support in the form of construction and permanent financing, letters of credit, investment in government credit facilities and tax credit programs, and philanthropy. CRA-motivated lending and investment has also ensured first-time home buyers can get an affordable mortgage, small businesses have access to capital, and institutions serving the community have the resources they need. Across the country, CRA has been responsible for over \$6 trillion in lending and investment in low- and moderate-income communities.<sup>5</sup>

In New York, this reinvestment has been central to revitalizing dozens of neighborhoods across the five boroughs, transforming entire blocks, catalyzing the growth of small businesses, and assisting residents build assets. For example, Brooklyn's Bedford Stuyvesant neighborhood has long suffered from a lack of investment and run-down housing and commercial properties made the problem

“ In New York, this reinvestment has been central to revitalizing dozens of neighborhoods across the five boroughs. ”

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<sup>5</sup> National Community Reinvestment Coalition (NCRC). *CRA Toolkit*. Available at: [http://www.ncrc.org/images/stories/era/cra%20toolkit\\_v8\\_remarks\\_joint\\_statement.pdf](http://www.ncrc.org/images/stories/era/cra%20toolkit_v8_remarks_joint_statement.pdf)

“ As banks have grown, many have shifted from making local commitments with key community stakeholders to large national programs that have very few specifics and little accountability.”

worse. In 2002, a local not-for-profit, the Pratt Area Community Council (PACC), began a block-by-block project on Fulton Street to turn the vacant lots into affordable housing and spruce up dilapidated storefronts. PACC used every public subsidy program at their disposal, but many of the projects could not have happened without the investment of local banks through their community development programs. For example, Capital One’s efforts to have this area designated a Banking Development District, meaning that it is under-banked, allowed it to open a much needed branch and receive city money to shore up its deposit base. A larger source of deployable capital allowed the bank to make home purchase and small business loans to local residents as well as provide PACC a construction loan for a new 16 unit mixed-income property where half of the units serve low-income households.

The changing nature of the banking industry, fueled by banks growing through consolidation, has led to retrenchment in both the quantity and quality of community development support available to working class communities in New York City. According to the FDIC, there was a 17% decrease in the number of FDIC-insured depository institutions (both commercial banks and savings institutions) between 1998 and 2008.<sup>6</sup> Over this same period of time, eleven of New York City’s 25 largest banks were acquired by and merged with other large institutions to create a sector dominated by mega-banks.<sup>7</sup> JPMorgan Chase’s shotgun acquisition of Washington Mutual—facilitated by the FDIC’s quick approval in September 2008<sup>8</sup>—represents how these mergers often result in a net loss in lending, investment and services as the combined bank does less than the separate institutions. Evidence of this reduction will be presented throughout the report and is summarized in Appendix D. Furthermore, the evolution of a banking industry dominated by community-based banks to one controlled by national institutions has resulted in the banks growing increasingly distant from the local community.

Indeed, as banks have grown, many have altered how they approach reinvestment, shifting from making local commitments with key community stakeholders that are rooted in actual credit needs and opportunities to large national programs that have big, broad goals but very few specifics and little accountability. These trends have been intensifying for years and led ANHD to undertake this empirical research which confirms that both outputs and outcomes of banks’ CRA-related activities have suffered. In light of the fact that billions of dollars in taxpayer investment was made in these institutions, this reduction and unresponsiveness to community credit needs are inexcusable.

<sup>6</sup> FDIC Statistics on Banking: Changes in Number and Classification of FDIC-Insured Depository Institutions. Available at: [www2.fdic.gov/SDI/SOB9812/all101.asp](http://www2.fdic.gov/SDI/SOB9812/all101.asp)

<sup>7</sup> for Wachovia, Wells Fargo is now the relevant institution. Going forward, ANHD will submit information requests to Wells Fargo. A press release detailing the merger is available at: <https://www.wellsfargo.com/press/2009/20090101>

<sup>8</sup> Palmeri, Christopher. “JPMorgan Chase to Buy Washington Mutual,” *Business Week*. Available at: [http://www.businessweek.com/bwdaily/dnflash/content/sep2008/db20080925\\_760466.htm?campaign\\_id=rss\\_daily](http://www.businessweek.com/bwdaily/dnflash/content/sep2008/db20080925_760466.htm?campaign_id=rss_daily)

# METHODOLOGY

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Historically, ANHD requested information from banks regarding their branching and staffing, lending, investment, and philanthropy in conjunction with a CRA performance exam or in response to a proposed merger or acquisition. Although this strategy was effective in allowing us to weigh in on individual actions, we recognized that a more proactive approach was necessary to more comprehensively analyze the CRA-related activities of our key bank partners. Additionally, anecdotal evidence suggested that banks across the industry were changing their approach to CRA, which was leading to both reductions in the amount of lending and investment, and the development of programs and products that were less responsive to local credit needs and community development opportunities. However, other than branching and home mortgage data, the vast majority of information related to a bank's CRA activities is not publicly available.

Therefore, beginning in the spring 2008, ANHD began submitting detailed information requests to 20 of New York City's largest banks.<sup>9</sup> ANHD has been encouraged by the willingness of most of the city's banks to provide us with the requested data. Indeed, of the 20 banks we have submitted information requests to, 90 percent (18 banks) have returned at least partial responses. ANHD believes this strong response rate reflects the spirit of the CRA and banks' recognition that public input is a vital component of their ability to identify credit needs and opportunities.

For the two non-responsive banks,<sup>10</sup> ANHD made every attempt to acquire information by searching the bank's annual reports and their most recent federal and state performance evaluations. However, the information found through these methods is imprecise for our purposes because data is either presented for different time periods and geographic areas or not disclosed at all.<sup>11</sup> The data that was

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<sup>9</sup> Size was determined based on total New York City deposits. A sample request letter is enclosed as Appendix C.

<sup>10</sup> The following banks have been unresponsive to our requests: New York Community Bancorp and Signature Bank. Additionally, American Express, Goldman Sachs, and Morgan Stanley, which became Bank Holding Companies in 2008, will begin to receive requests this summer related to their 2009 activities.

<sup>11</sup> For example, data included in this analysis for New York Community Bank was compiled from their most recent state performance exam, which covered the period of 2005 and 2006, and some data for Signature Bank covers geographic areas outside of New York City.

obtained for these two institutions show that they are among the city's lowest performers, which may explain why they were reluctant to respond.

Overall, the amount of data we received enabled us to conduct this analysis, but it is admittedly imperfect given the fact that many banks did not report across all data points. As will be discussed in Part III, one of ANHD's key priorities for CRA modernization is to require banks to report this important information on an annual basis. The banks' responses are summarized in Appendix A.

While individual indicators are useful in ascertaining a bank's year-over-year record in a certain area over time, ANHD also wanted to compare and rank banks against their peers to examine which institutions were leaders within the industry. In an attempt to control for the wide variance in size and the various charters of the institutions, which are central to informing their respective business plans, ANHD—for comparison purposes—grouped these 20 institutions into the following three categories:

#### **Commercial Banks**

A commercial or retail bank's primary focus is providing financial services to corporations. Commercial banks also accept deposits and offer retail products to individuals including checking and savings accounts, money market accounts, credit cards, and an array of secured and unsecured loans. While commercial banks are not required to have a national service area, the footprint of the majority of New York City's commercial banks covers numerous markets.

#### **Savings Banks**

A savings bank's primary purpose is personal banking through the provision of checking and savings accounts, credit cards, home purchase and equity loans, and financial services to both individuals and small- or medium-sized businesses. Savings banks tend to have a much more narrow service area although some of the savings banks included in our analysis have a multi-state presence.

#### **Wholesale Banks**

A wholesale bank provides financial services to large corporate clients, mid-sized companies, real estate developers and investors, international businesses, institutional customers (such as pension funds and government entities/agencies) as well as other banks. Wholesale banks usually deal with only high value and high volume transactions. Wholesale banks do not have any branches as they do not serve individual customers.

## **RANKINGS**

Rankings were determined based on the following methodology: Banks that provided information for a given indicator received a score based on their performance compared to their peer banks. Based on the number of banks in each category, scores ranged from 1 to 10 for Commercial banks, 1 to 5 for Savings banks, and 1 to 2 for Wholesale banks. Banks

that had the best performance received a score of 1, the second best bank a 2, and so on. For indicators where not all banks reported, the upper limit was reduced from 10, 5 or 2 to the number of reporting banks. It should be noted that ANHD did not weight the indicators so the actual amount of the differential between two banks' level of activity mattered less in our analysis than the more straightforward measure of who did more or less compared to their peers. Although ANHD compiled and analyzed 37 different types of data, banks were ranked according to the following nine indicators:

- 1) Percentage of Branches in Low- and Moderate-Income census tracts
- 2) Percentage of Branches in Low-Income census tracts
- 3) Percentage of Multi-Family Loans in Low- and Moderate-Income census tracts
- 4) Percentage of Bank Deposits Dedicated for Community Development Lending
- 5) Percentage of Community Development Loans to Not-for-Profit Borrowers
- 6) Percentage of Home Purchase Loans to Low- and Moderate-Income Borrowers
- 7) Percentage of Bank Deposits Dedicated to CRA-eligible Investment
- 8) Percentage of CRA-eligible Grants Dedicated for Affordable Housing
- 9) Percentage of Deposits Reserved for Philanthropy

The nine indicators were chosen to capture the spectrum of CRA-related activities of importance to low- and moderate-income residents as well as Community Development Corporations (CDCs) and the availability of data. Moreover, the selected indicators cover the full range of lending, investment and services, but also reflect ANHD's belief that not all CRA-eligible activities are necessarily equal. For example, a community development loan to a not-for-profit developer demonstrates not only the bank's commitment to build partnerships with local institutions, but also results in keeping these valuable resources under community control which ensures they will be available to residents over the long term. Summary tables for each activity are incorporated throughout the report and present banks that rank either high or low based on their performance.

After rankings were assigned for individual indicators, a bank's aggregate score for the nine indicators was then divided by the number of relevant indicators they were scored on to determine their weighted score. Banks were then ranked 1-10 (for commercial banks), 1-5 (for savings) or 1-2 (for wholesale) to determine their Overall Ranking. Thus, a bank that received a #1 ranking had the strongest record among its peer institutions across the indicators we examined and a commercial bank with a #10 ranking, a savings bank with a #5 ranking, or a wholesale bank with a #2 banking had the weakest performance respectively. At the same time, it should be noted that the rankings are not intended to characterize banks as either "good" or "bad." Rather, they are meant to provide a snapshot of how well New York City banks served the credit needs of LMI households and neighborhoods compared to their peers in 2007 and 2008.

While banks' quantitative record is important, ANHD recognizes the significance of the qualitative impact of a bank's CRA-related activities on community development, small

businesses, financial literacy, wealth creation, and neighborhood stabilization. In fact, this realization was one of the driving factors behind the development of our Reinvestment Principles (see Appendix B). One of the common themes throughout the Principles is that how a bank approaches its CRA-related work is just as important as what it actually does. Following is a sample of those indicators that ANHD believes demonstrate a bank's commitment to not merely achieve numbers, but also make a serious effort to help build stable, safe, and thriving communities.

