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

1:18 p.m.

VICE CHAIRMAN GRUENBERG: Good afternoon. We'd like to continue with our hearing.

Our third panel will focus on issues of community development with regard to CRA.

And if I may briefly introduce our witnesses:

Michael Rubinger, who is the President and CEO of Local Initiatives Support Corporation;

Terri Ludwig who is the Executive President and Chief Operating Officer of Enterprise Community Partners;

Dorothy Broadman, who is a Board Member for the National Association of Affordable Housing Lenders and also Senior Vice President of Capitol One and she's testifying on behalf of NAAHL;

Lisa Hall, Executive Vice President
and Chief Lending Officer for the Calvert Foundation;

Julie Gould, who is Senior Vice President for Community Investment and Impact for Mercy Housing;

Sarah Gerecke who is Executive Director of Furman Center at New York University, Furman Center.

We welcome you all.

And, Mr. Rubinger, would you please begin.

Good afternoon.

First of all, I want to thank you for inviting me today. I do very much appreciate the opportunity to be here this afternoon.

My organization, LISC, as many of you know is one of the largest community development organizations in the country. And our particular approach to community development emphasizes the importance of comprehensiveness in delivering community
development resources to low-income distressed neighborhoods. So for that reason I am particularly pleased that the focus of my remarks this afternoon will be on CRA's relationship to community development activities.

From our perspective, community development involves lending, investment and services to support low- and moderate-income families and communities in a vast variety of ways, including multi-family rental housing, home construction and rehabilitation, retail and other commercial real estate such as grocery stores and business facilities, community service facilities such as health clinics, charter schools and childcare centers as well as support for other CDFIs and nonprofit developers.

CRA motivated bank financing is without any doubt an integral part of community development. Motivated by CRA, banks have made billions of dollars of
successful community development loans and investments.

One of CRA's signature achievements, we believe, has been to create successful partnerships among banks, government and both nonprofit and for profit developers. Most federal housing production and other community development policies now depend on these partnerships which help leverage limited public funds. Bank participation has also brought business discipline to the community development process greatly increasing the success of public programs.

Community development investment projects often anchor the broader stabilization and revitalization of low- and moderate-income communities and compliment with responsible lending to individual consumers and small businesses in these communities.

Unfortunately, CRA effectiveness in
encouraging community development has eroded over the past several years. One reason community development activities can be overlooked is that their consideration is divided among the three CRA tests for large retail banks: Lending, investment and services. This fragmentation obscures a clear view of how banks are applying the various tools at their disposal to address the needs and opportunities of different communities in an integrated and responsive way.

Second, quantity has clearly outstripped quality as a measure of CRA performance. In assessing community development activities volume is undoubtedly important, but so is an understanding of how they address community needs. This qualitative aspect often gets lost as CRA has become more predominately numbers driven.

Third, there is little incentive for the major multi-state banks which have most of the banking systems' deposits and
assets to undertake community development activities beyond the largest metropolitan areas. While CRA policy recognizes that how a bank responds to local needs is essential in evaluating the bank's community development activities, for most multi-state banks activities in only one or two parts of each state receive any such qualitative review.

Community development practitioners increasingly characterize these areas as CRA hotspots and other areas as CRA dead zones as if CRA were not truly a national policy.

We believe that community development deserves greater attention under CRA than it currently receives. For this reason we recommend that a new community development test replace the current investment test on the CRA exam for large retail banks. We would, however, propose keeping the current general lending test and the services test.

A new community development test
would include all forms of participation including loans, investments, credit enhancements, services and support for nonprofit partners.

To recognize and encourage community development activities in both large metropolitan areas as well as in other communities which may not receive sufficient attention currently, we propose a revision in the way community development needs are determined and community development activities are examined. What is needed is a more manageable consistent and predictable approach to community development that includes all communities and recognizes local needs.

In that spirit, we propose for consideration one possible new approach, no doubt there are others. Under this approach the banking agencies would jointly conduct a community development needs assessment for each of the 50 largest metropolitan areas as
well as for the balance of each state: A total of 100 areas nationwide. These needs analyses would be the basis for the community development component of CRA exams. Under this system major metropolitan areas would continue to get attention, but now smaller metro areas and rural areas would get more attention as well. At the same time, the number of assessment area targets would be more manageable for all interests, particularly the larger banks which can sometimes have 200 or 300 or more assessment areas.

Finally, CRA examiners should get community development training. Assessing community development activities requires CRA examiners to exercise some judgment about the responsiveness of a bank to community needs. For this reason it will be important for CRA examiners to have strong familiarity with community development and clear guidance on how to apply appropriate judgment.
Thank you very much. I look forward to your questions.

VICE CHAIRMAN GRUENBERG: Thank you very much.

Okay.

MS. LUDWIG: Good afternoon.

I’m Terri Ludwig. I’m the Executive Vice President and Chief Operating Officer for Enterprise Community Partners. Enterprise is a national nonprofit organization. We create opportunity for low- and moderate-income people through activities that support affordable housing in diverse thriving communities. Enterprise provides financing and expertise to community-based organizations for affordable housing development and other community revitalization strategies across the United States.

For more than 25 years Enterprise has invested over $10 billion to create more than 270,000 affordable homes and strengthen hundreds of communities across the country.
To begin, I'd like to thank you. Thank you for showing your leadership and initiative to convene these hearings and to ask the thoughtful questions about how to improve the regulatory implementation of the Community Reinvestment Act.

My own career in investment banking and nonprofit leadership prior to coming to Enterprise has been very intertwined with CRA. I've led nonprofits that benefitted from bank investments that were driven by CRA, and I've also led the Merrill Lynch Community Development Company which was subject to CRA. And so I've seen firsthand how CRA helped financial institutions to see new lending and investment opportunities in low- and moderate-income communities, and also how the CRA regulation sometimes did not work as well as intended.

Enterprise and other community developers that are testifying here today sent a joint letter in December asking that you
commence a review to review and update the CRA regulations. We're delighted that you followed up with these hearings, and we thank you for your leadership on these matters.

