REMARKS BY

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Thank you very much for inviting me to be with you today at the 2010 Federal Economic Development Forum. This year's forum and its theme of forging the new economic landscape comes at a particularly important time, as our nation turns from the financial crisis to the important work of economic recovery – and to potentially very significant restructuring of the regulatory framework for our nation's financial institutions.

Today, I want to focus my remarks on the role that the Community Reinvestment Act has played since its enactment in 1977 to encourage access to financial services and help build sustainable communities across the country. And I want to discuss the role that CRA might play in the future. In particular, the issue I want to put on the table today is whether it is time to start thinking about redesigning CRA, and if so, what are the key questions we need to be considering?

Let's start by looking back to the time when CRA was adopted – 33 years ago. Concerns about urban decay, racial discrimination, and the availability of credit in low-income areas set the stage for CRA enactment in 1977. Due to the localized nature of finance during this era, individuals and businesses had limited alternatives for bringing capital into their communities, which only accelerated their decline. Proponents of CRA argued that funds deposited by individuals and businesses in local depository institutions should be directed to providing credit that would benefit the communities that helped originate those deposits.

As enacted, CRA only covered banks and thrifts, which at that time were the key players in financial intermediation at the community level. This scope of coverage reflected a belief by Congress that these institutions were chartered with an obligation to serve the needs of their communities, in part due to the particular government benefits they enjoyed such as federal deposit insurance and access to low-cost credit from the Federal Reserve and Federal Home Loan Banks. As a consequence, CRA was written and administered in a manner that evaluated those depository institutions' performance in meeting community credit needs, and penalized poor CRA performance by imposing hurdles on an institution's ability to expand through branching and acquisitions.

CRA was enacted to regulate a very different type of financial services industry than we have today. In the mid-1970s, individuals and businesses were very dependent on their local and regional banks and thrifts for deposit services and financing of their homes, businesses, and commercial ventures. Home mortgage securitization was in its infancy, and commercial securitization did not exist at all.

Bank of America – the original, California-based institution – was the country's largest bank with $82 billion in total assets in 1977. Fifty-four percent of the nearly 19,000 federally regulated banks and thrifts were based in a single location and had no branches. Banks were not allowed to have branches in more than one state, and bank holding companies couldn't combine banking, securities, or insurance activities.

Without question, the financial services marketplace is vastly different today. We are down to just over 8,000 FDIC-insured depository institutions; 18 banks have more than $100 billion in assets; and four banks have more than $1 trillion in assets. Larger, multi-state institutions have branches in many states, and last year there were 14 such institutions with branches in at least 15 states that in the aggregate held 43 percent of total domestic deposits. And these institutions provide a range of products and services beyond the many locations where they have physical branches.

Compared to 30 years ago, there is also more variety in types of bank business models. Limited purpose and wholesale banks have been created, and within a bank or thrift holding company, many financial services, such as mortgages and other consumer loans, may be offered by affiliates or subsidiaries within the holding company structure rather than through the lead insured institution.

There also has been a phenomenal expansion in the variety of financial services provided by nonbanks. These include not only affiliates of insured institutions, but also independent mortgage companies, consumer finance companies of many types, securities firms, insurance companies, hedge funds, and private equity funds. Nonbank entities readily offer mortgages, a variety of types of consumer loans, and other financial products and services such as remittance services and check cashing.

Thus, community-based banks and thrifts face competition not just from regional and national banking firms, but also from credit unions and many types of nonbank financial firms that offer similar products and services. For example, in 1977, households placed 25 percent of their financial assets in checking, time, or savings deposits in CRA-regulated institutions. In 2008, households and nonprofit organizations held just 14.8 percent of their assets in these types of accounts.

Given the widespread availability of standardized financial products such as mortgages, home equity loans, and credit cards, as well as expanded secondary markets, consumer access to banking services and credit is far less dependent on local banks and thrifts. Now, households may much more easily put their funds into a broader suite of savings and investment options – mutual funds, stocks, and bonds in addition to the more traditional checking and savings accounts and certificates of deposit.

Other developments have also fundamentally changed how financial services are offered – and sought – by consumers. Technological innovation has brought credit scoring and streamlined processes, dramatically altering and expanding the extension of credit and availability of other financial services. Technology has also changed how financial services are delivered. Virtually anyone with access to a computer can process financial transactions, set up a savings account, apply for a mortgage, or make investments. Many customers now depend more heavily on widespread automated teller machines and electronic banking than face-to-face contact at their local bank branches.

In light of all these changes, I think it is it time to think about redesigning CRA. That, of course, raises a number of key questions and issues, which is exactly what I would like to put before you in the remainder of my remarks.

An obvious threshold question is whether CRA should be expanded to cover a broader range of entities that provide financial services affecting communities. Is it time, as some have suggested, to consider expanding CRA to certain non-bank affiliates and subsidiaries of bank and thrift holding companies? Or should we take a more holistic approach to activities conducted within regulated bank and thrift holding companies, recognizing that these companies have the ability to allocate many activities to different legal entities, only some of which may be covered by CRA?

