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FEDERAL DEPOSIT INSURANCE CORPORATION

TESTIMONY OF

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WASHINGTON, D.C.

ON

THE COMMUNITY REINVESTMENT ACT

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

2:00 p.m.
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Dirksen Senate Office Building

FDIC
SUMMARY OF TESTIMONY
ON
THE COMMUNITY REINVESTMENT ACT
July 31, 1989

The FDIC regularly examines about 9,000 State-chartered nonmember banks for compliance with applicable consumer protection laws, including the CRA. Our goal is to examine banks rated 1, 2 or 3 for compliance at least every 24 months and 4 and 5 rated banks at least every 12 months, with visitations conducted as necessary. We conducted 1,228 compliance examinations in 1986, 2,242 in 1987, and 3,066 in 1988.

Compliance examinations are conducted by examiners who have received both formal and on-the-job training. Each of our eight Regional Offices have staff dedicated to the consumer compliance area. A Consumer Compliance Coordinator has been assigned to each of our 94 field offices and compliance details are required of all commissioned and assistant examiners.

The FDIC evaluates banks on a case by case basis using CRA examination procedures which were developed on an interagency basis. These procedures include assessment factors which are outlined in Part 345 of the FDIC's Rules and Regulations.

The FDIC rates banks in accordance with the Uniform Interagency CRA Assessment Rating System. About 98% of all FDIC-supervised banks examined for CRA compliance have been assigned satisfactory or better ratings. It should be emphasized that a CRA rating is an assessment of a bank's performance record over time. While individual instances of noncompliance are taken into account, a rating reflects a more comprehensive view of a bank's performance.

The FDIC uses examination ratings to summarize a bank's performance. It is a subjective judgment used for supervisory purposes. The FDIC does provide its ratings and the open section of examination reports to institutions under its supervision. For banks filing CRA-covered applications with the FDIC, a summary assessment of CRA performance is prepared and included in a public file at the applicant bank and appropriate FDIC Regional Office.

The FDIC may take various actions if noncompliance with the CRA is established, including: unsatisfactory ratings, memoranda of understanding, application denials, and ultimately a cease and desist order. Progressively more stringent administrative action is taken until compliance is achieved.

FDIC policy provides that examiners should make outside contacts during regular compliance examinations when necessary to assess a bank's performance in meeting community credit needs under the CRA. Community groups and other interested parties are also encouraged to contact the FDIC and banks on an ongoing basis concerning CRA and other consumer issues.

The FDIC publishes notices of applications in local newspapers. Each Regional Office also maintains mailing lists for weekly notification of applications filed. Comments received concerning CRA-related issues are considered during specified time periods. Extensions of comment periods may be granted for good cause.

The FDIC also considers complaints and inquiries in evaluating banks. During 1988, the FDIC's Office of Consumer Affairs and Regional Offices reported approximately 39,400 telephone calls for information and assistance, only 331 of which involved community reinvestment matters. Of 3,600 written complaints and inquiries only 20 involved CRA-related issues.

We do not believe public notice of CRA examinations would be practical. Public comments may not be received by the examiner prior to completion of the examination and at times examinations have to be rescheduled. Interested parties are encouraged to submit comments on an ongoing basis and not only when an examination takes place. Publication of CRA examination dates could discourage interim comments.

Good afternoon, Mr. Chairman and members of the Subcommittee. I am pleased to offer the views of the Federal Deposit Insurance Corporation on various matters related to the Community Reinvestment Act "CRA".

Introduction

The FDIC has worked hard since enactment of the CRA in 1977 to enforce the Act's mandate. The objective is to encourage financial institutions to help meet local community credit needs, including those of low and moderate income neighborhood residents, consistent with the institutions' safe and sound operation. The FDIC performs its role primarily through effective supervision and regulation of insured state chartered, non-member banks. We administer a compliance program by which FDIC-supervised banks are regularly examined, evaluated and rated for compliance with the CRA and other consumer protection laws and regulations.