There are four key areas that we think are especially important to discuss today:

First, the need to create a community development test;

Secondly, the importance of examiner training;

Third, the recognition of green building practices, and;

Fourth, the need to rethink how assessment areas are determined and how banks get credit for these activities.

The community development field has evolved a great deal since the lending, service and investment tests for larger banks were created in 1995. At that time, the legislation creating the community development financial institutions or CDFIs had just
passed. Thanks in part to the CDFI statute, the CRA, tax credits and other policies, as we know a full industry has arisen that provides credit to low- and moderate-income communities on more favorable terms than the private market alone could provide. And many of the institutions represented on this panel make impact investments working with our bank partners. We're mission-oriented businesses, if you will, that can structure complex transactions and can meet community needs.

Currently evaluation of bank activities, as we know, is scattered among the lending, service and investment tests depending on the form the investment takes. Importantly, the dollar value of one loan to fund a supportive housing project, for example, that is fairly complex that involves state, local governments and possibly a CDC intervention can be dwarfed by a bank's volume of conventional home mortgage lending in low- and moderate-income communities. Yet that
same community development loan can many times have a larger impact on that neighborhood.

The time and complexity required by community development projects needs to be recognized by a separate test that looks at community development as an integrated whole. This is why current regulations should be augmented with a rigorous community development test that replaces the investment test. The test should have both quantitative but also qualitative elements.

Lending, services and investments in affordable rental housing, economic development projects, community facilities like childcare centers or charter schools, community loan funds, microfinance funds and other community development activities in low and moderate income communities should qualify for this test.

Equity investments in community development financial institutions and other investments that help build the capacity of
community developers should also qualify.

An important part of our recommendation today is that there should be interagency assessments of community needs so that bank performance is judged against an analysis of those community needs. The regulatory agencies should work together on an interagency assessment for each major metro area that replaces the assessments of community needs done by the individual agencies as part of the CRA exams for various financial institutions.

The agencies might want to contract out this responsibility, for example, to a knowledgeable independent third party like a research firm or academic institution. Public input certainly should be a crucial part of this assessment as well.

Another important aspect of our recommendations is the importance of examiner training and the quality of their exam guidance. A community development test by its
nature required more qualitative judgment than
creating a table of mortgage lending data, for
example. The creation of a community
development test requires training of bank
examiners in order to be successful.

Enterprise would be happy to work
with our community development colleagues and
the banking agencies to design a curriculum
for bank examiners that reflects the answers
and complexities of our more than 25 years of
community development experience.

Financial institutions should
receive extra consideration under the
community development test if the housing or
commercial developments finance in low and
moderate income communities are energy
efficient and built according to green
building standards, like the Enterprise Green
Communities criteria. Enterprise's experience
with green communities suggests that adding in
an environmental overlay to CRA does not
require any dilution of the low and moderate
income focus of CRA. All lending or investments that receive credit under CRA should serve low and moderate income communities, and we are not suggesting that that should change.

What green communities has taught Enterprise is that green and affordable housing can be one in the same. And similar thinking should infuse the creation of a community development test that allows for additional consideration for green buildings that serve low and moderate income communities.

Our final thought is the concept of assessment areas under CRA that needs to be reconsidered. One of the most difficult regulatory issues that we are grappling with is deciding where and how to give banks credits for lending, investment and services. When CRA was passed in 1977 there was neither nationwide banking nor the community development industry that exists today. CRA
encouraged banks to lend neighborhoods from which they took deposits. Today in a world of nationwide banking and deposit taking, and with an array of mission-oriented community development conduits like CDFIs, loan pools or tax credit investment funds it seems misguided to focus on only giving banks CRA credit where they take deposits. A better question to ask is this high quality community development work that meets a need in a low and moderate income neighborhood.

CRA is an unusual and a powerful law whose effectiveness needs to be maintained. It is unusual because it is broad and affirmative obligation for the private market. CRA doesn't prohibit behavior, instead it lays out a broad goal that is to be met consistent with safe and sound banking practices. And it has succeeded in fostering an industry that tackles tough community development challenges.

Thank you for your commitment to
maintain the strength and relevance of CRA. Enterprise would be pleased to work with you on these complicated and difficult issues.

VICE CHAIRMAN GRUENBERG: Thank you very much.

MS. BROADMAN: Good afternoon. My name is Dorothy Broadman, and I'm here representing the National Association of Affordable Housing Lenders or NAAHL as I chair its Legislative and Regulatory Committee.

NAAHL's mission is to increase investments for economic development of low and moderate income communities. Our membership is comprised of 80 organizations representing the full spectrum of community development including nonprofits, CDFIs, banks, thrifts, public agencies and others. This combination of our unique mix of members coupled with our mission enables us to provide a reasoned voice bringing years of hands-on experience to discussions about practical
solutions and likely impacts of policy
decisions.

The agencies are considering
several areas of expansion for CRA. We note
that broadening CRA's objectives to address a
wide range of social and economic problems
could stretch resources and risk diluting some
of the most positive impacts of this important
and effective law. Maintaining focus on
serving LMI in geographies where the banks
have the resources to deliver effective
programs, and encouraging activities that
address unmet need with adequate risk
management and return we view as critical to
the long-term viable of CRA.

There's often conversation about
whether a specific activity should count.
That is only a first step to gaining attention
from banks. What really matter is the
weighting, meaning how much it influence the
rating. Currently some high impact activities
count but receive little weight.
In addition to the comments I will make here, NAAHL is providing written comments that address today's questions in more detail as well the agency's questions about geographic coverage and access to banking services.

Regarding question 6, NAAHL support expanding the consideration and weighting of community development in the evaluation. When the rule was written in '95 there was a need to emphasize quantitative assessment. We have evolved beyond that as banks have since expanded their understanding of how to make safe and sound loans to LMI populations and neighborhoods. It is time to reduce emphasis on the quantitative methodology which compares activity to demographic benchmarks without serious consideration of need or demand, risk and profitability.