- Developing and publishing a local CRA plan. An effective CRA program needs to be locally-focused and flexible so as to meet changing community needs and priorities. In New York City, priorities change from year to year, as new issues arise, and needs also differ among individual neighborhoods. ANHD has asked that all banks doing business in New York City develop a local CRA plan that responds to this reality. In the future, it is important for banks to embrace this principle.
- Creating a Centralized Community Development Group dedicated to New York City and staffed by a senior executive, to coordinate strategy among the bank's various business lines and monitor the bank's various CRA programs.
- Committing to expand and improve their CRA-related products on a year-over-year basis. It has been ANHD's experience that leadership among the city's banks tends to ebb and flow. It is the rare institution that consistently expands the amount of its CRA-related lending and investment and continually seeks to develop increasingly innovative products. Although ANHD understands that finite resources and opportunities may prevent every institution from achieving record output on an annual basis, we do expect that banks exhibit a genuine commitment to improve their approach from year to year.
- Working to develop the financing tools to preserve the affordability of buildings threatened by predatory equity and commitment to avoid destructive lending going forward.
- Demonstrating a strong commitment to stem the rising tide of foreclosures. Over the past several years, millions of homeowners have faced losing their homes through foreclosure. While both banks and government have rolled out various initiatives to keep families in their homes, the primary vehicle for this effort is currently the federal Home Affordable Modification Program (HAMP). Based on monthly reports issued by the U.S. Treasury, it is possible to examine which banks doing business in New York City have modified the most number of mortgage loans. The report comments on the record of some of New York City's largest banks based on this data as well as the experience of our member organizations that provide foreclosure prevention counseling.

If these qualitative indicators had been factored into the analysis, the Overall Rankings would surely be different. For example, there are numerous banks that have a disappointing track record in facilitating foreclosure prevention. Had these indicators been included, their overall performance would be less strong. In the future, ANHD will incorporate these qualitative indicators into the Overall Rankings. For the purpose of the 2009 report, we highlight throughout those banks who have demonstrated a strong record in these areas.



**PART I:**

# EVIDENCE OF RETRENCHMENT ACROSS THE INDUSTRY AND IN INDIVIDUAL BANKS

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Structural changes in the banking industry over the last decade—including growth and consolidation—have led to a substantial shift in the way banks’ approach CRA-motivated lending and investment. Much of the growth is due to banks being permitted to conduct both commercial and investment banking, which was enabled through the repeal of the Glass-Steagall Act in 1999.<sup>12</sup> The other factor driving this growth has been the consolidation of the industry that has occurred with the widespread practice of acquiring and merging with other institutions.<sup>13</sup> The combination of fewer banks serving New York City and those that remain being “mega-banks” has had negative consequences on the ability of banks to serve the unique and varied credit needs of low- and moderate-income communities across the five boroughs.

This is especially true for those large institutions that have begun to incorporate their CRA programs into mainstream business units, a change that began in 1995 when the regulations were rewritten to emphasize production over process. Mark Willis, a research fellow at New York University’s Furman Center for Real Estate and Urban Policy and former community development banker, describes the implications of this shift. He says, “The more that mainstream units have built their business around high-volume products, the more difficult it is to develop products or services expressly for the LMI marketplace.”<sup>14</sup>

Community Development Corporations (CDCs), the non-for-profit organizations at the front lines of neighborhood stabilization and revitalization, have experienced this shift dramatically. Although several banks have utilized their community development teams to work effectively with CDCs in the creation of successful loan products over the past thirty years, this system has been impacted as some banks have grown. Since these loans generally are not considered cookie cutter deals, the lender looks at community development deals as more difficult and expensive to do. Chris Kui, Executive Director

“The combination of fewer banks serving New York City— and those that remain being “mega-banks” — has had negative consequences on the ability of banks to serve low- and moderate-income communities across the five boroughs.”

## “ Banks had an even greater responsibility to meet the credit needs of working class residents in 2008 than in previous years. ”

of Asian Americans for Equality, explains what is necessary to reverse this trend. He says, “A genuine commitment to meet the credit needs of our community will demystify our deals, improve our communities and clarify to banks how working with community groups will be financially beneficial to the institution.”

The trends in the way CRA-eligible lending has been carried out in the recent past directly refute a common assertion that we have heard from the banking industry over the past year, which is that the foreclosure and credit crisis are responsible for the reduction in the volume of reinvestment and the types of products the banks offer. While volatility in the larger economy and a weaker balance sheet surely affected banks’ ability to lend and invest, these factors do not fully explain or justify the significant reduction in core CRA-relative activities as these reductions were already well under way by the time housing bubbled popped in mid-2008. Indeed, many of these deals take years to work their way through the development and underwriting process so it is unlikely that activity would drop off so quickly after the credit crunch began.

There are several other reasons as well. First, community development is countercyclical, which means the private market’s interest in projects that have a public purpose and access to public subsidy intensifies when the economy overall weakens. Indeed, the New York City’s Department of Housing Preservation and Development and Housing Development Corporation maintained its level of investment in affordable housing and community development initiatives and even expanded their appetite for private debt and equity due to new opportunities that arose due to the softening real estate market. Second, a bank’s affirmative obligation to help meet credit needs is not tied to a bank’s profitability, but rather to the benefits they receive as chartered institutions. Finally, as will be discussed further in the next section, deposits for the majority of New York City banks actually grew over this two year period which signals they had more deployable capital available to serve this important market.<sup>15</sup>

Certainly, ANHD finds it disturbing that many banks have used the recent recession to excuse their reduced commitment to serving low- and moderate-income communities. Banks should be working hard to develop creative, cost effective strategies for keeping owners and renters in their homes and stabilizing neighborhoods.

## DEPOSITS

As explained in our Reinvestment Principles, many of ANHD’s benchmarks for lending, investment, and philanthropy are tied to the size of a bank’s local deposits.<sup>16</sup> Customer deposits constitute the most secure and cheapest source of capital for banks. Indeed, in addition to access to cheaper borrowing rates from the Federal Reserve Bank’s Discount Window,<sup>17</sup> one of the primary reasons behind Goldman Sachs’ and Morgan Stanley’s decision to become Bank

<sup>12</sup> New York City’s 10 largest banks accounted for 72.4% of the market share for branches in 2008 compared to 61.8% in 1998. FDIC Summary of Deposits.

<sup>13</sup> Eleven of the city’s 25 largest banks in 1998 were acquired and merged with other banks in the ten year period ending in 2008. *Community Development At-Risk: The Troubled Future of Bank Reinvestment in New York City*, ANHD. Available at [www.anhd.org](http://www.anhd.org)

<sup>14</sup> Willis, Mark. “It’s the Rating, Stupid: A Banker’s Perspective on the CRA,” *Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act*. Published by Federal Reserve Bank of San Francisco. Available at: [http://www.frbsf.org/publications/community/cra/cra\\_past\\_successes\\_future\\_opportunities.pdf](http://www.frbsf.org/publications/community/cra/cra_past_successes_future_opportunities.pdf)

<sup>15</sup> Generally, deposits are measured as of June 30. Therefore, this increase does not include TARP funds since Congress did not authorize the first release of funds until October 3, 2008.

<sup>16</sup> Another widely used benchmark for estimating how much community development lending a bank is required to do to receive a passing grade on its CRA exam is based on the amount of Tier 1 Capital the bank possesses. While this may be the best indicator for determining the entire bank’s commitment, ANHD believes that a bank’s local deposit base is a better method for establishing reasonable levels of lending, investment and philanthropy in New York City.

<sup>17</sup> Marsico, Richard D. *Democratizing Capital: The History, Law and Reform of the Community Reinvestment Act*. Durham: Carolina Academic Press, 2005.

Holding Companies was access to deposits of more traditional customers. As a city of over 8 million people and the financial capital of the world, New York certainly provides institutions doing business here access to a lot of stable, cheap deposits.

Total deposits for 17 of the city's largest banks increased from \$408.9 billion to \$450.8 billion—a one year increase of 10.2%. Only three banks reported a smaller deposit base in 2008 compared to 2007. Thus, viewed through this lens, ANHD believes it is reasonable to conclude that banks had an even greater responsibility to meet the credit needs of working class residents in 2008 than in previous years.

Although an increase in deposits should be seen as a positive development for the economy as a whole, how the depository institution re-deploys that capital in a local market is equally important. As the following examples illustrate, however, for numerous banks there seems to be an inverse relationship between the size of their deposit base and the amount of lending and investment they commit to their assessment area. For example, Citibank saw an increase in deposits of \$6.2 billion (+14.5%) but authorized double-digit decreases to its multi-family lending, community development lending, and CRA-qualified investment, which will be discussed in greater detail in subsequent sections. Additionally, JP-Morgan Chase, TD Bank North, and M&T, despite larger deposit bases, all reduced at least some of their lending or investment over this period.

While this evidence suggests that the community is not necessarily better served as banks' deposits grow, individual customers are not necessarily being adequately compensated by large deposit-holding institutions either. Recent analysis by The New York Times found that banks with more than \$100 billion of assets paid an annual interest rate on deposits of nearly one percentage point less than banks with less than \$10 billion of assets. The New York Times estimates that the lower interest rate payments translate to an annual savings of \$30 billion for the nation's 10 largest banks.<sup>18</sup> Thus, despite large banks' claim that an ever increasing size and branch network allow them to best meet the "convenience and needs" of their customers, it is clear that this may not include the interest rates they pay on deposits. The fact that of over 88% of New York City deposits are controlled by the city's ten largest banks, all of which have more than \$100 billion in assets, demonstrates how many residents are affected by these lower rates.

## STAFFING

It has been ANHD's experience that the banks with the most effective CRA programs reflect a broad institutional commitment to CRA, which begins with leadership that is knowledgeable about, engaged in, and committed to a bank's CRA programs. In addition to committed leadership, strong CRA programs require the

👉 Despite larger deposit bases, several banks reduced at least some of their lending or investment over this period. 👉

<sup>18</sup> Cox, Rob and Lauren Silva Laughlin. "Another Advantage For Biggest Banks," *The New York Times*. March 29, 2010.

“ One significant, but frequently ignored, consequence of the transformation to national financial markets is that local markets and local neighborhoods receive less individualized attention. ”

bank to have adequate levels of staff with appropriate expertise dedicated to each of its local markets. Regrettably, over this two year period, there was a 19.2% reduction in the number of community development staff serving New York City for the seven banks who reported. Interestingly, information regarding their staffing was one of the areas that banks were least likely to report, which may signal that actual reductions in head count were more drastic.

As the footprint of a bank’s service area expands due to mergers and acquisitions, its staff is stretched to cover new geographies, often without increased resources. It is only natural that this leads to a situation where staff has grown increasingly distant from the local community and less knowledgeable about local credit needs and resources including public affordable housing and community development programs. This has been one of the most troubling trends identified by ANHD’s members.

Eugene Ludwig, former Comptroller of the Currency, acknowledged this trend in a recent report. He says, “One significant, but frequently ignored, consequence of the transformation to national financial markets is that local markets and local neighborhoods receive less individualized attention.”<sup>19</sup>

A related change that has harmed the effectiveness of a bank’s CRA strategy was shifting who within the bank is responsible for meeting the institution’s obligations. In the past, the bank’s Director of Community Development typically reported to the President or another senior executive. Currently, most community development and CRA staff report to the head of a bank’s Commercial Lending unit who view CRA-related activities through the narrow rubric of profitability. In New York City, we have witnessed firsthand how moving specialized community development groups into the bank’s mainstream business units has had a detrimental effect on the availability of designated staff who are knowledgeable about the local market, know how to get unconventional deals underwritten in a safe and sound manner, and serve as a catalyst for innovation.

