I. GENERAL ENFORCEMENT

I.a. Question:

Since enactment of the CRA, how many applications have been denied solely or substantially due to CRA factors? What percentage of total applications processed subject to the CRA does this represent? Does this rate of denial adequately enforce compliance with CRA, or would increased use of the sanctions provision strengthen compliance?

I.a. Answer:

Since the Act's inception, the FDIC has denied three applications for deposit facilities due to Community Reinvestment Act factors. This is .02 percent of the total number of applications subject to the CRA. (The number of applications processed from 1979 through August 1987 was 14,586.) The rate of application denials on CRA grounds, however, should not be considered the sole or even a major factor in measuring the effectiveness of CRA enforcement.

We believe the means employed by the FDIC to enforce compliance with the CRA are generally effective. If we find a CRA problem, we issue a correction advisement. If necessary, we follow up the advisement with a memorandum of understanding. Other sanctions include the conditional approval of bank applications for deposit facilities.

Banks generally comply with CRA requirements. Those which do not, however, find that violations can lay the groundwork for CRA protests and complaints against banks resulting not only in denials but in costly time delays. At the FDIC, our experience has been that once a problem is brought to a bank's attention, immediate steps are taken to correct it.

I.b. Question:

How many examinations of regulated institutions that assess CRA compliance are conducted each year? On average, how often is a regulated institution's compliance with the CRA assessed through an examination?

I.b. Answer:

The FDIC supervises nearly 9,000 banks. In 1985, 1,069 compliance examinations and visitations including CRA were conducted. There were 1,125 in 1986 and 1,824 during 1987. Because of the dramatic increase in the number of failed and problem banks in recent years, the FDIC has had to devote more resources to problems involving safety and soundness.

We are working to improve this manpower situation relative to compliance examinations, and certainly that endeavor will be facilitated greatly by the provisions in the recently enacted Competitive Equality Banking Act removing the FDIC from certain budgetary constraints. We believe the increased compliance examination activity during 1987 will continue in 1988. Additional resources will be allocated again to compliance enforcement, including CRA, as we hire and train new examiners and, eventually, as the number of failed and problem banks begins to decrease. In fact, in the budget that was approved by the FDIC Board on January 19, 1988, the number of compliance exams during 1988 is projected to increase by approximately 60 percent.

The FDIC's compliance examination goals differ by compliance ratings. For 1- and 2-rated banks, the goal is assessment every 36 months. For 3-rated banks, the goal is every 18 months, and for 4- and 5-rated banks, the goal is every 12 months. To the extent that we are able to continue hiring additional bank examination staff, we will be better able to achieve our compliance examination goals.

I.c. Question:

What quantitative and qualitative criteria does your agency use to measure the effectiveness of regulatory enforcement of the CRA? What factors indicate that CRA enforcement has been effective: What factors indicate that CRA enforcement has not been effective?

I.c. Answer:

The FDIC rates banks in accordance with the Uniform Interagency CRA Assessment Rating System. The ratings range from 1 to 5, with one being the best. We give special attention to banks with compliance and CRA ratings of "3," "4," and "5."

In order to enforce compliance with the CRA, in 1978 the FDIC adopted Part 345 of its regulations along with concomitant examination procedures set forth in our Compliance Examination Manual. The major measures of effectiveness are based on the assessment factors outlined in Part 345. These include, but are not limited to, activities conducted by the bank to ascertain the credit needs of their communities and the bank's marketing of its services; the types of credit offered and extended by the bank to the community; the geographic distribution of the bank's loans; the impact of the opening or closing of any offices and the services offered at these facilities; the bank's compliance with anti-discrimination and other credit laws; and the bank's participation in community development in order to meet local credit needs.

In conducting a CRA examination, the examiner evaluates banks on a case-by-case basis to take into account banks that vary in size, expertise and locale. Community credit needs often differ with the specific characteristics of each local community, and banks are evaluated on the basis of attempts to ascertain, determine, and help meet community credit needs in the context of local circumstances and resources.