Today's testimony focuses on areas of particular interest to the Committee as outlined in the Chairman's letter dated July 6, 1989. These areas are discussed in the order of the questions presented in the letter.

1. Examination for Compliance with CRA

The FDIC administers a comprehensive consumer compliance examination program. FDIC-supervised institutions, numbering about 9,000, are regularly examined, evaluated and rated on their compliance with all pertinent consumer protection laws. The FDIC completed 1,228 compliance examinations in 1986, 2,242 in 1987 and 3,066 in 1988. We estimate the total number of compliance examinations for 1989 will be at about the same level as 1988. Banks are examined more frequently if they are rated less than satisfactory in CRA or overall compliance performance under the FDIC's examination policy. The goal is to examine banks rated 4 and 5 for compliance at least every 12 months, and banks rated 1, 2, or 3 at least every 24 months, with visitations conducted as necessary.

The trend in number of FDIC compliance examinations over the past three years is upward, even though the FDIC has had to devote significant resources to safety and soundness banking problems and, beginning in February 1989, to its interim supervisory role under President Bush's savings-and-loan rescue plan. In the future, we anticipate further progress in our compliance examination program.

In the CRA examination process, examiners evaluate banks on a case-by-case basis taking into account their size, expertise and location. Community credit needs often differ based on the characteristics of each local community. The FDIC uses CRA examination procedures (Attachment 1) which were developed on an interagency basis. These procedures include the assessment factors outlined in Part 345 of the Corporation's regulations. The assessment factors include but are not limited to: activities conducted by the bank to ascertain the credit needs of its communities and the bank's marketing of its services; the types of loans made; 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.

CRA is functionally integrated with other FDIC fair lending examination procedures. These include the Fair Housing Act (FHA), Home Mortgage Disclosure Act (HMDA), and the Equal Credit Opportunity Act (ECOA).

The use of HMDA data by FDIC examiners is important to help determine the possible existence of CRA and fair housing compliance problems. The HMDA Statement is generally considered a reliable indicator 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, examiners investigate further into the reasons for such patterns. Although a HMDA statement alone may not be sufficient to support violations of the CRA or other fair lending laws, a disproportionate lending pattern could serve as a basis for a less than satisfactory CRA rating.

The following list highlights some of the items which are used to evaluate CRA and fair lending compliance:

- The bank's public comment file
- Consumer complaints concerning the bank
- CRA Statements
- Actual CRA-related efforts undertaken by the bank
- The bank's loan, investment, and procedural manuals
- The community delineation and any supporting documents
- Previous compliance and safety and soundness examination reports
- Records regarding efforts to communicate with members of the bank's lending community, especially low and moderate income residents
- Fair housing monitoring information and log-sheets
- Aggregate and individual bank HMDA data
- Records of any special efforts to help meet the deposit service needs of low and moderate income residents, such as the offering of "lifeline accounts"
- All records of the bank's advertising efforts and content
- Adverse action notices (denials, terminations, or withdrawals), with special emphasis on protected groups and residents of low and moderate income neighborhoods

Examiners also evaluate efforts undertaken by banks to address the recommendations contained in the revised Statement of the Federal Financial Supervisory Agencies Regarding CRA, adopted by the FDIC in March of this year.

The credit needs of the community which a bank serves are determined in a variety of ways. HMDA data are used to ascertain the number and dollar amounts, and location of home loans made, which serve as a performance indicator. Market analyses undertaken by the bank are reviewed and local plans for communities and neighborhoods are also used when available. Credit needs may be determined by communicating with special interest and public service

organizations (both public and private), particularly those who work with low and moderate income neighborhoods. The extent of the bank's efforts to communicate with members of its community regarding the credit services it provides is also reviewed as is the involvement by the bank with real estate brokers, business opportunities brokers, and others who service low and moderate income neighborhoods.