This current emphasis on the quantitative versus the qualitative has undercut support for CDFIs, an industry that
is able to reach and provide services that would be impractical for regulated banks to address directly. Emphasis on quantity encourages banks to finance the larger least time consuming transactions leaving the smaller important developments with few to no financing options.

Further, such quantitative emphasis has caused distortions in some markets resulting in a negative impact to CRA's reputation.

It is important to provide more flexibility and greater weight to high impact activities so that banks will be encouraged to reach deeply into underserved markets. This means emphasizing both the complexity and impact of community development. We recommend that institutions have the option of a CD or community development providing flexibility in the provision of the three categories: Lending, investments and services.

There should be full consideration
of banks' investments in multi-investor funds that are active outside of their assessment areas. For more than 30 years these funds have provided important financing for community development. They diversify the risk of lending and investing.

Regarding question 7 ratings and incentives we recommend that the agencies make CRA less complicated and therefore effective. The endless conversations and voluminous and growing Q&As addressing minutiae related to what counts and doesn't count has grown way of proportion to the value it provides. We recommend a major simplification.

The regulations should provide clear incentives to outstanding CRA performance. These could include a streamlined regulatory application process that relies heavily on the rating. Recognition from the agency head to the executive leadership of the institution and the public, and longer periods between exams.
Regarding question 7 discriminatory or other illegal credit practices. Our overriding theme here is to do no harm. It is important to maintain the integrity of separate laws. CRA has been effective because of the continuing focus on expanding capital and banking services to LMI households and neighborhoods. Other laws and regulations play important and separate roles in the federal construct of consumer protection. If existing consumer protection laws are inadequately enforced, the answer is not to add them to CRA, but rather to enhance their oversight as needed.

Thank you.

VICE CHAIRMAN GRUENBERG: Thank you.

Ms. Hall?

MS. HALL: Good afternoon.

Thank you for inviting me here today to discuss the Community Reinvestment Act and share my thoughts on how the capital
and credit needs of underserved communities and specifically small business owners can best be met by financial institutions by the regulatory system.

My name is Lisa Green Hall and I am Executive Vice President and Chief Lending Officer at the Calvert Foundation, a certified community development financial institution since 1996 with more than $300 million in assets under management.

Calvert Foundation raises capital from socially motivated individuals and institutional investors. We then invest that capital with CDFIs and other mission driven community development organizations both here in the U.S. and abroad.

Calvert Foundation currently has $70 million in loans outstanding with 70 CDFIs throughout the United States. Furthermore, serving in an asset management capacity, Calvert Foundation recently announced a partnership with Citibank to create the
Communities at Work Fund. We, along with the Opportunity Finance Network, are managing a $200 million commitment from Citi to invest in CDFI loan funds that finance small businesses, not for profits, charter schools and other community service organizations in low income and low wealth communities.

Thank you for inviting me to be here today. And my focus is going to be on CDFIs and small business lending.

CDFIs are playing an increasingly important and prominent role in serving the capital needs of low income communities and communities of color, particularly with respect to small businesses.

Furthermore, these communities have been more vulnerable to economic downturns than higher income, higher wealth communities. And for the past two years disproportionately affected by the mortgage foreclosure crises and the broader economic recession. How income communities and communities of color
have experienced the highest unemployment rates, the greatest foreclosure rates and the largest number of small business bankruptcies, as we all know. I would like to highlight the need for small business loan capital and microloan capital that I have observed in my role at Calvert Foundation evidenced by incredibly strong demand from our CDFI borrowers.

The small business lending market has been largely abandoned by the large traditional financial institutions while CDFIs continue to serve and expand their lending and technical assistance to small businesses, nonprofit social enterprises and community facilities.

Since launching the Communities at Work Fund just two months ago, we have received loan requests from a wide range of nearly 80 certified CDFIs. Of those we are actively considering nearly every state has been represented in the applications, and
requests range from 200,000 to 20 million.

CDFIs are well suited to serve the credit needs of small businesses, especially those with employees less than 50 people and with credit needs for small dollar loans of a million dollars or less, and particularly 200,000 and less.

CDFIs are well suited to serve small business credit needs in low income neighborhoods and communities of colors because of their mission focus, specialized expertise, lower administrative burdens compared to medium and large banks, and lending criteria which can be more flexible and more patient than those of regulated institutions.

One way in which CRA could have a great impact in underserved areas is to boost the type of capital available to CDFIs from financial institutions for small business lending and investment activity. In particular, the community development sector
would greatly benefit from equity like capital which it could obtain if the regulations were revised to create clearer incentives to make equity equivalent longer term investments in CDFI intermediaries, regulated CDFI's and unregulated CDFI loan funds.

In addition to recommending that CRA provide more incentives for small business lending I would like to highlight four specific items for the regulatory agencies to consider.

The first, as has been mentioned by many, is to re-envision assessment areas. The concept of an assessment area was developed at a time when all banks were mostly local institutions. In today's world banks are no longer defined by narrow and specific geographies. Customers are more transient and less loyal to specific locations.

In the CDFI sector we have witnessed traditional institutions abandon the credit needs of entire communities where
traditional financial institutions no longer take deposits.

Assessment areas as currently defined limit a bank's ability to serve communities in need. A more reasonable approach given current activities and structures of banks might be to require CRA investments in areas where an institution does business and delivers services, not just takes deposits in a concentrated manner and a threshold or minimum percentage of market share could be established.

Number two, the second issue for the regulatory agencies to consider is tracking methods, which is not unrelated to the assessment area issue. The assessment area challenge which I just raised is particularly tough because of tracking and reporting demands of the current regulations. For intermediaries like Calvert Foundation and other national CDFIs which provide important capital to organizations rather than
capital to projects, the type of tracking
required by the CRA is impractical if not
impossible. One approach might be to expand
credit for investments in any CDFI, regardless
of location given that all certified CDFIs
must meet primary purpose tests.