The main factors which indicate whether our CRA enforcement policies and procedures are effective include the number of banks which receive a satisfactory or higher CRA rating, the number of CRA consumer complaints or protests we receive, and the number of public comments found in files of banks relating to a bank's CRA statement or to the bank's performance in helping to meet the credit needs of its community.

The FDIC received two application protests in 1986 and seven in 1987. In addition, we received six CRA complaints in 1986 and eight in 1987 that did not concern a specific bank application. Investigations of each such complaint revealed no findings of illegal practices involving the CRA. Also, FDIC examiners have found very few CRA comments in the public files of banks.

Another means of assessing the effectiveness of the FDIC's enforcement of the CRA is the FDIC's toll-free "hotline." For the first six months of 1987 the FDIC's Office of Consumer Affairs and our Regional Offices reported approximately 14,120 calls for information and assistance. Of this number only 77 calls involved community reinvestment matters.

Additionally, within the last year we have restructured the FDIC Office of Consumer Affairs. That Office now operates independently of our Division of Bank Supervision and continuously evaluates the adequacy of the Corporation's compliance examination program.

We believe that the FDIC's CRA enforcement efforts generally have been effective. As mentioned above, however, we plan to increase the number of FDIC compliance examinations in 1988. We think the following factors would indicate that FDIC enforcement was <u>not</u> being effective: a larger percentage of banks with less than satisfactory ratings; a significantly increasing number of CRA protests and/or CRA complaints along with findings of unlawful conduct; heavier input into bank public files indicating community reinvestment problems; or increasing communications from community groups or individuals indicating possible problems with FDIC-supervised banks. We are not seeing evidence of these negative indicators.

II. <u>CRA Ratings</u>

<u>II.a. Question</u>:

How many regulated institutions were assigned CRA ratings of "3", "4", or "5" in 1986? What percentage of total rated institutions received these ratings? Were each of these institutions examined in 1986, or did some ratings rely on previous examinations? On what basis can the low level of "less than satisfactory" CRA ratings be justified?

<u>II.a. Answer</u>:

Of the 1,125 banks examined by the FDIC in 1986 for CRA compliance, 20 were assigned less than satisfactory ratings. As of June 1987, under 2 percent (or 132) of all FDIC-supervised banks examined for CRA compliance had less than satisfactory ratings.

The low ratio of less than satisfactory ratings, we believe, indicates that FDIC-supervised banks are in substantial compliance with the requirements of the CRA and Part 345 of the FDIC's regulations. A CRA rating does not reflect an isolated instance of technical noncompliance with a regulation but is a rating of a bank's investment record over time. Violations, when detected by the FDIC, are called to the bank's attention as matters requiring immediate corrective action. Banks generally comply promptly.

II.b. Question:

Have applications for institutions with CRA ratings of "3", "4", or "5" been approved by your agency? If so, how can these approvals be justified?

II.b. Answer:

No FDIC bank rated less than satisfactory on the basis of compliance with CRA has had its application approved without agreeing to appropriate corrective actions to favorably resolve FDIC-identified CRA-related problems.

As indicated above, the great majority (98%) of FDIC-supervised banks have been found to be in satisfactory or strong compliance with the requirements of the CRA. When banks which were rated less than satisfactory on their most recent CRA examination apply for a branch, a relocation, or a merger, we investigate each situation and, when deemed appropriate, conduct an on-site CRA assessment. If the applicant bank is again found to be less than satisfactory as to CRA performance, the FDIC obtains commitments from the bank to favorably resolve all CRA-related problems before approval is granted. Such commitments may be informal or may be stipulated in a memorandum of understanding.

In May 1987, the FDIC's Division of Bank Supervision implemented a new Applications Tracking System which will enhance our ability to ascertain which applications were protested based on CRA performance factors and to determine whether we imposed any CRA-related conditions upon the approval of those applications.