Michelle de la Uz, ANHD’s Board President and Executive Director of the Fifth Avenue Committee, commented on how this change has impacted her partnerships with banks. She said, “The trend in moving community development into other units at the bank often means involving staff from around the United States in a particular deal - that means you are not only just explaining the broad points or goals of your particular development project but literally educating them about the New York City housing market broadly and the specific neighborhood housing market that the development project is in. If you are New Yorker, you know that a project in Upper Manhattan will be different and face different challenges and opportunities than a project in Red Hook, Brooklyn, but for someone in California or Ohio, those differences are not obvious.”

<sup>19</sup> Ludwig, Eugene A., James Kamihachi and Laura Toh. “The Community Reinvestment Act: Past Successes and Future Opportunities,” *Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act*. Published by Federal Reserve Bank of San Francisco and available at: [http://www.frbsf.org/publications/community/cra/cra\\_past\\_successes\\_future\\_opportunities.pdf](http://www.frbsf.org/publications/community/cra/cra_past_successes_future_opportunities.pdf)

Another consequence of these changing staffing patterns is less innovation. Mark Willis points out that, “Even where separate, specialized units continue to exist, they are finding it increasingly difficult to attract the required resources to develop new products.”

That being said, some institutions such as Capital One have built a strong team that is rooted in New York City. ANHD member groups have reported a highly productive working relationship with the staff that make up the bank’s community development group. Not only is the group very knowledgeable about the New York City market, it is extremely dedicated to going the extra mile in getting deals done. While many banks have been content to stand on the sidelines in this tight credit market, Capital One has identified lending and investment opportunities that contribute to both the construction and preservation of affordable housing as well as the stabilization and revitalization of neighborhoods plagued by foreclosures and disinvestment.

Furthermore, since Capital One’s entry into the New York City market in 2006, the bank has been a key partner in not only lending and investing in neighborhoods across the city, but also a prominent supporter of housing policy that benefits working class residents of both rental and owner-occupied housing. It is clear that Capital One’s senior leadership has integrated the bank’s CRA strategy into all of its business lines and aligned its reinvestment goals with its commitment to serve its shareholders. ANHD also applauds the leadership role that Capital One has taken in strategic partnerships including philanthropic collaboratives and affordable housing advocacy coalitions. ANHD believes that the bank’s active involvement in these initiatives represents a model for other institutions looking to provide core community development services.

## COMMUNITY DEVELOPMENT LENDING

Community development lending fuels economic development and is the engine that enables the construction of new affordable housing and community facilities. The quality of New York City’s housing stock and the vitality of its neighborhoods depend on the availability of this capital. Although some banks have remained committed partners, the industry as a whole is reducing its financial investment and seems less interested in responding to local needs through the crafting of innovative approaches.

Table 1

### HIGHEST % OF DEPOSITS DEDICATED TO CD LENDING

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	HIGHEST % OF DEPOSITS DEDICATED TO CD LENDING	RANK	BANK	HIGHEST % OF DEPOSITS DEDICATED TO CD LENDING
1	M&T	3.98%	1	Signature	2.5%
2	Valley National	3.85%	2	Apple Bank	0.37%
3	Banco Popular	3.26%	3	Astoria Savings	0.16%

Between 2007 and 2008, there was a 29% reduction in the number of community development loans originated (from 507 to 360) in New York City. In dollar terms, the decrease was 20.2% (from \$2.8 billion to \$2.24 billion). And the actual reduction may be even greater for several reasons. First, while JPMorgan Chase reported a \$68.2 million increase in its community development lending from 2007 to 2008 (from \$699.8 million to \$768 million), ANHD expected the increase to be at least \$103.8 million to maintain the level of lending that Chase and Washington Mutual committed the previous year. Indeed, one of ANHD's Reinvestment Principles regarding mergers is that the amount of lending of the combined institution must not be below the level of activity of the two individual institutions. Thus, in actuality, there was an additional \$35.6 million decrease between 2007 and 2008 that is not reflected in Appendix A.

Second, these figures cover just 14 of the city's largest banks. The fact that several banks failed to include this data in their response may reflect their preference to conceal a decrease in the number and value of loans they made. Nevertheless, these reductions amount to very large sums of money. As Table 1 illustrates, however, it is just a small percentage of the banks' deposit base and demonstrates how little of the banks' business is focused on community development.

Interestingly, wholesale banks—whose performance assessment places greater value on the institution's community development-related activities—have similarly weak records in terms of deploying their asset base to make loans for community development. For example, Bank of New York Mellon and Deutsche Bank only lent 0.66% and 0.46% of their gross New York City deposits respectively for community development purposes. If Bank of New York Mellon lent at the same rate as M&T for instance, the bank's community development lending would increase from \$265 million to \$1.6 billion – a meaningful increase by any measure.

Although the low percentage of deposits dedicated to community development lending is disappointing, the trend of banks reducing their community development lending in the recent past may be more compelling. Other than Bank of America, which increased its community development lending by a meaningful 154.3% (from \$104 million to \$264.5 million), most banks doing business in the city drastically reduced the amount of their lending. For both commercial and savings banks, Table 2 demonstrates those institutions that reduced their lending by the greatest percentage over this period.

Table 2  
**LARGEST % REDUCTION IN \$ OF CD LENDING (2008)**

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	% CHANGE	RANK	BANK	% CHANGE
1	TD Bank	-87.7%	1	Sovereign/ Santander	-66.0%
2	Citi	-74.5%	2	Apple Bank	-36.5%
3	Banco Popular	-63.8%			

Table 3

**LARGEST % OF CD LOANS TO NOT-FOR-PROFIT DEVELOPERS (2008)**

ALL BANKS		
RANK	BANK	% CHANGE
1	JPMorgan Chase	100.0%
2	Sovereign/ Santander	100.0%
3	Deutsche Bank	100.0%
4	Banco Popular	38.9%
5	Capital One	25.0%

For the three commercial banks, these reductions amount to a decrease of \$829.1 million. The savings banks accounted for a \$27 million cut. The two wholesale banks we analyzed, BONY Mellon and Deutsche Bank, raised their community development budgets by \$48.1 million. However, this increase is dwarfed by the \$568.4 million in community development financing that evaporated in the city between 2007 and 2008 across the industry.

While these reductions are extremely troubling, there is more to the story. The integration of community development groups into the bank's commercial lending or investment bank has had a myriad of consequences. One of the most distressing from ANHD's perspective is the lack of staff who are knowledgeable about local subsidy programs and developers who are committed to serving the community over the long term. This is evident when considering that the number of loans made to not-for-profit developers fell by over 33 percent between 2007 and 2008.

From a neighborhood stabilization perspective, loans to not-for-profit developers are especially important as these developers commit to maintaining the affordability permanently, working with households that are rebuilding their credit, and building truly livable units that meet the needs of local residents in terms of unit size and deeper affordability. ANHD's Reinvestment Principles recommend that banks make at least 50% of their community development loans with not-for-profit organizations – a reasonable threshold given the nature and purpose of these deals. As Table 3 notes, only three of the banks we analyzed have met this threshold.

Another result of this integration is that many banks seem to be competing for the largest, most straightforward deals with the highest capacity or high volume developers. While this may be defensible from a business perspective, it is not from the viewpoint of community accountability as there are many projects that are not receiving support which have the potential to make a tremendous positive impact on the lives of low- and moderate-income residents and neighborhoods.

Regrettably, ANHD and our community-based housing groups recently have heard the following message from banks, "The cost of processing loans of this size is prohibitive;

it costs us the same to process your loan as it costs us to process a multi-million dollar loan that will make us more money.” Jim Buckley, Executive Director of the University Neighborhood Housing Program, is troubled by this justification. He says, “We heard this from banks in the 1970s when we were looking for \$50,000 boiler loans and we’ve been hearing it from the banks again in 2010 and the preceding years when we were looking for \$500,000+ rehabilitation loans. Our response is still the same. These are the kinds of loans that we need in our communities and these are the kinds of loans that are good risks that will be repaid.”

For example, New York City’s Participation Loan Program (PLP) is a core source of financing for owners of affordable housing who are trying to maintain their properties in a state of good repair. Through PLP, the city’s housing agency provides up to \$100,000 per unit at a 1 percent interest rate, which is combined with private financing from a participating lender, to deliver a composite financing cost that is below market. These deals are extremely low risk for the private lenders given the city’s financial stake in the project. Many lenders, however, feel that the amount of time it takes to underwrite these deals is too burdensome given the relatively small size of the loans. Thus, Banco Popular, Bank of America, BPD Bank, Carver Savings Bank, Citibank and the Community Preservation Corporation are the only lenders still participating and anecdotal reports are that many of these institutions have pulled back substantially. Without private financing, many owners cannot maintain their properties which leads to unsafe, unhealthy living conditions for tenants and stressed neighborhoods.

“ANHD would like to see these institutions return to the multi-family lending business as soon as possible and commit to making multi-family loans that are sustainable.”

### MULTI-FAMILY LENDING

More than two thirds of New Yorkers live in multi-family apartment buildings and almost nine in ten low- and moderate-income households in the city are renters. Given this reality, ANHD holds that if a bank is serious about establishing a comprehensive, effective CRA-strategy for New York City, multi-family lending must be a core activity.<sup>20</sup> ANHD believes it is unacceptable that two of the city’s three largest banks have recently ended their multi-family lending businesses because it was not profitable enough. As the recent economic turmoil has made apparent, banks’ desire for huge, short-term returns has often led them to take on very risky deals. Committing to a meaningful amount of long-term lending—in addition to ensuring credit is available to owners serving so many of the city’s working class residents—would provide both a reasonable and less risky return.

ANHD would like to see these institutions return to the multi-family lending business as soon as possible and commit to making multi-family loans that are sustainable.

Given these high-profile departures from the multi-family lending business and the overall consolidation in the industry, it is not surprising that there was a substantial reduction in this activity. In fact, between 2007 and 2008, there was a 16% reduction in the number of multi-family loans originated (from 1,398 to 1,174) in New York City. In dollar terms, the decrease was 24.2% (from \$5.3 billion to \$4.0 billion). These figures do include Washing-

Table 4

**LOWEST % MULTI-FAMILY LENDING IN LMI TRACTS (2008)**

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	LOWEST % OF MULTI-FAMILY LENDING IN LMI TRACTS	RANK	BANK	LOWEST % OF MULTI-FAMILY LENDING IN LMI TRACTS
1	M&T	21.1%	1	Apple Bank	27.8%
2	HSBC	29.2%	2	Sovereign/Santander	56.6%
3	Banco Popular	33.3%	3	Astoria Savings	0.16%

ton Mutual's billion dollar multi-family lending program, which JPMorgan Chase decided not to continue when they bought the troubled bank. In 2007, Washington Mutual originated 791 multi-family loans worth approximately \$1.2 billion, but the combined institution originated only \$3.25 million in multi-family loans in 2008.

Furthermore, the reductions in multi-family lending are even more disconcerting when one considers that much of the "lost" loans were in low- and moderate-income neighborhoods. For example, there was a 23.5% reduction (from 900 to 715) in the number and a 31.8% drop (from \$2.9 billion to \$2.0 billion) in dollars of multi-family loans made in LMI tracts over the two year period. In this way, the case of HSBC presents an interesting dilemma. While the bank should be applauded for its 100% increase in the number of multi-family loans made between 2007 and 2008, the expansion did not result in better service to low- or moderate-income communities as none of the additional loans were in target neighborhoods. Table 4 illustrates those institutions that have the lowest percentage of multi-family lending in LMI tracts. Furthermore, the table details how savings banks tend to have a much greater share of their loans in low- and moderate-income neighborhoods than larger retail banks.