The third issue I'd like to
highlight pertains to EQ2 or equity equivalent
investments. By allowing EQ2 investments to
receive investment credit for existing loan
portfolios, financial institutions would have
more certainty around meeting the existing
investment test, and therefore would be more
motivated to make EQ2 investments, thus
bolstering the balance sheet of CDFIs.

And the final issue I'd like to
highlight is that of tests. We would
encourage the regulatory agencies to consider
a broadening of tests to include a wide range
of community development purposes and
activities, including loans to community
facilities, health centers, charter schools
and other nonprofit uses.

In conclusion, I found the hearing to far to be quite formal. And I think it is important for us all to remember the personal aspect of CRA.

I'm the daughter of a civil rights activist. And my father literally risk his life demonstrating and protesting to secure fair housing and lending for all U.S. citizens. I know exactly what it means for a neighborhood to be relined. And I'm very grateful for the incentives that CRA has created for financial institutions to lend where they wouldn't otherwise lend. There are countless consumers, businesses and communities suffering in disproportionate numbers because of the current economic downturn. These individuals and families deserve a modern CRA which meets their credit needs.

Thank you for having me today.

VICE CHAIRMAN GRUENBERG: Thank you
very much.

Ms. Gould?

MS. GOULD: Good afternoon.

I'm Julie Gould, Senior Vice President of Community Impact and Investment at Mercy Housing.

Mercy Housing applauds the CRA regulatory agencies for holding these national hearings. Over the past 33 years the CRA has fostered important partnerships resulting in increased reinvestment to low income communities. In the context of the current financial crises it's crucial that a strong, relevant CRA be part of the reform solutions for building healthy communities across America.

Mercy Housing's mission is to create stable, vibrant and healthy communities by developing financing and operating affordable, program enriched housing for people who lack economic resources to access quality safe housing. In our first 27 years
we developed and financed over 37,000 units of affordable housing and touch the lives of 128,000 people everyday. In the next five years we've set a very ambitious goal of adding 60,000 more affordable housing units in partnership to help close that affordable housing gap that exists today. We're commenting on two aspects in need of reform: Community development and geographic coverage.

In building a 21 century regulatory definition of community development the biggest challenge is raising capital at costs that support mission driven business work. With reform that encourages broader investment in soundly performing community partners, the CRA will catalyze developer's and lender's ability to serve low income people and communities.

Mercy Housing recommends an approach that elevates the importance of community development activities in three ways.
Our first recommendation is to consider community development activities separately in the examination process. An example of why that's needed. Mercy Housing is currently working to link affordable housing at its delivery centers for health care, including community health clinics in San Francisco and Sacramento.

The impact today of the banks' lending or investment in these projects is too small compared to other investments in lending that they would do to be impactful, and yet these projects build healthy communities.

Secondly, we recommend expanding the term community development to include all activities by banks inside and outside their assessment areas using a new category called national needs. This could be measured by federal, state and local stimulus programs aimed at jump-starting the nation's economy. An example of the new eligible activity could include giving CRA credit for all investments
in mission driven financial intermediaries such as CD or loan funds, Lisa mentioned that. And Mercy has the Mercy loan fund as the DFI fund. And these funds by their mission enable catalytic community development activity regardless of geography.

A third recommendation is to add community impact as a category for qualitative extra credit to banks that lend to, invest in or provide services to nonprofit mission driven businesses.

We should together develop a simple quantifiable measurable table and narrative as part of this CRA exam that captures community impact. At Mercy Housing we're developing a community impact scoreboard that's described further in our written testimony.

Regarding CRA geographic coverage, assessment areas are no longer reflective solely of geographic boundaries. Our biggest concern is that community development organizations are forced to move with projects
the banks will lend to in large urban areas leaving other projects to flounder. We have two recommendations for geographic coverage.

Our first is to give full CRA credit to banks to lend to and invest directly in community development financially sound businesses that benefit broader regions inside and outside their assessment areas.

Today high performing nonprofit enterprises are regional and national in their service areas. We're financially strong, we're risked managed and we did not exist at the scale today that when the CRA regulations were last rewritten. Moreover, the CDFI sector has grown up since 1995.

Secondly, we recommend creating incentives for financial institutions without a retail presence to invest and lend in community development businesses that benefit from the national consumer base that these institutions have. Their potential to invest in, for example, community development tax
credit vehicles like the Housing and New Market Tax credit programs could create positive community impact nationally.

Thank you. And Mercy Housing stands ready to assist.

VICE CHAIRMAN GRUENBERG: Thank you very much.

Ms. Gerecke?

MS. GERECKE: Governor Duke, Vice Chair Gruenberg, Comptroller Dugan and Director Bowman and colleagues and guests, thanks for inviting me to testify today. My testimony draws on the experience of my NYU colleagues at the Furman Center from two discussions we hosted this Spring on the power and potential of CRA, and from my experience in community development programs working in Government, nonprofit and for profit sectors.

We welcome today's broad review by regulators to assess whether CRA implementation can better meet it statutory objectives. The credit needs of local
communities and the programs available to meet
those needs have changed dramatically, as you
well know.

CRA can and should be used to help
restore low income communities and individuals
to financial health. CRA can and should also
be used to leverage other public and private
initiatives that have parallel or similar
objectives so that there's a maximum long-term
impact on communities.

Based on our research and
experience we'd like to make two observations
for you to consider in the course of your
review.

First, regulators should invest in
consistent, timely and rigorous data driven
analysis to measure both the local community
credit needs and also the impact of CRA
programs in meeting those needs.

And second, there should be more
incentives for financial institutions to
support a broader range of community
investment activities, especially those that
deviation other public and private investments
to maximize their impact.

Regarding the first observation
about measurement, again many panelists have
said that today already. The regulatory
yardstick of counting loans or investments to
low and moderate income houses or Census
tracks is a blunt tool that too often leaves
important credit needs unidentified and
unaddressed.

The mortgage crises has sit certain
population groups and certain neighborhoods
rapidly and hard. The needs of the
communities now are very different from needs
in previous decades. And as credit conditions
change rapidly, regulators must have objective
information so that they can encourage timely
responses that are effective in addressing
local needs.