II.c. Question:

The regulatory agencies have long held the position that individual CRA ratings should not be made public, to protect the confidential relationship between a regulator and the regulated institution. However, the intent of Congress in enacting CRA was that, consistent with safety and soundness, sanctions could be imposed on regulated institutions with inadequate CRA records. The use of public CRA ratings would appear to reward institutions with good ratings and sanction institutions with less than satisfactory ratings. Is there any movement in the direction of public disclosure of individual CRA ratings by your agency?

II.c. Answer:

Currently there are no plans at the FDIC to publicly disclose individual CRA ratings, and we do not believe such disclosure is necessary at this time. The Home Mortgage Disclosure Act (HMDA) serves to provide the public with important information to enable them to determine whether depository institutions appear to be fulfilling their obligations in meeting the housing needs of the communities and neighborhoods in which they are chartered to do business. If there are indications of problems, the FDIC investigates. We believe that the banking agencies' supervisory efforts regarding community reinvestment have proven workable and effective.

III. HOME MORTGAGE DISCLOSURE ACT

III.a. Question:

When regulatory examinations of an institution's HMDA statements show that few or no housing loans are being made in low- or moderate-income areas, and that the volume of loans in these areas is disproportionately low compared to the volume of loans in other areas of the local community, how is this interpreted by your agency? If HMDA records indicate "unreasonable" lending patterns, is this sufficient cause for denial of an institution's application? If not, what steps are taken by your agency to correct the imbalance?

III.a. Answer:

From a regulatory standpoint, HMDA statements serve as a tool for closer analysis if and when problems concerning a bank's CRA compliance are suspected. The HMDA statement is generally considered a reliable indication of the number and dollar amount of mortgage loans extended in a bank's lending area.

At times, a bank's HMDA statement may reveal a disproportionately low number of loans in low- or moderate-income areas relative to other areas in the community. If this is found, our examiners investigate further into the reasons for any such patterns. If such a lending pattern cannot be justified, it would serve as a basis for a less than satisfactory CRA rating. The FDIC would advise the bank to improve its record by seeking to meet the credit needs of those in its lending community.

We cannot conclude, however, solely on the basis of few loans in low- or moderate income areas relative to other areas, that there has been a violation of CRA or fair lending laws. HMDA statements alone are not capable of supporting such conclusive interpretations. A HMDA statement which leads to questions about a bank's lending patterns serves as a valuable indicator for FDIC examiners. It causes an examiner to research, for example, whether omitted census tracts are indeed zoned residential, whether a bank's advertising of loan programs is actually reaching residents of these locales, and whether any demand for loans has emanated from these areas and if not, why not. These questions tie-in directly with the CRA assessment factors. As stated earlier, findings based on these factors have resulted in remedial corrective advisements, memoranda of understanding, and delayed or conditional approval of applications. They also have resulted in application denials.

III.b. Question:

There is an increasing call by community groups to expand HMDA to include disclosure of small business loans. Given the fact that the CRA assessment criteria specifically includes an institution's small business lending record, would an expansion of HMDA to include small business loans be appropriate?

III.b. Answer:

The focus of HMDA is on home mortgage disclosure and expanding this Act would change this focus. Moreover, as regulators we need to become more familiar with the views of small business borrowers before making any such recommendation. Before requiring disclosure of small business loans, it would be necessary to have an agreed-upon definition acceptable and applicable to the various geographic regions with differing economic environments. This will likely present considerable difficulties.

IV. THE SECONDARY MARKET

IV.a/b. Question:

Is there any evidence that banks avoid making loans in certain low income areas because of the need to resell all loans to the secondary market? Have you discussed this situation with secondary market players? Can you come to a regulatory solution?

IV.a/b. Answer:

The FDIC is not aware of any evidence that banks avoid making loans in certain low income areas because of the need to resell all loans to the secondary market. We have not discussed the matter with secondary market participants, because we have received no complaints, written or oral, concerning this matter from either bankers or consumers. We do not believe any bank regulatory action is warranted at this time.