Actual hours spent on CRA examinations may relate more to the type of bank (e.g., commercial vs. savings bank, wholesale vs. retail) than to asset size. For special CRA examinations which are conducted in response to a bank application or a protest, the number of hours expended may be higher than average. The following Table shows the average number of hours spent per examination on CRA compliance matters:

Average Hours Expended Per Examination on CRA
from 1985 through 1988 by Asset Size of Bank

<u>Average Hours Per Exam</u>	<u>\$0-50 million</u>	<u>\$50-100 million</u>	<u>\$100-500 million</u>	<u>Over \$500</u>
1985	4 1/2	6	10 1/2	24 1/2
1986	5	6 1/2	8	29
1987	5	5 1/2	8	16 1/2
1988	5	6 1/2	9	22

2. The FDIC's Examination Force

There is a total of 1,956 FDIC field examiners (as of 5/31/89), most of whom have received CRA training. The FDIC has at least one Consumer Affairs and Civil Rights (CA/CR) Review Examiner in each of its eight regional offices. These examiners coordinate the FDIC's compliance efforts and are directly involved in examiner training. They also provide liaison with consumer and community groups and assistance to banks in assessing issues of community interest.

The FDIC's Division of Bank Supervision is further strengthening compliance examination and enforcement efforts. A Consumer Compliance Coordinator has been selected for each of our 94 field offices. These are commissioned examiners with compliance expertise. Some of the duties of the Coordinator are to:

- Conduct, or assist in, compliance examinations and visitations; and meet with bank boards of directors in problem or unusual situations;
- Review, as necessary, certain compliance examination reports (e.g. compliance problems or unusual situations) prior to submission to the Regional Office;
- Oversee and coordinate responses to consumer complaints and inquiries;
- Conduct supplementary compliance training for examiners and serve as an instructor for Regional Office and the Division's Training Center compliance training programs;

- Serve on Regional Office details and other assignments pertaining to the consumer compliance area.

To become commissioned, FDIC examiners must have passed a rigorous evaluation in the areas of safety and soundness and compliance generally after 3-6 years of on the job experience. Assistant examiners may, at times, be assigned to perform less complex compliance tasks primarily involving banks rated 1 and 2. FDIC policy is to assign its most experienced examiners and those who have specialized in the field of compliance examination to examine 3, 4, and 5 rated banks and to handle complex compliance matters. On-site CRA complaint and protest investigations are also assigned to these examiners.

The FDIC's CRA examination and investigation staff training is provided primarily in four ways. First, the FDIC's Division of Bank Supervision Training Center administers the Corporation's Consumer Protection School (CPS). Most CPS attendees are examiners with a minimum of two years bank supervision experience.

The following table provides data related to the CPS:

Year	Total Number of Sessions	Length of Each Session	Total # of FDIC Students	Hours of Fair Lending Training Per Session			
				CRA	FHA	ECOA	HMDA
1989	*8	5	--	-	-	-	-
1988	6	5	117	2	3	5	1
1987	4	5 Days	62	2	2	3	1
1986	3	8 Days	39	3.5	2	5	2

* Sessions scheduled for year.

Second, a two-hour overview of consumer protection and civil rights laws is included in the advanced training school for assistant examiners.

Third, the Office of Consumer Affairs also annually conducts a 2-3 day compliance seminar for Regional CA/CR Review Examiners and their assistants and/or field examiners. These Review Examiners also provide compliance training for their respective regional examination staffs. In addition, an advanced one week training program is being developed with approximately two days allocated to the CRA and related laws. The first session is scheduled for late 1989 and should be attended by 40-50 of our 94 regional field office Consumer Compliance Coordinators. These Coordinators will then provide training to regional examiners.

Fourth, in addition to formal training, regular compliance and CRA training is conducted on-site by senior field examiners. Our Regional Office staff keeps these examiners updated on all pertinent information relating to the scope of work assigned to them, including CRA-related information.

3. Assignment and Use of CRA Ratings

The FDIC rates banks in accordance with the Uniform Interagency CRA Assessment Rating System (Attachment 2). The ratings range from 1 to 5, with one being the best.

