From: Hubert Van Tol [mailto:hvantol@pathstone.org]
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To: Comments
Subject: Community Reinvestment Act Regulation Hearings-Docket ID OCC-2010-0011, Docket No. R-1386, RIN 3064-AD60, Docket ID OTS-2010-0019

To whom it may concern:

I appreciate the fact that the regulatory agencies have convened these hearings to take input on how the Community Reinvestment Act (CRA) can be strengthened. While I do not believe that regulatory action alone can bring the CRA up to date with the vastly changed financial services industry, I do appreciate these efforts to improve the way the law is currently being enforced. Because the organization I work for, PathStone, has engaged in so much community development work in rural communities and small cities over the past 40 years, I am going to focus my comments on the parts of the current CRA regulatory framework which I believe makes the law less valuable for rural communities. My colleagues who focus on urban issues are doing an admirable job of presenting those issues and I support, by extension of my role as a member of the National Community Reinvestment Coalition, the comments being made by other members around the country and by the Coalition itself.

The organization I work for does work which spans seven states and Puerto Rico and which includes developing and managing affordable housing, providing housing counseling and loan packaging for first time home buyers, foreclosure intervention services, small business training and lending gives us a broad range of experiences with lending institutions. Its first time homebuyer program has given nearly 4,000 families with modest incomes the benefit of professional homebuyer counseling before they make the decision to purchase a house.

This program and others like it around the country provide a valuable service to mortgage lenders and to the country as a whole, because a much smaller percentage of the families that have this background find themselves in foreclosure later in the loan. The current CRA has provided some incentive for the largest banks to financially support homebuyer counseling activities, but not nearly at the level needed to fully support the cost of these programs. This is particularly true for rural areas, which because of the lack of concentration and the distances involved are difficult to run as efficiently as urban programs. Mid-sized and smaller community banks, which are often the primary CRA covered institutions in rural areas, moreover, seem to have little or no incentive from current CRA regulation to provide these kinds of services.

Like many other groups, PathStone similarly runs a small business training and lending program through our Community Development Financial Institution, which also provides benefits to lenders and the nation by absorbing some of the risk of start up businesses and expanding micro-businesses, and by providing the training, which often eventually helps these entities become more successful small businesses. While the current CRA provides incentives for some of the larger lenders to financially support these activities, the costs of providing well run rural programs currently exceeds the current level of lender contribution. Again the mid-sized and smaller community banks have little or no incentive from current CRA regulation to provide these kinds of services or types of financial support.

In addition to the lack of incentives for investment and community development support, the current CRA also has been of limited effectiveness in discouraging some harmful lending and investment practices. Some of the largest lenders, who currently have CRA obligations, were nonetheless able to engage in very harmful securitization and investment practices with impunity, because the regulators considered those activities by holding company affiliates outside of the scope of a CRA review. Similarly the credit card affiliates of the largest lenders have been free to engage in harmful small business credit card lending and personal credit card lending because there has been no meaningful way to raise these issues within the context of a CRA review. Some of the largest lenders, which nearly always receive Outstanding CRA ratings, consequently have small business credit card lending practices that have trapped many startup businesses into unsustainable credit relationships and there is no meaningful way to raise these issues within a CRA review.

To improve the utility of the CRA for communities, particularly for smaller communities and rural areas I would recommend the following improvements:

Assessment area assignment must be delinked from depository offices and instead linked to the communities in which the lenders not only collect deposits, but also those in which they undertake their whole range of financial business being done by all of their affiliates. (A lender like Wells Fargo Financial which in recent years accounted for a major percentage of mortgage lending in rural New York counties should have an assessment area in those counties-it currently has none. Likewise with a major credit card lender like Citi.

Any institution with an assessment area covering an MSA should be required to also include a layer of the rural counties surrounding that MSA in their assessment area.

The current grading system for CRA has become virtually meaningless since almost all of the lenders get the same rating. This system should be replaced by a system that captures the relative differences between institutions and provides more immediate incentives for institutions of all sizes to strive for an outstanding record of reinvestment in the communities they serve. A numerical grade from 1 to 100 could more easily capture the range of differences. The regulators should entertain ideas for both positive and negative monetary incentives (including discount window costs and additional deposit insurance limits for banks with poor CRA ratings) in order to provide immediate incentives apart from increasing merger costs caused by CRA challenge delays. In addition the CRA rating of banks should be as much as issue for the acquired bank as for the acquiring bank in judging the merits of a merger or other bank application.

There should be an end to the presumption by regulators that bank mergers serve the public interest and instead require proof that a merger will benefit the public interest in some concrete way. That is access to better loans, better services, and more community investment etc. There is increasing evidence that many of the large mergers in the past decades have harmed the affected communities, but the regulators who review these merges currently have a blind spot and assume that bigger is automatically better.

The investment test should stop providing credit for small grant-making that is only public relations spending, and should instead only credit those grants and loans that in fact increase the capacity and opportunities for community development entities to improve their communities.

Of all these issues, fixing the assessment area problem is the most important one for rural communities. There are currently some proposals to deal with this problem by allowing large banks to get investment credit for investments outside of their assessment area. That solution may have some limited value, but it approaches the issue from the wrong way. There are many mortgage lending, credit card lending, small business lending and investment affiliates currently doing major business in communities in which they have no assessment area. Why not just put the assessment areas where they belong instead of tinkering on the margins?

Once again, I appreciate your review of those issues and look forward to seeing a proposal that vastly improves the ability of the CRA to positively impact communities, particularly those underserved urban AND RURAL communities.

Sincerely,

Hubert Van Tol

cc. The National Community Reinvestment Coalition

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