Our second observation is that
regulators should also use this opportunity to
review how to reward CRA initiatives that major positive impacts because they were thoughtfully designed and they leverage other public and private resources. And this is another thing you've heard today. Our research shows that different types of credit can different impacts on household and community stability, and that these distinctions should be recognized.

For example, as of March 2010 out of more than 60,000 homes built by the City of New York in partnership with nonprofit and other groups, less than one percent had gone into foreclosure according to The New York Times. Now lest you think the bulk of these home sales predated the current crisis, a tally by the City's Housing Agency shows that of the 20,614 such home sold since 2004, only 13 have gone to foreclosure auction.

Furman Center research has demonstrated that investment by local government in affordable housing and
community development improves communities as measured by significant increases in surrounding property values and may help insulate those communities from episodic turndowns in housing prices.

Much of New York City's public investment in subsidized housing leveraged private funds that qualified for CRA. And, in fact, CRA regulators in the 1990s and early 2000 actively encouraged these partnerships.

The two points we highlight today:

Investing in timely and objective measures of need and impact an rewarding CRA programs that have demonstrated impact in meeting those needs are easy to posit and difficult to accomplish. There's an inherent tension between flexible, responsible community reinvestment on the one hand and fair and predictable standards and measures on the other hand.

CRA can be a useful vehicle to respond to the current crises, and we're
pleased it's not being overlooked as a tool for financial reform. CRA's core objective of meeting the credit needs of the entire community will take time to design, implement and assess. Financial institutions should not be encouraged by CRA regulation to provide superficial or one-shot solutions, but should be rewarded for being part of collaborations that meet objective needs and have measurable long-term impacts.

Thank you.

VICE CHAIRMAN GRUENBERG: Thank you very much.

Comptroller Dugan?

COMPTROLLER DUGAN: Thank you. I wanted to get at the issue that Ms. Gerecke was talking about and that a number of you have touched on, which is this question of some concern about the overly quantitative aspect of what's being measured now versus some of the complex kinds of financings that don't seem to get as much credit even though...
they potentially can have more impact, and yet the tension that you have of not being able to measure that in a way that gives people comfort. It's less transparent. There is this trade-off I think that's real. And it's hard for examiners and for the agencies to figure out how to do this in a way that does maximize the benefit of CRA, does so in a transparent way, doesn't shift towards some things that are quite subjective in ways that then are open to criticism in different ways.

So, I'd like to follow-up with the thought: Are there ways that we can quantify some of these more complicated types of investments that many of you have suggested are deserving of more credit in ways that are more transparent?

And why don't we start down this way and go all the way down.

MR. RUBINGER: I think there are. I mean, it will never be perfect, I admit that. There is going to be subjectivity in a
lot of this, I believe. But on the one hand I think it's important to note that I don't think any of us are talking about moving the pendulum all the way in that direction. I think there will still be a lot of quantitative analysis that goes into CRA. But on the more subjective side, on the qualitative community development side, I don't know that it's a perfect solution but our testimony recommended that we pick 50 metropolitan areas, again there's nothing scientific about that, to agree on what the needs are of those communities and then be able to measure what the response to those needs is from the banks. So that everybody agrees on what the standards are and everybody agrees on what the measurement will be up front, and then try to get it at that way.

Now, is that completely quantitative? No, I don't think it is and I don't think it's ever going to be. I think some of this is going to be in the eye of the

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beholder, and I don't think that's necessarily bad either.

MS. LUDWIG: Agreed. It's very difficult to do, as we all agree. I think that is, in fact, why we're suggesting the community development test because it sets aside from a quantitative standpoint, allows us to emphasize what could be a smaller dollar commitment, allows us to recognize the importance of that.

In my experience going back to Merrill Lynch, you know we weren't big dollar volume players but what we were allowed to do was to work the FDIC, who was our regulator at the time, to really craft a plan up front you know carefully looking at -- while it wasn't a strategic plan, it was really a conversation about what were the specific needs in our communities, what were the ways that we as an institution could offer stronger value. What was the value proposition here? What could we provide that someone else potentially could
not provide?

And it was almost this conversation in trying to align our regulatory conversation which happened a bit through, I guess you know is somewhat organic in the way we approached it in that we looked and said -- you know to having the conversation at the federal level, at the national level, at the local level what are those needs and how could we make a great impact. And through that conversation we were able to arrive at some potential ways of operating where we could have higher impact.

And so we came to exam time, we were able to very clearly look at the community development activity that we had completed and be able to, I guess qualitatively express how it linked back to the need or the impact that we had suggested, you know up front, that was needed in that particular community. So I think in that case it's really a combination of the qualitative and the quantitative. But I think having that
dialogue throughout the process and up front actually helps enable some of that.

COMPTROLLER DUGAN: Ms. Broadman?

MS. BROADMAN: Yes, a couple of points.

First of all, I think it's really important to note that the agencies did not come up with the idea of metrics on their own. I think that industry and community groups have pushed us all in that direction. We also have responsibility for that because it is less subjective and it yields more predictability, and so there is a natural tension between that, between subjectivity and metrics that are defensible.

But CRA is not a check the box kind of activity in the way that some aspects, other types of compliance are. And so I think we have to accept that for it to be effective it's going to have some subjectivity. We need good training of examiners. And I think it's always going to be subject to criticism. I
just think that that's part of CRA that we have to accept and acknowledge, and work with as best we can.

I would say in terms of the metrics, NAAHL also doesn't believe we should get rid of metrics altogether, but we think we should de-emphasize those in relationship to where we are today, and that the benchmarks should be more appropriate. Comparing population demographics to credit distribution doesn't take into account demand, nor does it take into account risk. And so we think the benchmarks should align probably more with industry data and also take into account products.

We used to be examined in the mortgage business against prime lenders were examined against the performance of subprime lenders, which really did not make sense. So there needs to be adjustment for product type as well.