The aggregate CRA ratings assigned for examinations conducted during each of the past five years are as follows:

Year:	CRA Ratings			
	1	2	3	4 and 5
1984	252	1,549	31	8
1985	98	947	22	3
1986	115	1,086	19	1
1987	221	1,965	40	8
1988	307	2,683	58	12

Note: Excludes Special Purpose Banks and Trust Companies not engaged in lending.

Recent statistics indicate that about 98 percent of all FDIC-supervised banks examined for CRA compliance were assigned satisfactory ratings, *i.e.*, a 1 or 2. It should be emphasized that a CRA rating is an assessment of a bank's performance record over time. While individual instances of technical noncompliance are taken into account, ratings reflect a more comprehensive view of a bank's performance.

CRA ratings are based on performance. FDIC examiners evaluate compliance with the CRA on the basis of each bank's (1) attempt to ascertain, (2) determination to help meet, and (3) performance in helping to meet community credit needs in the context of an individual bank's resources and local circumstances. Examiners discuss their findings regarding the bank's CRA performance with bank management. Examiners also provide appropriate CRA-related information and technical assistance at that time, thereby helping banks to understand the purposes of the CRA and the FDIC's enforcement role. Overall, we believe our CRA enforcement efforts have been effective. This view is based on the large number of banks which are assigned a satisfactory or higher CRA rating, (*i.e.*, a 1 or 2), the low number of CRA consumer complaints and protests we have received, and the few comments found in public files of FDIC-supervised banks relating to their CRA statement or CRA performance.

Banks find that noncompliance can lay the groundwork for CRA protests and complaints against them resulting in costly processing delays and possible denials of applications. Our overall experience, with few exceptions, has been that once a problem is brought to a bank's attention timely steps are taken to correct the deficiencies.

4. Citizen and Community Participation

FDIC policy provides that examiners should make the following outside contacts during regular compliance examinations when necessary to assess the bank's performance in meeting community credit needs under the CRA:

- ° Any person or organization that has, in a CRA comment to the public file, specifically requested to speak to an examiner;

- Any person or organization that has raised a substantial issue in a CRA comment letter which requires further explanation and/or verification -- such persons or organizations should be contacted even where they have not made a specific request for a meeting; and
- A representative sample of persons or organizations with whom the lender has said it communicated -- this form of outside contact would normally be made only in circumstances where there is a need to independently verify the lender's performance in ascertaining local credit needs.

Examiners are advised to make whatever other outside contacts are likely to provide valuable information concerning either the credit needs of the bank's community, its efforts to ascertain those needs and make known its credit services, or its efforts to meet those needs. Among the persons or organizations to be contacted, for example, might be local government community development officials who would normally be expected to have useful information concerning the types of development or redevelopment programs available in a community and the extent of the bank's participation.

The public may call the FDIC's Office of Consumer Affairs or Regional Offices during normal business hours, or write, with a complaint or inquiry. The Office of Consumer Affairs has a toll free number which, along with the agency's address, is well-publicized nationally in newspapers and public interest organization newsletters. In addition, FDIC's outreach efforts include representation at conferences or seminars sponsored by community and industry groups, where the attendees are encouraged to write and/or call whenever there is a perceived problem. During 1988, the FDIC's Office of Consumer Affairs and our Regional Offices reported approximately 39,400 telephone calls for information and assistance. Of this number, only 331 calls involved community reinvestment matters. In 1988, OCA and the Regional Offices processed nearly 3,600 written complaints and inquiries, only twenty of which involved CRA-related issues. The latter figure is consistent with prior years.

Community groups and other interested parties may learn about CRA covered applications filed with the FDIC through notices published in local newspapers for the convenience of the banking public. Interested parties may also learn about such applications for geographic area(s) of special interest by placing their names on Regional Office mailing lists for weekly notification.

The minimum processing time for relocation applications is 21 days, for mergers 30 days, and for all other applications, 15 days. The FDIC will delay processing if legitimate, substantive issues are raised which may have merit. Extensions of from 15 to 30 days may be granted in order to allow for submission of more detailed documentation or evidence.