Based on these developments and low interest rates, it is clear that there are legitimate opportunities for banks of all sizes to enter this market. A recent article in *The Real Deal* describes a very competitive market made up of existing and new players including New York Community Bank, Dime Savings Bank of Williamsburg, M&T Bank, Capital One, TD Bank, Wachovia, Signature Bank, Astoria Federal and Investors Savings Bank of New Jersey. Although it is encouraging to see new entrants into this much-needed sector, advocates do not view all lenders or lending as equal.

Indeed, ANHD has consistently called for lending that is both safe and sound and has a positive impact on the city's rent regulated housing stock and working class neighborhoods. However, the experiences of New York Community Bank and Deutsche Bank represent exactly the type of lending we do not want given its destabilizing effect on tenants and working class neighborhoods.

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**20** Multi-family loans are commercial mortgages and therefore considered permanent financing. For the purpose of CRA reporting, banks are allowed to count multi-family loans as part of both their HMDA and Community Development lending. Given their importance to the city's affordable housing sector, ANHD separates them out.

“ ANHD has obtained information on many of these deals that are clearly underwritten with the intention to displace current tenants.”

For the past two years, ANHD has been working to protect tenants living in buildings owned by predatory equity-backed landlords across the city.<sup>21</sup> Many of the disreputable owners operating in the Bronx obtained financing from New York Community Bank and Deutsche Bank, which were either negligent in failing to recognize the unsupportable nature of the loan or complicit in the business model to push out rent regulated tenants in favor of more affluent residents. Unlike

Deutsche Bank, which did not appear to seek CRA credit for these loans, the fact that New York Community Bank lent developers the money to enable these purchases and got CRA credit for the destructive loans is especially alarming. Moreover, New York Community Bank has refused to take responsibility for the destructive loans they originated. The bank has been completely unresponsive to requests from tenants and advocates to meet or intervene with landlords to ensure repairs are made in a timely and adequate fashion.

In 2006, New York Community Bank, the city’s largest provider of multi-family loans originated more than \$2 billion in multi-family loans, approximately 74% of which were in low- and moderate-income neighborhoods. And the bank is planning to provide close to \$3 billion in financing in the multi-factor sector in 2010.<sup>22</sup> Bank regulators and elected officials must get a commitment from New York Community Bank that they will not originate these destructive loans going forward and make a meaningful effort to ensure current properties remain in good repair.

The data on Deutsche Bank’s multi-family lending is less straightforward. The bank’s Community Development Finance Group, the department responsible for meeting the institution’s CRA obligations, did not originate any multi-family loans during this period. However, Deutsche Bank Mortgage Capital,<sup>23</sup> another department that provides financing for commercial real estate deals, originated and securitized millions of dollars in multi-family loans in low- and moderate-income neighborhoods. ANHD has obtained information on many of these deals that are clearly underwritten with the intention to displace current tenants. For example, one of these deals was a \$35 million loan to Millbank Real Estate Services, Inc., a Los Angeles-based company, to buy ten buildings in the Bronx. The properties went into foreclosure in March 2009, are in poor condition, and have seen high rates of tenant turnover.

In ANHD’s experience, the attempt by Deutsche Bank to distinguish between loans that have a community development focus and those that are purely profit motivated is a departure from how most banks approach the categorization of CRA-eligible activity as they try to maximize the volume they report to the regulators. Given the spirit of CRA, it is puzzling to ANHD that one part of the bank could be applauded for its community development efforts while another is playing a very damaging role. ANHD believes regulators must examine the entire institution’s record to more accurately determine the qualitative impact of an institution’s lending, investment and services.

<sup>21</sup> *Predatory Equity: Evolution Of A Crisis. The Threat To New York’s Affordable Rental Housing: 2005 – 2009*. November 2009. Available at [www.anhd.org](http://www.anhd.org).

<sup>22</sup> Stoler, Michael. “Lenders Bullish In Providing Financing For Multi-Family Housing”, *The Real Deal*. April 6, 2010. <http://therealdeal.com/newyork/articles/lenders-bullish-in-providing-financing-for-multi-family-buildings-according-to-michael-stoler>

<sup>23</sup> Deutsche Bank Mortgage Capital Brochure. Available at: [http://www.corporatefinance.db.com/home/docs/DBMC\\_brochure\\_final.pdf](http://www.corporatefinance.db.com/home/docs/DBMC_brochure_final.pdf)

For these reasons, regulators must not view every multi-family loan made in a LMI neighborhood equally as some loans better meet the needs of poor and working class residents and communities than others. Additionally, given what is currently happening with many of these overleveraged properties and poorly underwritten loans, one needs to question how and if they passed the regulators' "safety and soundness" test as there are many simple, straightforward ways to determine the soundness of a loan. For example, one primary indicator of default danger that regulators should be examining is the Debt Service Coverage Ratio (DSCR), which measures the amount of cash flow available to meet annual interest and principal payments on debt.

ANHD's analysis of loan servicer reports on mortgage-backed securities in which some predatory equity mortgages are held reveals that, as of December 2008, the average DSCR of predatory equity financing is .55. This means that only \$0.55 in income is available for every dollar of debt owed. Despite this incredibly low DSCR, neither the bank nor the regulator questioned the merit of these loans or the impact they would have on residents and neighborhoods. Clearly, more needs to be done on multiple levels to prevent these speculative loans going forward.

## HOME PURCHASE LENDING AND FORECLOSURE PREVENTION

New York City has a large homeowner population; approximately 1/3 of our residents are homeowners, including over 325,000 lower-income households.<sup>24</sup> As such, we have a continuing need for responsible home mortgage lending. However, as the Furman Center's *2009 State of New York City's Housing and Neighborhoods* report details, the number of first lien, conventional home purchase loans originated in New York City dropped by over 33% from 2007 to 2008.<sup>25</sup>

This reduction led to a decline in both the rate of home purchase lending for every one of the City's 59 community districts and the number of conventional home purchase loans to borrowers of each race. Black and Hispanic borrowers were especially negatively impacted. For instance, blacks make up about 23% of city households but only received 11.1% of home purchase loans. Likewise, Hispanics, which represent 24.1% of the population, were responsible for just 10% of all originations.

Home Purchase Loan products that facilitate new homeownership opportunities are especially crucial to ensuring low- and moderate-income households have the credit they need to achieve the American dream. Table 5 below illustrates those banks that have made the best effort to ensure a meaningful percentage of their mortgage lending serves LMI households. Across the industry, however, ANHD believes there are few lenders, if any that should be considered a standard bearer in serving this population. And it is important to point out that this lack of lending

<sup>24</sup> Beveridge, Andrew. "Housing Squeeze Shows No Sign of Easing," *Gotham Gazette*. May 15, 2008. <http://www.gothamgazette.com/article/demographics/20080515/5/2524>

<sup>25</sup> New York University Furman Center for Real Estate and Urban Policy. *2009 State of New York City's Housing and Neighborhoods*. Available at: [http://furmancenter.org/files/sotc/SOC\\_2009\\_Full.pdf](http://furmancenter.org/files/sotc/SOC_2009_Full.pdf)

to credit-worthy borrowers, coupled with a rising tide of foreclosures, is having a de-stabilizing effect on certain neighborhoods where abandoned properties have caused surrounding property values to fall.

Table 5

**LARGEST % OF HOME PURCHASE LOANS (HPLS) TO LMI BORROWERS (2008)**

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	% TO LMI BORROWERS	RANK	BANK	% TO LMI BORROWERS
1	Citi	28.6%	1	Sovereign/Santander	12.05%
2	Banco Popular	13.9%	2	Signature	6.10%
3	M&T	13.0%	3	Apple Bank	0.90%

**26** NYMC is a not-for-profit collaboration of financial institutions and community-based housing agencies dedicated to helping low- to moderate-income families in New York, Long Island and Westchester County achieve the dream of responsible homeownership. The community groups participating in the NYMC include Asian Americans for Equality, Cypress Hills Local Development Corporation, Harlem Congregations for Community Improvement, Neighbors Helping Neighbors, Pratt Area Community Council, Housing Partnership Development Corporation, Housing Action Council, and the Long Island Housing Partnership. Participating lenders include Amalgamated, Astoria Federal Savings & Loan, Bank of America, Capital One, Citi, HSBC, JPMorgan Chase and M&T. <http://www.nymc.org/home>

**27** ANHD is presenting data for the first quarter of 2010 for several reasons. First, it is the most current information we have concerning banks' efforts to keep homeowners in their homes. Second, we did not request loan modification data from the banks in either our 2007 or 2008 request. Going forward, we will expand the request to include this information. Additionally, it is important to acknowledge that this data covers a larger geographic area as it represents the banks' activity in the MSA, not just New York City.

**28** Making Home Affordable, *March Loan Modification Report*. Available at: [http://makinghomeaffordable.gov/pr\\_04142010b.html](http://makinghomeaffordable.gov/pr_04142010b.html)

More specifically, ANHD's Reinvestment Principles urge banks to commit to mortgage lending to low-income households that is proportionate to the percent of low-income households in the city as a whole. Given that about 10% of households in the city are occupied by low-income owners, ANHD would like to see 10% of a bank's home purchase loans being originated to these households. Of the 9 servicers that provided ANHD with mortgage data, Citi is the only bank that comes close to this threshold with 6.4% of its home purchase loans being originated with low-income borrowers. Furthermore, Citi's 362 loans represent a staggering 85% of the home purchase loans made to low-income households in 2008.

There is a model for serving these households in a sustainable fashion. Both Neighborhood Housing Services of New York (NHS) and the New York Mortgage Coalition (NYMC) provide financial workshops, pre-purchase counseling, and access to competitive, fixed-rate loans and payment assistance in the form of closing cost grants and down payment subsidies.<sup>26</sup>

In 2008, community-based housing organizations in the Mortgage Coalition partnered with New York City-based banks to originate over 400 mortgages for first-time homebuyers. While the percentage of LMI mortgages originated with homebuyers counseled by Mortgage Coalition members increased from 65.6% to 67.3% between 2007 and 2008, the percent of home purchase loans made to low-income borrowers fell from 25.9% to 21.7%. The reason for this decrease parallels what we have seen in the multi-family and community development sector – banks are less able to create and offer products that, while marginally more complex, have a tremendous positive impact on working class communities. It is important to point

out that because of mandatory and comprehensive pre-purchase counseling, these are incredibly safe loans. In fact, the foreclosure rate on the 5,000+ loans originated through NYMC is less than 1%.

In addition to a need for affordable home purchase loans, including responsible products targeted to LMI borrowers and to first-time homebuyers, it is also important that banks have products and programs in place to preserve homeownership and prevent foreclosure.

The reasons for the foreclosure crisis are well-documented so this report will not try to repeat them. However, it is important to acknowledge the millions of homeowners across the country facing foreclosure and discuss the quantitative record of banks related to modifying these unaffordable loans.<sup>27</sup> According to data associated with the federal Home Affordable Modification Program (HAMP), which is the primary vehicle for conducting loan modifications, there were almost 62,000 active loan modifications in the New York metropolitan statistical area as of March 2010.<sup>28</sup> As a percentage of eligible loans to be modified, Bank of America had the worst record of modification of the banks ANHD examined. Of Bank of America's approximately 1.1 million eligible loans, only 26% in March and 24% in February were in either an active or permanent trial. Table 6 demonstrates that many of its peer banks had much better track records.