It's a difficult area, but I think
it's one that we would all benefit if the agencies could take some risk in this area.

MS. HALL: So it's obviously a challenge when you start to bring qualitative measures into play, but we would encourage simplicity. You know, keep it simple. And one of the reasons why we're encouraging the agencies to look at the systems that are already in place, like the CDFI sector which is a primary purpose test that's built around serving people. At the end of the day of you're concerned about serving people whose credit needs are not being met by financial institutions, then having a mechanism for those financial institutions to invest in CDFIs regardless of their geography helps to keep it simple and remove some of these questions about quantitative versus qualitative.

I would also echo the comments that the regulations have gone a long way in terms of moving from process to output. And that I
don't think you're ever going to totally get rid of the quantitative, of the outputs, but having the balance of some qualitative inputs can make it easier for the examiners to evaluate the actual outputs.

So I and Calvert Foundation would not encourage a total abandonment of the outputs and the metrics, but to look at them in concert with qualitative factors.

COMPTROLLER DUGAN: Ms. Gould?

Thank you.

MS. GOULD: Well, I would add that right now in terms of qualitative you have innovative and complex, too, as factors to describe. And from Mercy Housing's perspective complex is what we don't need. We need simplicity, as Lisa was saying. The more and more layers of a deal that you have 10, 12 different sources of subsidy doesn't make sense. It takes longer to get the housing done. It is really inefficient. So that's why we're suggesting this idea of community
impact.

And the score card that we're building is built around people, planet and profits. So social, environmental and economic. And we're starting with version 1.0 and listing the several factors under each.

For example, in the area of social, so we'd look at financial literacy, we'd look at health and wellness, we'd look at community participation. And we'd do some simple measures of that. I think that's how you see a difference in sticks and bricks and an impact on a community.

So, that's why I think qualitative is important in addition to building the housing.

COMPTROLLER DUGAN: Ms. Gerecke?

MS. GERECKE: I'd like to distinguish the metrics used by examiners for measuring individual bank performance and measures of community credit needs that could be initiated by the regulators, both in
measuring or assessing what the needs are and in assessing the overall impact of the CRA in meeting those needs.

I think having the regulators initiate the needs assessment would actually increase transparency in the way some of the other panelists have referred to RFPs that lay out criteria.

It would also allow -- and I'm thinking out loud of annual hearings or a process of studies and collecting various needs to let banks choose what their best fit may be. There's an extraordinarily wide range of ability for banks to effectively meet needs depending on their business model. But if the regulators affirmatively identify what this needs are and provide guidance in showing what the impact results are, I think it would be clearer to show the results.

And a benefit of this is that the regulators could really play a role in sharing best practices that they find from
examination-to-examination, bank-to-bank. A lot of that knowledge is not captured or shared, and yet if we're starting to measure impacts and look then best practices can be lifted up, even as the needs change.

I will say finally that my comments I think go beyond just a community development test. When we look at the credit needs for local communities in the statutory language of CRA, at least in my remarks I would say that the opportunity to measure needs and measure impact goes to every aspect of CRA.

COMPTROLLER DUGAN: Thank you.

VICE CHAIRMAN GRUENBERG: Thank you,

GOVERNOR DUKE: It's interesting. As I was listening to you I was trying to imagine what we would do if our job here was not to gather information on CRA, but was actually to determine what the needs were and which needs were more important than others,
and to begin to try to rank them and define
the importance of lending to small businesses
as far as the creation of new affordable
housing versus the work on neighborhood
stabilization in neighborhoods where there
have been a lot of vacant and foreclosed
properties.

The second piece that hit me was
your suggestion that investments in CDFIs
should count just sort of on their face.

So combining those two how would we
rank order or grade a CDFI investment? In
other words, a dollar which you could measure
as a dollar, but then how would you also
determine the impact of that dollar depending
on which CDFI or which entity got it and what
its mission was, one mission versus another?

MR. RUBINGER: Ms. Hall looks like
she wants to tackle it.

MS. HALL: I obviously emphasized
that point twice. And I think in terms of
ranking what occurred to me while you were
posing your question is the phrase that the young people use: It's all good. And in some senses it all is all good with respect to serving the needs of the communities that aren't being served by traditional markets.

And I suppose that one of the things that you could really look at in assessing needs, because really you want your test to be specific to what the needs are, and so when you look at the needs portion of Community Reinvestment Act you could look at expanding the breadth of needs and really having banks make an assessment or a strategic plan, as was discussed earlier.

I mean, it is true that banks do a lot of strategic planning around their economic model, about product development. And why not have them incorporate strategic planning for community needs. I mean, there is tremendous amount of market data and lots of metrics on what it takes to make a healthy community. And they could incorporate that in
their strategic planning and have a needs base evaluation that's set up in front that then helps to drive are they in whatever order they have identified and they have committed to meeting those needs.

GOVERNOR DUKE: Then one second question. This one should be a pretty brief response.

Could you recommend that the community development test apply also to smaller banks or primarily to large banks?

MS. GERECKE: As I said initially, I would go even beyond the community development test. But I did want to answer your question just by observing the extraordinary variation in how small banks, wholesale banks, large banks are able to develop CRA programs in remarkable ways.

I am aware that small banks have concerns about onerous requirements and that their requirements should be different. I would suggest that at a minimum the
requirements be impactful and that there be
reward for encouraging and promoting programs
that would meet results. And I've seen small
banks do that much more effectively in some
cases than large, and vice versa.

MS. BROADMAN: NAAHL's position is
that the community development test should be
optional and not required. And the reason for
that is that many banks are not positioned, do
not have the resources to do community
development lending themselves. They may have
opportunities to invest in CDFIs or loan
funds, and should be encouraged to do that.
But we wouldn't want CRA to push banks that
are not properly resourced into lending areas
where they don't have the proper risk
management or the expertise to do it
effectively.

MS. GOULD: Well, our experience is
that in those areas outside of major urban
areas community banks are the ones that are
willing to invest in low income housing tax
credits and know those markets. They are very familiar with the markets. They have a good risk management system. So I would say that it should be sized appropriately the test.