The FDIC encourages interested parties to comment on applications within the time periods specified. This is important because timely comment allows the FDIC to carry out its responsibility to process applications within applicable time limits consistent with the public interest. Processing delays can be costly to banks and delay service to the community.

As part of the application process, community groups and other interested parties can request a public proceeding. The FDIC Regional Director decides whether to hold a public proceeding based on how much new information is likely to be gained from the process. Concurrence of the Washington Office is required if the Regional Director's decision is to deny a request for such a proceeding. Protests and complaints filed alleging CRA violations are not always concerned with CRA issues. Sometimes misunderstandings arise as to what is germane to the CRA and the FDIC's responsibilities in enforcing the CRA.

We have been successful in conducting informal proceedings with banks and community groups, and thereby have generally been able to resolve major differences between the parties without materially delaying the application process. Our goal, when presented with a CRA protest, is to encourage the parties to meet, discuss and satisfactorily resolve differences.

All CRA-related allegations are addressed in a formal statement accompanying the FDIC's order to approve or deny an application. These documents are available to the public for review. Where an application has been protested, the FDIC also sends a letter to the protestants explaining the action taken.

We believe that it is important to have regular dialogue with representatives from both community and consumer groups and the banking industry. Our outreach efforts include periodic meetings whereby community groups and consumer protection and civil rights organizations have an opportunity to meet with the Chairman and senior Corporation staff for an exchange of views on community reinvestment and other consumer and community-related issues. In addition, the FDIC conducts compliance seminars for bankers in various parts of the country, at which CRA concerns and other consumer-related laws and regulations are addressed.

5. Application Decisions

Monitoring and enforcing bank compliance with the CRA mandate is a critical component in the FDIC's evaluation of bank applications for deposit facilities. In making decisions on such applications, the FDIC gives due consideration to the bank's CRA performance record in all cases, not just when a protest has been filed. Action must be taken by the Director or Associate Director of the FDIC's Division of Bank Supervision where the requirements of CRA have yet to be favorably resolved (reflected by a 4 or 5 rating, or possibly a 3) or where a CRA protest has been filed. Applications may be submitted to the Board of Directors in these cases. The FDIC must resolve all statutory factors in determining whether or not the application will be approved.

Commitments for future action may be offered by the applicant as a means of assuring a stronger CRA record or resolving existing CRA issues. Such commitments are not viewed as part of the CRA record of performance of the bank, but may be given weight as an indicator of potential for improvement in the institution's performance. However, commitments made in the applications process cannot be used to overcome a seriously deficient record of CRA performance.

Where appropriate, the FDIC may require banks to take specific actions designed to improve CRA performance by granting conditional approval of an application. In such cases, approval granted by the FDIC generally becomes effective or final only after confirming that the bank has satisfied the appropriate conditions.

6. CRA Protests

The FDIC received no CRA-related application protests in 1984, two in 1985 (against two banks), two in 1986 (against two banks), nine in 1987 (against seven banks), five in 1988 (against five banks), and one (against one bank) thus far in 1989. During the past five years, no applications have been denied based on CRA factors, one has been conditionally approved, 14 have been approved without conditions, and two were withdrawn. In addition, we received six written complaints and inquiries in 1986, eight in 1987, twenty in 1988 and five so far in 1989. Investigations of each CRA complaint revealed no patterns or practices of discrimination. Also, FDIC examiners have found very few CRA comment letters in bank public files.

Since the Act's inception, the FDIC has denied three applications for deposit facilities due to CRA factors. The rate of application denials on CRA grounds, however, should not be given undue weight in assessing the FDIC's enforcement of the CRA. CRA-related problems often are corrected by banks at the request of the FDIC, prior to our action on an application. The incidence of such preapproval corrections has not been aggregated. Also, applications are sometimes withdrawn by applicants when it becomes clear that denial is likely.