**“Banks must establish consistent policies, develop a more streamlined, fair review process, and assign case managers to work on an application throughout the entire process.”**

Table 6

**ACTIVE MODIFICATIONS AS A SHARE OF ESTIMATED ELIGIBLE 60+ DAY DELINQUENCIES (2008)**

MARCH 2010 - COMMERCIAL BANKS			FEBRUARY 2010 - COMMERCIAL BANKS		
RANK	BANK	CURRENT MODIFICATIONS % OF LMI BORROWERS	RANK	BANK	CURRENT MODIFICATIONS % OF LMI BORROWERS
1	CitiMortgage	47%	1	CitiMortgage	12.05%
2	Wachovia	38%	2	Wachovia	6.10%
3	JPMorgan Chase	37%	3	JPMorgan Chase	0.90%

Even among those banks who have demonstrated a stronger willingness to offer their clients a trial or permanent modification, there have been pervasive reports of lost paperwork, unresponsive staff, unreasonable delays, and a general reluctance to take the necessary steps to achieve a sustainable outcome. Indeed, there is a sense among borrowers, counselors, and attorneys that obstacles are being put in place that make it typical for some borrowers to wait more than a year to secure a modification, if at all.

Table 7

ALL BANKS		
RANK	BANK	% CHANGE IN CRA QUALIFIED INVESTMENT
1	BONY Mellon	437.1%
2	JPMorgan Chase	140.5%
3	HSBC	139.0%
4	Capital One	43.2%
5	Apple Bank	15.2%
	Citi	-84.0%
	TD Bank	-35.8%
	Signature	-0.5%

Chhaya CDC, a community-based non-profit organization serving South Asian Americans and a member of both ANHD and the Mortgage Coalition, is at the forefront of providing foreclosure prevention counseling services and helped more than 100 families in 2009 alone. The Chen's were one of those families who contacted Chhaya in early 2009 after falling behind on their mortgage payments. Ms. Chen was laid off from her job as the manager of a bookstore and her husband, a cab driver, was unable to work due to an accident. The Chen's, who have two teenage children, have owned their home in Queens Village since 2005 and had a perfect payment record before their employment problems surfaced.

With the help of Shama Mubdi, Chhaya's Housing Counselor, the Chen's were granted a 3 month HAMP trial. They made all of their payments during the trial, which ended up lasting almost ten months. Throughout the extended trial, Ms. Mubdi worked with the Chen's to ensure all necessary paperwork was filed in a timely fashion and tried to follow up regularly with the bank. However, they rarely worked with the same bank representative, were told multiple times that documents they had submitted were not received, and that the bank's policies had changed. For example, while Mr. Chen's income was counted as eligible when the trial began, the bank later claimed his income was not eligible and denied the Chen's permanent modification due to "insufficient income." Ms. Mubdi said these delays and unfulfilled promises have a very damaging psychological impact on the borrowers who often cannot see an end to this financial and emotional limbo.

With the help of legal representation provided by the Urban Justice Center (UJC), the Chen's—along with two other borrowers—filed a lawsuit against JPMorgan Chase on the grounds of "breach of contract." Carmela Huang, staff attorney at UJC, explained that legal precedent has been established for this strategy in places like Washington and Ohio, and is confident a favorable resolution will be achieved here. She said, "My clients have fulfilled their end of the contract by doing everything JPMorgan told them was necessary to obtain a permanent modification. The bank is now responsible for holding up their end of the contract." Ms. Huang added, "It is unfortunate that it takes legal action to get the bank motivated to grant the modification in a more timely fashion."

29 Enterprise Community Partners, *About the Low-Income Housing Tax Credit*. Available at: [http://www.enterprisecommunity.com/products\\_and\\_services/lihtc.asp](http://www.enterprisecommunity.com/products_and_services/lihtc.asp)

Ms. Mubdi, the housing counselor, says, "In order to improve their track record on permanent modifications, banks must establish consistent policies, develop a more streamlined, fair review process, and assign case managers to work on an application throughout the entire process." Given the huge taxpayer-funded bailouts that these institutions received,

these seem like reasonable requests the banks should adopt to ensure permanent modifications are made in a meaningful and timely way.

## CRA-QUALIFIED INVESTMENT

Low Income Housing Tax Credits (LIHTCs) are central elements of the financing for approximately 90% of all affordable housing development.<sup>29</sup> Investment in LIHTC is one area that receives frequent attention when discussing how the current recession has impacted affordable housing and community development. For example, as banks began posting multi-billion dollar losses, their national demand for tax credits fell sharply and prices soon dropped from record highs to near record lows. Much of this drop can be explained by the fact that the three largest investors historically have either pulled out altogether (i.e., Fannie Mae and Freddie Mac) or became a more minor player (Citi). The diminished investor demand is worrisome as a lower price means either fewer units of affordable housing will be built or the units will not be affordable to those most in need. Thus, as will be discussed in Part III, several legislative and administrative fixes have been proposed to stimulate the tax credit market.

As Table 7 illustrates, however, tax credit investment among New York City banks rose – in some cases substantially – between 2007 and 2008. For the eight banks that provided data, total investment increased from \$624.2 million to \$794.2 million—a jump of 27.2%. One explanation for this growth could be that 2008 was too early to capture the decreased demand and that 2009 data will reveal just how far demand dropped in New York City. Another reason may be that as the headquarter city of many of these banks, their interest in tax credit investment is more stable than in areas outside of their assessment area. And the reason for BONY Mellon’s drastic increase is rooted in the bank changing its designation from a commercial bank to a wholesale bank, which tend to rely more on investments to fulfill their community development obligations.

A few banks, especially those with weaker appetites for new tax credit investment, have instituted debt-equity programs that are designed to use proprietary funds to invest in deals that the bank is also financing. Although ANHD applauds these institutions’ commitment to investing in affordable housing, this structure may put not-for-profit developers at a disadvantage as they will have to compete for investors.

Table 8  
**HIGHEST % OF DEPOSITS FOR PHILANTHROPY (2008)**

COMMERCIAL BANKS		
RANK	BANK	% OF DEPOSITS FOR PHILANTHROPY
1	M&T	.036%
2	Capital One	.019%
3	Citi	.017%

SAVINGS BANKS		
RANK	BANK	% OF DEPOSITS FOR PHILANTHROPY
1	Astoria Savings	.006%
2	Apple Bank	.002%
3	Signature	.001%

WHOLESALE BANKS		
RANK	BANK	% OF DEPOSITS FOR PHILANTHROPY
1	Deutsche Bank	.05%
2	BONY Mellon	.007%

Table 9

**HIGHEST % OF CRA-GRANTS FOR AFFORDABLE HOUSING (2008)**

COMMERCIAL BANKS			WHOLESALE BANKS		
RANK	BANK	% OF CRA GRANTS FOR AFFORDABLE HOUSING	RANK	BANK	% OF CRA GRANTS FOR AFFORDABLE HOUSING
1	HSBC	60%	1	Deutsche Bank	62.3%
2	Bank of America	47%	2	BONY Mellon	29.6%
3	Wachovia	31.7%			

**PHILANTHROPY**

CRA-related philanthropy has played and continues to serve a crucial role in the ability of community groups to further their missions of creating and preserving safe, decent affordable housing and neighborhoods for low- and moderate-income New Yorkers.

Between 2007 and 2008, CRA-eligible grant making increased by a sizable 17.9% (from \$33.9 million to \$39.96 million) among the 13 banks providing information. If JPMorgan Chase had maintained its 2007 philanthropic budget as well as Washington Mutual's level of philanthropy from the same year, the increase would be \$3.4 million more. Once again, it is evident how JPMorgan Chase's acquisition of Washington Mutual resulted in fewer resources being deployed in neighborhoods across New York City.

Obviously, the expanding philanthropic commitment of these institutions is a positive development; yet also a bit surprising given the reductions in the banks' other community development activities. None of the banks we analyzed, however, met the threshold of dedicating 2% of their pre-tax earnings to philanthropy, which is outlined in our Reinvestment Principles. It should be noted that Washington Mutual had committed to this level of giving, but JPMorgan Chase did not honor the commitment when they took over.

**30** U.S. Census Bureau. *Community Development Block Grant Census Tract Eligibility*. 2007. Available at: <http://www.nyc.gov/html/dcp/download/resource/2000cdbgtractreport.xls>

**31** According to FDIC Summary of Deposit data for the period ending June 30, 2008, there were 1707 bank branches. Thus, the data regarding branches in this analysis represents almost 78% of the total branches in the city.

**32** *Neighborhood Financial Services Study: An Analysis of Supply and Demand in Two New York City Neighborhoods*. New York City Department of Consumer Affairs, Office of Financial Empowerment. Available at: [http://www.nyc.gov/html/ofe/downloads/pdf/NFS\\_ExecSumm.pdf](http://www.nyc.gov/html/ofe/downloads/pdf/NFS_ExecSumm.pdf)

While ANHD believes it is logical to link a bank's philanthropic budget to its earnings, we are discouraged by the percentage of a bank's deposits that are earmarked for grant making. Table 8 shows those banks that dedicate the largest percentage and Deutsche Bank is the clear leader in this area. Yet it is easy to see that an incredibly small amount of deposits are deployed for philanthropic endeavors as no bank comes close to committing even a single percent of their deposit base to these initiatives.

There are a few other grant making trends that we are concerned about. First, a smaller percentage of CRA-eligible grants are supporting affordable housing. In 2007, 31.8% of CRA-eligible grants were dedicated to a purpose related to afford-

able housing compared to 24.1% in 2008. Given that the lack of affordable housing is a problem facing such a high share of working class New Yorkers, ANHD has set a target of dedicating at least 50% of a bank's CRA-related philanthropy to housing-related activities. Over the two year period, Bank of America, HSBC, M&T and Deutsche Bank were the only institutions that met this threshold at least once.

The other trend is that fewer banks are supporting community-based not-for-profit organizations. While it is important for the bank's philanthropic program to support a wide array of issues and institutions, local housing groups are the organizations best positioned to respond to on the ground issues related to housing, neighborhood stabilization and economic development. ANHD recognizes that a formal, RFP-style grant program may be more resource intensive than simply writing a few large checks to citywide organizations or intermediaries, but we believe it is central to a bank having a strong record of providing community development services. Capital One is particularly strong in this area as 75% of its grants are provided to community based organizations.

## BRANCHING

Lack of access to credit and basic banking services in their neighborhoods still remains a serious problem for low- and moderate-income New Yorkers. We continue to have a great many un-banked and under-banked communities such as Jamaica in Queens and Melrose in the Bronx, and urge local banks to establish equitable branching patterns as they expand.

In terms of equitable branching, ANHD wants to see 25% of a bank's total branches in New York City located in LMI neighborhoods. This is a reasonable benchmark given almost 56% of census tracts in New York City are classified as low- and moderate-income meaning that more than half of the households living there earn a moderate-income wage or below.<sup>30</sup> While a common refrain among banks is that online banking and ATMs are appropriate alternative service vehicles, the fact that over half of New Yorkers live in LMI areas signals that there is a market that is eager for access to mainstream financial services and a physical bank branch.

As table 10 illustrates, there is a significant difference in the way commercial and savings banks site their branches. Of the ten commercial banks we analyzed, six met the 25% threshold in 2007, 2008 or both. For the five savings we examined, only Apple Bank met the threshold. Therefore, while savings banks tend to serve neighborhoods better across many activities due to their more localized focus, in the case of branching, larger commercial retail banks have stronger branch networks because of their larger footprint.