VICE CHAIRMAN GRUENBERG: John?

ACTING DIRECTOR BOWMAN: During the panels this morning a number of panelists threw out the concept, and I think you've also mentioned it, regarding the assessment area. And I'll call it the sanctity or lack thereof of the assessment area. And I'm curious sort of what's driving the focus of that particular part of the test.

And a couple of theories. One is, and I think was mentioned earlier, there's been a tremendous amount of mergers, consolidation within the industry.

Second, probably is there are a number of communities as a result of those actions have lost the local institution or the party that would provide the kind of assistance or what have you to communities.
And I think somebody else had mentioned development opportunities. There are some communities that just don't have an opportunity for a local institution to provide funding or assistance for development.

What I'm curious about, and maybe my supposition is incorrect, is I also have the assumption that there are communities that do receive assistance from financial institutions, CRA credit, et cetera. To the extent that you open up the concept of the assessment area to include, and I won't even provide boundaries, a larger set of opportunities for financial institutions, what are the consequences to current communities as far as future funding, future assistance, future services, et cetera, and are there suggestions that you would have assuming the regulators were to look at the assessment area, through regulations be able to bring some greater options to the providers of CRA assistance? What would be the limits on our
being able to do so to minimize the disruption to current communities, current organizations that are receiving CRA assistance? And I'm sure there are more than a 100 other consequences not thought of by us, but I'd love you input on it.

Anyway, please, start and everybody that has a thought.

MR. RUBINGER: Okay. I'll start.

I think what's driving this concern is the sense that there's a mismatch of capital. That there is a lot of capital fighting over a finite number of geographic areas and a whole lot of geographic areas that are going virtually untouched. And we see that everyday in our business. And it drives distortions. I mean, it changes pricing. It does all sort of things. It's not healthy.

So, I think that's what's driving the concern. How you go about it is more difficult.

I guess my feeling is that what
we'd be recommending in some way shape or form
is a movement of capital away from some of the
larger metropolitan areas. I think that's
inevitable. But I don't think that's
necessarily bad. And this speaking as someone
who does most of our business in large
metropolitan areas. But we also see a lot of
other areas that, as I say, don't have capital
at all.

So, I think some movement of moving
capital from a few large metropolitan areas to
a broader geography is certainly desirable.
And I guess I think, and maybe I'm just being
naive about this, I think those large
metropolitan areas will get served anyway.
And I would think that the market will take
care of that. That the capital that moves out
of those areas probably wasn't being used very
effectively or efficiently anyway, and it will
go, and it will go someplace else. And the
market will stabilize itself.

I'm not sure we need to set a lot
of rules around there, or that you even could set a lot of rules around that. I think the market largely would take care of it.

ACTING DIRECTOR BOWMAN: And when you talk about rules, I envision a recipient in one of those large metropolitan areas who is currently receiving some sort of CRA assistance that if the provider is allowed to go elsewhere, assuming there's a finite amount of assistance available, there will be winners, there may be losers. We get to deal with the losers as well as with the winners. So I'm looking for some guidance in terms of how you make those kinds of distinction if required.

MR. RUBINGER: Well, truthfully, I'm not sure I know that at the front end. But I would say this: There are a lot of losers now. So, you know --

ACTING DIRECTOR BOWMAN: Absolutely.

MR. RUBINGER: -- and you probably
are and should be hearing from those people. So they'll be happy. I mean if that's a consolation, there will be some people who will be happy. There will be some winners as well as some losers. And frankly, I don't think the losers, as I say, are going to be major losers. I think they will still -- you know take the low income housing tax credit. Their deals will still get done. The pricing will change, and that will not be to the benefit of the developers, necessarily. But the deals will still get done. And I would argue that that change would be marginal compared to a lot more capital going someplace where it doesn't exist at all.

MS. LUDWIG: Just adding to that, to the conversation. At Enterprise we think it should be balanced. So I guess I would say we would need to think further about what would be the exact limits. I would love the opportunity to go back and consider that. But certainly when we get into our full testimony
we look at trying to balance for larger
institutions where you do have a physical
presence and then where you don't have a
physical presence. So I think inherent in
that there is some sort of balance that does
need to be achieved.

We see firsthand in our business as
eff that you have a lot of dollars chasing
deals in economic ways in New York. Certainly
sitting at my Merrill Lynch former seat in
Utah, you know it was very much a lot of deals
being chased there in ways that we felt were
not productive.

So, I agree. It is a balance. And
I think, again, trying to couple that with
very robust needs assessments and then
balancing out with that community development
test I do think that that -- just some of the
structural elements that we're talking about
will also help set those limits in a more
natural way.

MS. BROADMAN: I think this is a
really important and complicated question and needs a lot of conversation and thought before there are any actions taken.

And I also think you've articulated very well the issues and where they have arisen from. So we know that there are markets that are underserved and we think there are a couple of ways to get more capital into those areas without disrupting the whole construct of CRA being locally based, because it has value being local based and we don't want to lose that.

So, we think that banks that don't have a meaningful local presence, limited purpose, wholesale banks, other banks that don't have branches or just a few branches could have the country as their assessment area so that they would have the ability to go anywhere and invest. And we suspect that they would be attracted to the markets that do have better pricing, and that reflects that they're less well banked.
We also commented that banks should have full credit for investments and funds regardless of where the fund's activities area. That's another way to get capital into underserved markets because the funds can go there. But we also feel strongly that it's important to retain a local focus because CRA is most effective at the local level where there are employees who are engaged with community groups and customers at the local level. And too broad an expansion of the assessment area we feel risks diluting this very important focus.

MS. HALL: In the comments that we've made about the assessment areas are not to suggest that we should totally abandon any measurement and that everyone should be opened up to national assessment. And there could be other ways to approach it, other than deposit taking. You could do percentage of market share for services provided, as an example, not just deposits. But services that are
provided in a certain geography.