The following table reflects actions on nonprotested CRA-covered applications for the years 1984 through the first half of 1989:

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1989</u>	<u>1st half</u> <u>1989</u>
Approved	1,580	1,402	1,515	1,750	1,801	839
Denied	21	12	8	10	4	1

The length of time it takes to process nonprotested applications ranges from an average of 30 days for branches and relocations to 111 days for deposit insurance. For protested applications, the average ranges from 40 days for relocations to 198 days for merger applications.

7. Supervisory Enforcement Actions

FDIC sanctions for noncompliance with the CRA include: unsatisfactory ratings, memoranda of understanding, application denials, and ultimately, a cease and desist order. Progressively more stringent administrative action is normally taken until compliance is achieved.

Examples of FDIC supervisory actions taken outside the application process against institutions not in compliance with the CRA are attached (Attachment 3). These include memoranda of understanding and a section 8(b) Cease and Desist Order.

Compliance with the terms of supervisory CRA-related enforcement actions and with commitments made in conjunction with a CRA covered application is enforced through visitations and through routine bank examinations by FDIC examiners. Whenever deficiencies are found in a bank's performance, they are pointed out and the bank is encouraged to promptly make appropriate corrections.

The FDIC does not enforce agreements made between the banks it supervises and groups or other interested parties. However, evidence presented that the agreement has been adhered to by the institution will be considered when assessing its record in meeting local credit needs.

8. Public Disclosure of CRA Ratings and Examination Reports

In regard to the public disclosure of CRA ratings and examination reports, we believe the release could:

- ° Deter open and frank discussions between a financial institution and its regulator;
- ° Have an adverse effect on institutions which have compliance problems but are trying to correct them; and
- ° Cause institutions to use the ratings and examination findings as an endorsement standard in advertising.

Community groups and other interested parties can monitor an institution's performance by obtaining the CRA statement, the HMDA data, interviewing consumers and meeting with bank personnel. In addition, summary CRA assessments are part of the public file for applications submitted to the FDIC and are provided to the public upon request.

The FDIC uses examination ratings to summarize a bank's performance. The ratings reflect a subjective judgment and are used for supervisory purposes only. The FDIC, FRB and the OCC do release aggregate CRA performance ratings to the public through the Federal Financial Institutions Examination Council (FFIEC). The FDIC also provides its ratings and the open section of examination reports to institutions under its supervision.

As an alternative to the public disclosure of CRA ratings and examination reports, we suggest that in addition to providing ratings and comments to institutions, the regulators also prepare a summary assessment without a rating, which the bank would be required to include in its public CRA file. The Regional Offices would also maintain these summary assessments which would be made available to the public upon request.

9. Notice of CRA Examinations

We do not believe public notice of CRA examinations would be practical. Even the most thorough CRA review usually takes only a few days. Publication near the date the examination commences may not allow for public comments to reach the examiner in a timely manner. Further, there are times when for very valid reasons, an examination must be rescheduled at the last minute. A notice requirement could cause confusion for the public and problems for regulators in these instances.

The regulatory agencies have complaint and CRA protest procedures in place which indicate where and to whom consumers may write to comment on an institution's CRA performance. Interested parties are encouraged to submit comments related to CRA to the regulatory agencies and financial institutions on an ongoing basis and not only when an examination is about to occur, which may be once every two years. Our regulations require the maintenance of a public file of comments on a bank's CRA performance, and this file is reviewed by examiners during the course of a CRA examination. A publication requirement could discourage interim comments, and thus be counter-productive.

Conclusion

The FDIC is aware of the importance of the CRA in encouraging banks to more comprehensively meet the credit needs of their communities and, in particular, the credit needs of low and moderate income neighborhoods. Effective enforcement by the FDIC is both essential and beneficial. It should be recognized, however, that implementation of the CRA must be accomplished in ways that assure the safety and soundness of financial institutions.

Thank you Mr. Chairman and members of the Subcommittee, for giving the FDIC an opportunity to express our views on these issues. We will be pleased to respond to any questions.

Attachments