An equally important benchmark related to branch siting is that at least 10 percent of a bank's total branches be located in low-income neighborhoods. In the two year period, the number of branches operated by the 17 responding banks increased by 11.7% (from 1192 branches to 1331).<sup>31</sup> Yet only 4.3% (6 out of the 138) of the new branches were located in

Table 10

**% OF BRANCHES IN LOW- OR MODERATE-INCOME TRACTS (2008)**

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	% BRANCHES IN LMI TRACTS	RANK	BANK	% BRANCHES IN LMI TRACTS
1	HSBC	73.3%	1	Apple Bank	55.9%
2	Bank of America	34.0%	2	Sovereign/Santander	16.0%
3	Wachovia	31.0%	3	NY Community Bank	14.7%

low-income census tracts. Therefore, the overall percentage of branches in low-income tracts actually decreased from 9.3% to 8.8%.

Measured against this benchmark, the vast majority of New York City banks must improve. In fact, of the 17 banks, only three—Apple Bank for Savings, Banco Popular, and JPMorgan Chase—have met this threshold. Table 11 details the banks that best serve low-income neighborhoods in terms of having a physical presence in the community.

The weak branch penetration in low-income neighborhoods is problematic as the lack of access to financial services should make it hard for banks to claim they are serving the convenience and needs of local residents. Furthermore, it also enables the existence of predatory lenders and cash checking businesses that charge exorbitant fees and other unregulated actors who prey on working class residents. That being said, a physical branch is just one component of ensuring residents have access to financial services. A recent study by the New York City Department of Consumer Affairs found that, “the fundamental mismatch between current financial products offered and consumer transactional needs—getting cash, paying bills, and buying goods—appears to be the major determinate in whether and how individuals with low incomes use mainstream financial institutions.”<sup>22</sup> Thus, it is also essential that banks create and market products that respond to local customers’ needs.

Table 11

**% OF BRANCHES IN LOW-INCOME TRACTS (2008)**

COMMERCIAL BANKS			SAVINGS BANKS		
RANK	BANK	% BRANCHES IN LI TRACTS	RANK	BANK	% BRANCHES IN LI TRACTS
1	Banco Popular	33.3%	1	Apple Bank	17.6%
2	JPMorgan Chase	10.4%	2	Signature	2.9%
3	M&T	7.7%	3	NY Community Bank	2.9%

## PART II:

## OVERALL RANKINGS

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The rankings on the following page are not intended to characterize banks as either “good” or “bad.” Rather, they are meant to provide a snapshot of how well New York City banks served the credit needs of LMI households and neighborhoods compared to their peers in 2007 and 2008. As mentioned previously, ANHD compiled data on 37 different reinvestment activities including branching, staffing, multi-family lending, community development lending, CRA-qualified investment, home purchase loans, and philanthropy. The rankings are based on nine indicators that represent core reinvestment activities and those areas where the most data was provided by the banks.

It is our expectation that banks are committed to expanding the volume of these activities on a year-over-year basis and improving the marketing and delivery mechanisms to ensure low- and moderate-income communities are well served. Unfortunately, all 17 banks that we examined saw retrenchment in at least one area from 2007 to 2008. These reductions are denoted by red arrows in Appendix A.

While ANHD did not account for year-over-year performance in these rankings, it is our intention to do so going forward. One important factor that we will consider is the magnitude of these increases and reductions. For instance, although Citi’s ranking fell from #2 to #6 over the two-year period, it probably should have fallen even more drastically given the enormous drop-off in lending and investment in just a single year. As the Appendix A illustrates, between 2007 and 2008, Citi authorized an 85.5% decrease in the number of community development loans originated and an 84% cut in the amount of dollars invested in CRA-qualified activities. Conversely, while many banks were contracting their philanthropic budgets, TD Bank North expanded its CRA-eligible grantmaking by 46.6%. ANHD feels strongly that it is important to provide incentives that encourage banks to better serve working class populations as well as think creatively about how to leverage their resources to maximize public benefit.

“ANHD feels strongly that it is important to provide incentives that encourage banks to better serve working class populations.”

“ ANHD has found New York Community Bank to be in a league of its own in terms of its lack of accountability to the communities in which it does business or indifference to public criticism. ”

It should be noted that ANHD did not weight the indicators so the actual amount of the differential between two banks' level of activity matters less than the more straightforward measure of who did more or less. Indeed, some institutions near the top or bottom of the rankings scored consistently high or low on all nine indicators, the performance of others

was quite uneven. For example, in 2008, JPMorgan Chase scored in the top 3 in several categories such as the percentage of branches in LMI neighborhoods, the percentage of multi-family loans in LMI tracts, and the percentage of community development loans to not-for-profit borrowers. At the same time, the bank had the second worst record in terms of how much of its total deposits it reserved for community development lending. Additionally, although Bank of America secured the top ranking in 2008 based on the strength of its branching, multi-family lending, community development lending with not-for-profits, and grantmaking that supported the creation of affordable housing, it would have likely slipped had loan modification data been considered in the rankings.

Moreover, there are a few banks where the data cannot capture its true record of serving, or not serving, LMI communities. For example, New York Community Bank's multi-family lending has endangered affordable housing throughout the city by providing the city's most notorious slumlords with unlimited financing. Furthermore, the bank has been completely unresponsive to requests for meetings and information. In fact, ANHD has found New York Community Bank to be in a league of its own in terms of its lack of accountability to the communities in which it does business or indifference to public criticism. Given the emphasis that CRA places on public input, there is no excuse for banks that seemingly have no interest in engaging with representatives from the community.

Although there are numerous banks who continue to be responsive partners, as a whole ANHD is disappointed with the direction the banking industry has taken related to serving low- and moderate-income populations in New York City. Given the experience of our 99 members, it would be surprising if the banks' 2009 numbers were more encouraging. As Part III will explain, numerous steps must be taken in both the immediate and intermediate terms to reverse these trends and ensure the city's banking partners renew their commitment to meeting their CRA obligations in a meaningful way.

## OVERALL RANKINGS OF NEW YORK CITY BANKS

2007

2008

COMMERCIAL BANKS			
RANK	BANK	RANK	BANK
1	Banco Popular	1	Bank of America
2	Citibank	2	Banco Popular
3	M&T	3	Capital One
4	Bank of America	4	M&T
5	Capital One	5	JPMorgan Chase
6	JPMorgan Chase	6	Citibank
7	TD Bank North	7	TD Bank North
8	HSBC	8	Valley National
8	Valley National	9	HSBC
10	Wachovia	10	Wachovia

SAVINGS BANKS			
RANK	BANK	RANK	BANK
1	NY Community Bank	1	Apple Bank for Savings
2	Apple Bank for Savings	2	Sovereign/Santander
3	Sovereign/Santander	3	Signature Bank
4	Signature Bank	4	Astoria Federal Savings
5	Astoria Federal Savings	5	NY Community Bank

WHOLESALE BANKS			
RANK	BANK	RANK	BANK
1	Bank of NY Mellon	1	Bank of NY Mellon
1	Deutsche Bank	2	Deutsche Bank



**PART III:****THE NEED FOR MORE RIGOROUS ENFORCEMENT AND CRA MODERNIZATION**

As others have proposed, ANHD believes there are immediate and intermediate steps that can be taken to update the CRA regulatory framework so it continues to catalyze community development and other bank reinvestment activities.<sup>33</sup> Most critical is the need to strengthen the enforcement underpinnings of CRA by creating more leverage for community engagement and incentivizing banks to seek the highest CRA rating. Additionally, banks, regulators, and community advocates must consider the outcomes of a financial institution's reinvestment activities and not just the number and dollar amount. Indeed, ANHD believes the stability and profitability of these activities and the long-term financial and economic health of the community are inherently linked. We believe the actions detailed below would go a long way to reversing these trends and ensuring banks dedicate a meaningful amount of resources to lending, investment and services in New York City.

**IMMEDIATE TERM**

In the near term, an interim rule for comment<sup>34</sup> is necessary that would:

**Encourage Regulators to Tailor Assessment Criteria to the Local Performance Context and Place More Emphasis on Community Development**

ANHD recognizes that many banks have tailored their business models in such a way that makes it difficult for them to provide certain products or engage in the full range of CRA-related activities. That being said, it is ANHD's belief that for the largest banks, it would be incredibly hard to justify not providing a product or program that impacts such a large segment of the assessment area's residents and neighborhoods. In New York City, this means that lending and investment supporting the creation and preservation of multi-family properties and community development activities would receive greater weight.

Indeed, community development loans and investment are central to building strong neighborhoods and supporting the work of CDCs, but currently count only

<sup>33</sup> December 15, 2009, Letter to the Federal Financial Institutions Examination Council. Signed by 19 institutions including tax credit syndicators, community development intermediaries, lenders and financial institutions, and advocacy organizations. Letter available at: [http://www.enterprisecommunity.org/public\\_policy/documents/cra\\_letter\\_to\\_ffiec.pdf](http://www.enterprisecommunity.org/public_policy/documents/cra_letter_to_ffiec.pdf)

<sup>34</sup> Interim rules, which often are issued jointly by the various federal regulators, explain the reason for any recommended change to policy, and include data, information, or authority supporting that change.

for extra credit. These activities must receive additional credit to achieve parity with home purchase and small business lending, especially in cities like New York where the housing stock is comprised mostly of multi-family rental properties. In the rare case where banks cannot be induced to provide the full range of essential products, the banks should be required to demonstrate how they are meeting their obligations in other ways.

**Strengthen the Regulatory System by Developing Regulations that Value Both the Quantity and Quality of Lending, Investment, and Services in Performance Exams**

It is clear that performance assessments have become increasingly volume driven. This gives an unfair advantage to the largest institutions and leads banks to support cookie cutter deals rather than develop innovative products and programs. Regrettably, it may also reward banks for engaging in activities that have had a negative impact on communities. For example, in New York City, it is likely that banks who underwrote “Predatory Equity”-backed deals received CRA credit for loans that have displaced low- and moderate-income families and de-stabilized neighborhoods. Again, one way for regulators to determine whether a multi-family loan will have lead to these negative consequences is to examine the debt service coverage ratio.

Examinations must move beyond simply rewarding dollar and unit volumes, and actually determine which activities have had a positive impact on strengthening communities. For example, credit enhancements that enable community development financing, such as letters of credit, should be given equal or near equal weight to loans and investments. Overall, regulations should be reworked to ensure exams are not merely checklists that are driven by volume, but the qualitative impact as well.

**Require Local Strategic Plans and Reporting**

As noted above, as banks have become larger national and global institutions, they have grown increasingly distant from the local community. Banks must adhere to the spirit of the CRA by developing local plans for how they intend to help meet community credit needs. These plans should detail their strategy, including community context analysis and quantitative and qualitative goals, to meet the lending, investment, and service needs of low- and moderate-income borrowers. Furthermore, the plan should explain the products and programs the bank has developed to respond to local needs and opportunities. On an annual basis, banks should release Annual Reports that document how their activities have been targeted to meet the goals outlined in these plans. The plan and accompanying annual reports should be incredibly helpful to regulators to more fully incorporate both quantitative and qualitative measures in their performance assessments.

ANHD believes these plans will also significantly strengthen the CRA by more effectively engaging the community. The CRA was designed, from its inception, to involve the local community in a dialogue with banks as part of the CRA exam process and during mergers and acquisitions. This important aspect of CRA enforcement has been weakened by industry consolidation which has resulted in institutions so large that the local community is unable to understand or obtain information about a bank’s local activities. Requiring a publically available, local plan would invite informed community input and dialogue with

the banks, even as consolidation continues. Again this change would also assist the regulators during the “Community Contacts” portion of an exam as it would result in a larger number of engaged, informed partners.