I think what's driving this conversation from our standpoint is the very real issue of it's not about deposits anymore. I mean, it's a very real example.

You know, we have a young person in our office who went to school in Massachusetts and grew up in Seattle and lives and works in D.C. And she happens to be a person of color, and one day she might need a small business loan. And the deposit that's counting in Seattle because that happens to be where she had her first account, is not connected at all to her need for a loan in Washington, D.C. And so that's what's driving this conversation or just the practical reality of the world that we live in today where deposits should not be driving assessment areas, or totally driving it.

MS. GOULD: And I would just further add that our recommendation about creating a category of national needs, and
you've done a terrific job with that with the disaster areas with now neighborhood stabilization areas. But there are other key national needs in rural areas, in areas that need transportation, in areas where there's homelessness. So, I think you could really build on this concept of national needs to create some distinction for investment and lending.

MS. GERECKE: I'll just add briefly, you might want to consider the concern around minimizing disruption to the organizations who have received CRA. I'm speaking as one of several of those organizations. There was no predictable rhyme or reason when you might get CRA assistance from a particular institution, and certainly in the last two years between bank failures and bank mergers, the idea of minimal disruption I think takes on a whole different context.

ACTING DIRECTOR BOWMAN: Great.
Thank you.

VICE CHAIRMAN GRUENBERG: This has a very helpful panel, if I may say. And I think clearly there is some thought that needs to be given related to the community development test.

I've sort of heard three things articulated here. One is I think currently community development credit is given under the three CRA tests: The lending test, the services test and investment test all provide community development credit. I think I've heard, although I'd like to get a sense of whether there's a consensus on this, that there would be value in consolidating these into a single test and perhaps have a consolidated community development test replace the investment test. Is that a shared view among you, if I could just ask?

ALL: Yes.

MS. HALL: Yes, our view is that it should be optional.
VICE CHAIRMAN GRUENBERG: But assuming a separate question of whether it was an option or not, do you agree that it should be consolidated into a single test?

MS. HALL: Yes.

MS. GERECKE: I'm going to just have a little bit of hesitation.

VICE CHAIRMAN GRUENBERG: Oh, sure. Go ahead.

MS. GERECKE: Mostly around whether the other tests are unchanged. Because, again, I think the issue of recognizing local credit needs and how to respond to them can attract community development results. And so the creation of a community development test may actually have unintended consequences on the activities that take place in the other areas.

VICE CHAIRMAN GRUENBERG: But I sense this consolidation issue is one matter. A second issue that's already been discussed at some length is the quantitative versus
qualitative issue. And then third is this issue of geography, which I gather is particularly important in the community development test, in part because it in many instances has greatest relevance to large institutions which may have multi-state or national operations.

And Mr. Rubinger, in your testimony you outlined a particular approach to thinking about the multi-state or national issue. If you would, could you walk us through, if you've thought it through, an example of, say, a large institution that might have operations in multiple states? And I think you laid out a formulation under which you'd identified the 50 largest MSAs. And then you have, I gather, some sort of system for allocating credit under the test. I'd be curious how that might work under your approach.

MR. RUBINGER: Well, as we've said, the focus would be the 50 largest metropolitan areas because that's really more, we think,
than are getting the focus now.

Now, we were only talking about the community development test. I want to be clear about that. We really haven't thought through, to be honest with you, what the implications of a system like that might be for the other tests.

But we felt that now, right now the community development test is really getting applied in a much smaller geography than 50 metropolitan areas. And, again, as I said before, that's not necessarily a science through which we put that.

And then there would be a balance of state test as well. So the smaller communities and the rural communities would get some credit for that.

And the thought here would be that the credit that goes to the institution would be a common credit across the board. That it's now a lot of the credit they get for community development is extra credit. You
don't get penalized for not doing it, but you
get extra credit for doing it. This would be
applied the same way that the other tests are
applied.

Now, again, there is a concern, and
we have the concern, about how many areas
we're talking about and who is the 51st place.
I'm not so sure about that. But again, I
think we have to come to some consensus that
for many of the large multi-state institutions
they have far many more assessments areas than
that, and it just seems to be unworkable. So
we're trying to find a number that works both
for the institutions and for the regulators in
terms of something that manageable.

Again, setting the needs criteria
at the front end so that everybody involved
knows what the standards are and what the
measurements that are going to be used to
apply credit.

VICE CHAIRMAN GRUENBERG: Does any
other panelist have a comment on this?
MS. GOULD: Well, I would just comment that today if a bank invests in a national fund that they look for that fund to place investments in their assessment areas very selectively. And that has been really disruptive, I think, to the flow of capital around the country. And so the idea of having investments into particular national, state, city funds that meeting mission driven needs is really a critical need and a way to distribute capital through a CRA evaluation process.

VICE CHAIRMAN GRUENBERG: Yes?

MS. LUDWIG: I was just going to add also, of course, some of the larger financial institutions Enterprise puts forward in our testimony the importance and the opportunity for these larger financial institutions in particular to respond to some of the broader national issues facing our country. So the recent foreclosure problem presents an opportunity for folks to respond
to the foreclosure crisis. We think that's also a matter of very good policy. We saw that in the Gulf Coast, we've seen it with foreclosure and as needs rise to that level, we think adding that to those types of responsibilities, the opportunity to respond is important.

VICE CHAIRMAN GRUENBERG: All right. I think that under the current assessment area approach, we have -- at least for large institutions, we may have the effect of creating in fact undue competition in certain markets and lack of capital in others simply by virtue of where the institutions' headquarters or branches might be. And I think that part of the effort here, at least a question that people want thought given to, is how can we expand credit under CRA so that more communities might benefit, even if they're not necessarily located in the assessment area of institutions deeply engaged in community development. Is that sort of the
challenge being presented? And the question is can we come up with some workable approach to help achieve that, which is not a small challenge. But I think at least you've helped frame the issues here.

You've been very helpful panel.

Thank you all very much.

We'll take a five minute break before the next panel.

(Whereupon at 2:32 p.m. off the record until 2:45 p.m.)