#### **Enhance Meaning of “Outstanding” Rating and Increase Incentives for Banks to Strive to Achieve It**

Currently, over 95% of banks receive at least a “Satisfactory” rating from their regulator. As the number of banks receiving a passing grade has expanded, the value of achieving an “Outstanding” rating has diminished. In order to encourage banks to be leaders in community reinvestment, it is clear that additional incentives, as well as sanctions, must be created. Ideas include: cheaper credit from the Federal Reserve Bank’s discount window, an exemption from undergoing a merger-driven exam, or extra credit for non-standard products, grants, and letters of credit.

#### **Establish a clear CRA commitment for Bank Holding Companies**

Numerous investment banks including American Express, Goldman Sachs and Morgan Stanley have recently converted into bank holding companies. A principle reason behind these moves is gaining access to customer deposits, which are a stable source of funding. While the commercial bank owned by the bank holding company bank is regulated, the CRA obligations for the bank holding companies are less clear. As institutions with their headquarters in New York City, it seems reasonable that the city be included as an assessment area under CRA for these new entities.

#### **Maximize Consistency and Transparency**

Currently, there is a great deal of variation across examiners. The FFIEC should determine CRA-eligibility of specific projects or classes of projects to provide banks some assurance that their lending, investment and services will lead to a strong grade.

## **INTERMEDIATE TERM**

In the longer term, legislation needs to be passed that would address those issues that are not of a regulatory nature. These bills include:

#### **Pass a Local “Responsible Banking” Ordinance**

Although ANHD is optimistic that both regulatory and legislative fixes at the federal level will move forward in a timely fashion, we are also mindful of New York City’s ability to initiate changes through the local legislative process. Cities across the nation including Cleveland, Los Angeles and Philadelphia have undertaken similar strategies with great success. Indeed, all three cities have either introduced or passed ordinances that require banks to submit annual reports with the city that detail the programs and products they will offer to help meet the city’s credit needs. The cities then evaluate the banks performance based on these reports and reward performing institutions with deposits, city contracts, and pension funds. Cleveland and Philadelphia, the two cities that have enacted these ordinances, have found the incentives to be sufficient for encouraging banks to develop local plans and create comprehensive community development programs.

ANHD is proposing the creation of a “Responsible Banking” ordinance for New York City with the following structure:

- Require each bank that wants to do business with the city to prepare a “local CRA Plan” with a clear statement of what the banks sees as the key credit needs of the local community and how the bank intends to fulfill those credit needs.
- Require banks to submit an Annual Progress Report that documents how the bank fulfilled the goals of its plan for the previous year.
- Require mayoral agency, with input from members of the City Council, to evaluate the comprehensiveness and reasonableness of the bank’s local CRA Plan as well as the Annual Progress Report.
- Consider, to the greatest extent possible, the mayoral agency’s findings related to which banks have been found to be in compliance with the requirement to file local plans and progress reports in deciding which institutions to do business with.
- Encourage the City Council and mayoral agency to use the local plans and the banks’ performance both to push the financial institutions to more fully commit to partnering in the community development efforts of the city and to put public pressure on the banks to develop programs and products that are most needed by low- and moderate-income communities in New York City.

We believe that a New York City Responsible Banking ordinance would create a tool for local influence on the community investment practices of our banking institutions, and give the City Council, the City of New York, and engaged citizens in communities throughout the city a powerful mechanism to provide input related to our credit needs that would help ensure local oversight.

#### **Enact CRA Modernization**

The Community Reinvestment Act (CRA) has been one of the most important laws for building wealth and revitalizing neighborhoods since its passage in 1977. However, the financial services sector has changed dramatically in the three decades since and the law has not been altered to reflect the shifts in how banks do business and other trends in the lending industry. In order to ensure the CRA remains an effective law and meets the ongoing needs of LMI borrowers and communities, modernization legislation needs to be passed.

Legislation introduced by Rep. Eddie Bernice Johnson last session would apply CRA to a variety of non-bank institutions, require federal regulatory agencies to hold more public hearings and meetings when banks merge, enhance accountability through data disclosure and introducing more publicly available ratings, address racial disparities in lending by

requiring CRA exams to explicitly consider lending and services to minorities in addition to LMI communities, and bolster the accountability of banks to all communities, among other things.

Additionally, ANHD recommends expanding data disclosure requirements to include community development activities and create a new community development test for large banks. The latter recommendation is especially important as it would encourage banks to think more comprehensively about the range of products and policies it needed to provide to best fulfill its CRA obligations. The current community development test for a wholesale bank could be a model that is adapted for this purpose.

### **Implement Regulatory Reform Including Creation of an Independent Robust Consumer Financial Protection Agency**

The Consumer Financial Protection Bureau, currently a part of, must become an independent agency that is empowered to truly protect consumers include enabling states to play a stronger role in enforcing consumer protection laws, which banks have tended to disregard; having oversight authority across all types of Wall Street financial products; and reconciling the long-standing conflict between the needs of financial firms and consumers.<sup>35</sup> In all, these steps should ensure consumers have comprehensible information to make responsible financial decisions, gain access to financial services, and are protected from abuse, unfairness, deception, and discrimination.

## **CONCLUSION**

Over the past thirty years, grassroots leaders and community institutions, working in partnership with banks and the local government, have successfully transformed their neighborhoods into safe, decent and welcoming places for New Yorkers of all income levels and all walks of life.

The accomplishments of these community groups and their partners would not have been possible without the CRA. The ongoing ability of working class residents to build wealth and the continued vitality of these neighborhoods are dependent on banks reaffirming their commitment to providing loans, investment, and financial services that are responsive to local needs.

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<sup>35</sup> Satow, Julie. "Battle Brewing On Capital Hill Over Obama's Proposed Consumer Protection Agency," *The Huffington Post*. Available at: [http://www.huffingtonpost.com/2009/06/17/battle-brewing-on-capitol\\_n\\_217088.html](http://www.huffingtonpost.com/2009/06/17/battle-brewing-on-capitol_n_217088.html)





## APPENDIX B

# COMMUNITY REINVESTMENT PRINCIPLES FOR NEW YORK CITY 2010

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## BACKGROUND

The Association for Neighborhood & Housing Development (ANHD) is a membership organization of non-profit community organizations serving low- and moderate-income neighborhoods throughout the five boroughs of New York City. The ninety-eight neighborhood groups which make up the ANHD membership work on the full spectrum of community development activities associated with the Community Reinvestment Act; ANHD members engage in affordable housing development and management, neighborhood revitalization activities, community organizing, economic development efforts, housing counseling and financial literacy services. Most of these community groups, like the CRA itself, were created in response to the redlining and disinvestment that threatened to destroy our neighborhoods back in the 1970s. Over the past thirty years, grassroots leaders and community institutions, working in partnership with banks and local government, have successfully transformed their neighborhoods into safe, decent and welcoming places for New Yorkers of all income levels and all walks of life.

The accomplishments of these community groups and their partners would not have been possible without the Community Reinvestment Act. As our communities face new challenges and opportunities today, the CRA still remains a central and necessary tool in preserving our neighborhoods and in ensuring access to credit for lower-income New Yorkers.

## WHY WE GENERATED THESE PRINCIPLES

CRA is, by its very nature, local; it requires that banks meet community credit needs. However, as banks have grown in recent years, evolving from community banks into large regional, national and even global financial institutions, they have, by necessity, grown increasingly distant from the local community. These CRA principles are meant to provide guidance to banks doing business in NYC: to inform them of emerging local needs of which they may not be aware and to share best practices in community development that our members have identified through their collective experience in the field.

We believe that the adoption of these principles and these best practices by NYC financial institutions will strengthen the banks' existing CRA programs and will support our shared goal of fair access to credit for all New York City residents.

### **INSTITUTIONAL COMMITMENT TO CRA (STAFFING, STRUCTURE & LEADERSHIP)**

It has been ANHD's experience that the banks with the most effective CRA programs reflect a broad institutional commitment to CRA and community development. This commitment begins with leadership, where senior executives are knowledgeable about, engaged in, and committed to a bank's CRA programs. In addition to committed leadership, strong CRA programs require the bank to have adequate levels of staff with appropriate expertise dedicated to each of its local markets, in this case, New York City.

As noted above, an effective CRA program needs to be locally-focused and flexible so as to meet changing community needs and priorities. In New York City, priorities change from year to year, as new issues arise, and needs also differ among individual neighborhoods. A bank should have a local CRA plan which responds to that reality.

Specific to New York City, we ask that a bank:

- Develop a detailed CRA plan for the five boroughs of NYC which establishes concrete objectives and targets in the areas of CRA-related lending, investment and services. The plan should also identify financial and human resources needed for its implementation. Furthermore, the plan should reflect local needs and priorities.
- Create a centralized community development group dedicated to New York City and staffed by a senior executive, to coordinate and monitor the bank's various CRA programs here.
- Foster a bank culture that values CRA activities by educating all levels of staff about the bank's CRA policies and commitments.
- Empower local staff who have local knowledge to develop CRA products and programs targeted to local needs.
- Work collaboratively with community leaders through a NYC community advisory council and through other vehicles to identify and respond to emerging needs in the City's LMI neighborhoods.
- Communicate regularly with NYC community stakeholders about the bank's CRA products and programs.

## BRANCHES

Lack of access to credit and basic banking services in their neighborhoods still remains a serious problem for low- and moderate-income New Yorkers. We continue to have a great many un-banked and under-banked communities and we urge local banks to establish equitable branching patterns as they expand.

Specific to NYC, we ask that a bank:

- Locate 25 percent of its total full service branches in NYC in LMI neighborhoods, with at least 10 percent of the total branches in low-income neighborhoods.
- Designate a staff person to work with local community groups to identify and site new branches in underserved communities.

## MULTI-FAMILY AND COMMUNITY DEVELOPMENT LENDING & INVESTMENT

In New York City, preservation and expansion of the affordable housing stock continues to be a core community development priority. Two thirds of all New Yorker's live in rental housing, and, in the case of low-income New Yorkers, that percentage increases substantially: more than 80% of low-income households rent. In order to effectively meet community credit needs within NYC's local performance context, banks need to engage in meaningful levels of multi-family lending which reflect responsible underwriting and which has a positive impact on the City's low- and moderate-income communities.

Specific to New York City, we ask that a bank:

- In keeping with the nature of the City's affordable housing stock, undertake meaningful levels of responsible multi-family lending in our LMI neighborhoods.
- Ensure that projects undertaken as part its CRA program have a positive impact on the community in which they are sited.
- Develop products to finance the preservation of NYC's at-risk federally-assisted affordable housing.
- Generate the majority (more than 50%) of the bank's community development loans and investments- and, specifically, its housing loans- with non-profit sponsors.
- Participate in local efforts to promote successful models of long-term housing affordability.
- Institute procedures to prevent abusive multi-family lending practices such as loans to predatory equity investors or slumlords. Ensure that multi-family loans are responsibly underwritten.
- Distribute loans equitably throughout the City's five boroughs.

## HOMEOWNERSHIP

New York City also has a large homeowner population; approximately 1/3 of our residents are homeowners, including over 325,000 lower-income households. As such, we have a continuing need for responsible home mortgage lending. In addition to a need for affordable home purchase products, including responsible products targeted to LMI borrowers and to first-time homebuyers, it is also important that banks have products and programs in place to preserve homeownership and prevent foreclosure.

Specific to New York City, we ask that a bank:

- Commit to mortgage lending to LMI households that is proportionate to the percent of LMI households in the city as a whole.
- Institutionalize LMI mortgage lending with salaried (rather than commissioned) loan officers to serve the home buying needs of low- and moderate-income consumers who are buying their first homes.
- Develop and/or expand partnerships with neighborhood groups to support counseling, financial literacy, down payment assistance, and other services in the areas of homeowner creation and foreclosure prevention.
- Adopt responsible lending practices that take into account the borrower's income and ability to pay their mortgage.
- Develop a local program, working closely with community groups, to protect current and future customers at risk of foreclosure. If applicable, restructure high cost, sub-prime or exotic mortgages to help keep people in their homes.

## PHILANTHROPY

CRA- related philanthropy has played and continues to play a crucial role in the ability of community groups to further their missions of creating and preserving safe, decent affordable neighborhoods for low- and moderate-income New Yorkers.

As part of its overall CRA strategy and specific to NYC, we ask that a bank:

- Dedicate at least 2% of pre-tax earnings to the community, at least half of which takes the form of CRA-eligible grants.
- Commit to an annual local CRA philanthropic budget for NYC that is proportionate to the % of the bank's overall deposits here. If, for example, 10% of a bank's overall deposits nationally are derived from NYC, 10% of the bank's philanthropic budget should be allocated to the City.
- In the event of a merger or consolidation, commit to maintaining as a floor the separate CRA-philanthropic levels of the merging institutions.

- Coordinate the bank's CRA-related grantmaking with its CRA-lending and investment strategy. That is, ensure that both the lending and grantmaking effectively supports local community development needs.
- Adopt transparent grant making procedures and affirmatively market philanthropic programs to local community groups.
- Lead and participate in local strategic donor collaboratives to leverage and better coordinate community investments.
- Award a majority of CRA-eligible grants to neighborhood-based organizations.

## ACCOUNTABILITY AND TRANSPARENCY

It has been ANHD's experience that the most effective CRA strategies are characterized by transparency and community accountability.

We ask that a bank operating in NYC:

- Generate an annual report to the community on its CRA activities in NYC. We ask that this report include, for the City as whole and for each borough, data on the bank's CRA-eligible lending, investment and services here, including community development lending and grantmaking. This report should be available through the bank's website and at each of its NYC branches.
- Designate a staff person to respond to information requests from community institutions and residents on the bank's CRA activities in a specific neighborhood.

## CONCLUSION

Over the past thirty years, area banks have been central partners in investing in and supporting NYC's low- and moderate-income communities. These CRA Principles are meant to assist banks, as they grow, in sustaining these local partnerships. ANHD and its members strongly believe that, working together collaboratively, banks and community groups can continue to keep our City and our neighborhoods welcoming places for all New Yorkers.

For more information on ANHD's reinvestment activities contact our Reinvestment Working Group at 212-747-1117 x 21.



## APPENDIX C

# SAMPLE INFORMATION REQUEST LETTER

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May 11, 2009

«Title» «First\_Name» «Last\_Name»

«Bank»

«Street»

«Address»

Dear «Title» «Last\_Name»,

The Association for Neighborhood and Housing Development (ANHD) is a non-profit member organization of ninety-eight neighborhood-based housing groups in New York City. Our members serve low- and moderate-income communities and households throughout the five boroughs. I am writing to submit our annual request for information concerning «Bank»'s CRA-related activities in New York City for calendar year 2008.

As you may know, ANHD has recently developed "Community Reinvestment Principles" for bank's doing business in New York City (see enclosed). These CRA principles are meant to provide guidance to banks doing business in the city: to inform them of emerging local needs they may not be aware of and to share best practices in community development that our members have identified through their collective experience in the field. The principles are both quantitative and qualitative in nature as we believe a strong CRA record is not just about outputs, but rather targeting products and programs to meet community credit needs.

Therefore, we are very interested in learning more about «Bank»'s CRA-related activities in New York City, especially its community development lending, investment and services for 2008. We would like this information on the activities of «Bank» and all other subsidiaries and affiliates doing business in New York City. Also, where available, we would like information on your lending and investment targets for the city in 2009. In addition to pro-

viding responses to our specific questions, please feel free to provide any information on activities that reflect «Bank»'s commitment to New York City's low- and moderate-income neighborhoods and residents.

### EXISTENCE OF A LOCAL CRA PLAN

As noted above, we believe an effective CRA program needs to be locally-focused and flexible so as to meet changing community needs and priorities. In New York City, priorities change from year to year, as new issues arise, and needs also differ among individual neighborhoods. A bank should have a local CRA plan which responds to that reality. Does «Bank» have a CRA plan for the five boroughs of New York City which reflects local needs and priorities and establishes concrete objectives and targets in the areas of CRA-related lending, investment and services?

### DEPOSITS & BRANCHES

We are requesting the following information concerning «Bank»'s deposits and branches in New York City as of December 31, 2008:

- Total dollar amount of deposits
- Number of bank branches within the five boroughs
- Number of those branches that were located in low-income census tracts
- Number of those branches that were located in moderate-income census tracts

Additionally, please provide information on whether «Bank» opened or closed any branches in New York City in 2008? If so, please let us know how many of those branches were in low-income tracts and how many were in moderate-income tracts.

### COMMUNITY DEVELOPMENT STAFFING

We are requesting the following information concerning «Bank»'s community development staffing as of December 31, 2008:

- Does the bank have a centralized community development group dedicated to New York City and staffed by a senior executive?
- Number of community development lending staff serving the New York City market
- Number of total community development lending staff located in the city
- Number of staff supporting «Bank»'s CRA-related philanthropy in New York City
- Number of staff who support CRA-related philanthropy that are located in the city

Are there any other «Bank» employees responsible for carrying out the bank's CRA and fair lending obligations in New York City? How many of these people physically work out of offices located in the city?

## MULTI-FAMILY LENDING

We are requesting the following information concerning «Bank»'s multi-family lending in 2008:

- Number of multi-family loans originated in New York City as a whole and by borough
- Total dollar amount of multi-family loans originated in the city and by borough
- Number of multi-family loans for properties in low- and moderate-income (LMI) neighborhoods in the city as a whole and by borough
- Total dollar amount of multi-family loans for properties in LMI neighborhoods in the city and by borough
- Community Development Lending and Investment

We are requesting the following information concerning «Bank»'s community development lending in 2008:

- Number of community development loans originated in NYC as a whole and by borough
- Total dollar amount of community development loans originated in the city and by borough
- Number of community development loans made to nonprofit sponsors / borrowers
- Total dollar amount of community development loans made to nonprofit sponsors / borrowers
- Number and dollar amount of community development loans for affordable housing

For calendar year 2008, what were the:

- Number of qualified investments made in New York City
- Total dollar amount of qualified investments made in New York City
- Number and dollar amount of these investments made with not-for-profit sponsors

For 2009, what are «Bank»'s targets for community development lending and investment in New York City? Specifically, will the bank be investing in Low Income Housing Tax Credits? If so, what is the anticipated level of investment?

## AFFORDABLE HOMEOWNERSHIP

We are requesting the following information concerning «Bank»'s home purchase loans in New York City in 2008:

- Number of home purchase loans originated in New York City  
Total dollar amount of home purchase loans in the city
- Number of home purchase loans originated with low-income (LI) borrowers in the city
- Total dollar amount of home purchase loans originated with LI borrowers in the city

- Number of home purchase loans made with moderate-income (MI) borrowers in the city
- Total dollar amount of home purchase loans originated with MI borrowers in the city

## PHILANTHROPY

We are requesting the following information concerning «Bank»'s philanthropy in New York City in 2008:

- Total dollar amount awarded in CRA-eligible grants in New York City and by borough
- Total dollar amount of CRA-eligible grants made to neighborhood-based community groups? To citywide organizations?
- Specific to the city, the percent of total grants that were awarded for affordable housing last year? For community development? For financial literacy?

Additionally, please provide information on the bank's participation in local strategic donor collaboratives or coalitions that seek to leverage and better coordinate community investments.

Finally, what is the total CRA philanthropic budget for New York City for 2009?

If you have any questions, do not hesitate to call me at (212) 747-1117 x17 or email me at [benjamin.d@anhd.org](mailto:benjamin.d@anhd.org). Please send the requested information to my attention at:

Benjamin Dulchin, Executive Director  
ANHD  
50 Broad Street, Suite 1125  
New York, NY 10004

Thank you very much,



Benjamin Dulchin  
Executive Director

cc: ANHD Banking/Reinvestment Working Group

**APPENDIX D****JPMORGAN CHASE AND WASHINGTON  
MUTUAL MERGER DATA**

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	Washington Mutual	JPMorgan Chase		Expected Combined Activity based on 2007	Better or Worse than Expected
<b>Type of Institution</b>	Fed Savings	Nat'l Commercial			
<b>Regulator</b>	OTS	OCC			
	<b>2007</b>	<b>2007</b>	<b>2008</b>		
<b>Staffing</b>					
CD Staff Serving NY	9	46	18	53	Worse
CD Staff located in NYC	9	46	11	53	Worse
Staff supporting CRA Activity	4	18	41	22	Worse
CRA Staff Located in NYC	4	4	25	8	Worse
<b>Branches &amp; Deposits</b>					
Total Deposits	\$7.9B	\$192.5B	\$224.2B	\$200.4 B	
Total NYC Branches	144	277	366	366	
Low-Income (LI) Branches	17	23	38	40	Worse
Moderate Income (MI) Branches	39	48	72	87	Worse
% in LMI Census Tracts	38.9%	25.6%	30.1%	34.7%	Worse
% in LI Census Tracts	11.8%	8.3%	10.4%	10.9%	Worse
% in MI Census Tracts	27.1%	17.3%	19.7%	23.8%	Worse
<b>Multi-Family (MF) Lending</b>					
MF Lending (# Loans)	791	3	3	794	Worse
MF Lending (in \$)	\$1.2B	\$7.2M	\$3.25 M	\$1.207 B	Worse
MF Lending in LMI tracts (#)	536	3	3	539	Worse
MF Lending in LMI tracts (\$)	\$790.9 M	\$7.2M	\$3.25 M	\$798.1 M	Worse
<b>CD Lending</b>					
CD Lending (# Loans)	12	92	110	104	Better
CD Lending (in \$)	\$103.8 M	\$699.8 M	\$768 M	\$803.6 M	Worse
CD Loans to Not-for-Profits (#)	3	73	82	76	Better
CD Loans to Not-for-Profits (\$)	\$5.5 M	\$193.2M	\$331 M	\$198.7 M	Better
CRA Qualified Investments (total #, \$)		\$121M	19, \$291M		
CRA Qualified Investments (to NFPs)			14, \$216 M		
Affordable Housing Loans (#, \$)	\$5.5M	\$152M			
Affordable Housing to NFPs		\$62M			
<b>Mortgage Lending</b>					
Home Purchase Loans (#)		10,446	8,279		
Home Purchase Loans (\$)		\$4.4B	\$3.4 B		
Home Purchase Loans to LI borrowers (#)		31	59 (\$6.7M)		
Home Purchase Loans in MI borrowers (#)		367	623 (\$94.2M)		
<b>Philanthropy</b>					
Total Deposits (NYC)	\$7.9 B	\$192.5B	\$224.2 B	\$200.4 B	
CRA Eligible Grants in NYC (#, \$)	\$2.6M	\$12.4M	\$11.6 M	\$15 M	Worse
Affordable Housing CRA Grants (%)	32.9%	15.4%	\$2.47, 21%		
Citywide CRA Grants (#, \$)	\$1.5M	\$7.1 M	103, \$6.8 M	\$8.6 M	Worse
% of Deposits Dedicated to Philanthropy	0.033%	0.006%	0.005%	0.007%	Worse







**ASSOCIATION FOR NEIGHBORHOOD  
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