Should redesign be based on recognition of the changed roles of nonbank financial services providers, extending coverage to nonbank firms that provide credit and other financial services that can meaningfully impact community well being, such as credit unions and mortgage companies? And if we expand coverage in these ways, what would be the rationale for the expansion?

If CRA was originally premised – at least in part – on the benefit of a form of government support, deposit insurance, should an expansion of CRA be based on new types of government support that are available to financial firms other than insured banks and thrifts? I have heard the rationale advanced that a broader range of financial services firms benefit from access to other federal programs or charter privileges that should obligate them to do more for communities. Is access to Federal liquidity funding or access to Federal guarantees appropriate justification for enhanced CRA responsibilities?

Some advocates point to the Federal government's support during the financial crisis to justify CRA's expansion to a much broader array of financial services providers. Mutual funds received temporary deposit insurance coverage. And the TALF and TARP programs provided important market support that benefitted a range of financial firms, including investment banks and insurance companies.

As we think about the possibility of revising CRA, it is crucial that we consider the practicality of implementing new approaches. Some ideas for broader application of CRA may sound attractive at a theoretical level, but could be very difficult to implement. Any new approach would need to ensure a level of consistency across institutions that vary in size, provide different categories of services, and operate under a variety of legal and organizational constraints.

For example, how would we define where an institution provides service? Right now, we look at where an institution's main office and physical deposit-taking facilities are located and then focus our evaluation of CRA performance on the institution's performance in those assessment areas. Some believe that a broadened CRA-type obligation should go so far as to establish an affirmative obligation to serve local community needs in *any* area in which an institution has a physical presence, or more than a *de minimis* market share.

But what would this mean in practice? There are many reasons to establish a physical presence in a market, and many ways to achieve market share for a particular product, that would not seem to warrant an obligation to offer a particular level of other products and services to serve the needs of a geographic area. I would have concerns with dictating CRA geographic coverage areas at this level of granularity.

On this set of issues, I believe that financial institutions should have flexibility to undertake their CRA programs in a manner that is generally consistent with their business model and ability to manage within their operational infrastructure and risk management profile. The CRA "performance context" approach currently used by regulators for banks and thrifts recognizes this. This approach adjusts expectations for CRA performance based on economic conditions and demographics of the markets where the financial institution resides. This information is supplemented by each financial institution's unique corporate structure, business strategy, product offerings, and distribution methods to serve those communities. Under CRA today, we do not dictate business models. Nor does CRA require an institution to undertake unsafe or unsound lending or activities, or engage in unprofitable activities. Whatever changes are made to CRA, these bedrock principles must be retained.

A variety of implementation challenges also are presented by the different types of businesses potentially subject to CRA. Should evaluating where an institution does business be different for a "bricks and mortar" service provider with retail branches than for an entity that only maintains an online presence? For entities that don't offer savings products, deposit gathering may not be the right threshold test for establishing assessment areas. A community development mandate may not make sense for a firm that provides only a single type of products or services, such as credit cards or residential mortgages.

It's even a fair question to ask whether evaluation of CRA performance should be tied exclusively to assessment areas. It made sense for the local banking economy that existed in 1977. But should CRA be changed to target resources more strategically by encouraging capital mobility to areas with the greatest need? Should it be redesigned to allow institutions to target efforts more strategically? By being so closely tethered to where institutions take deposits, do we have concentrations of CRA activities in areas where the need may not be the greatest?

There is some precedent for considering alternatives here. Congress has already recognized one area where linkage to an assessment area is not required in order to recognize activities under CRA – investments, loan participations, and other ventures undertaken by a majority-owned bank or thrift with minority or women-owned institutions that help meet the credit needs of the local communities served by those institutions. And the banking agencies adopted a strategic targeting approach that provided CRA consideration for activities outside a bank's assessment area to help in areas devastated by hurricanes Katrina and Rita. Still, CRA cannot be all things to all people and all geographies: there is a reason why it has long been tied to local communities where the institution's presence is greatest, and policymakers will need to think long and hard before materially adjusting this paradigm.

But even as we think about these broader CRA issues, I don't want to lose sight of what we could do under the CRA framework in effect today to improve the role of CRA in encouraging critically important economic development and stabilization in our communities.

Looking at these challenges, I think there is one area in particular where increased CRA recognition under the current CRA framework would be appropriate and could make a difference: enhanced recognition of mortgage modification, foreclosure prevention, and other mitigation efforts that foster community stabilization and revitalization. Over two years ago, I called for an amendment to our CRA regulations to enhance CRA recognition for foreclosure prevention and mitigation efforts in low-, moderate-, and middle-income areas that are distressed as a result of foreclosures and related economic factors. The need continues to be keen, and enhanced recognition under CRA could be an incentive for activities that make a difference in these communities.

Early last year, the bank and thrift regulatory agencies issued CRA guidance, in the form of our interagency Questions and Answers, that encourages financial institutions to participate in foreclosure prevention programs that have the objective of providing affordable and sustainable loan restructurings or modifications for qualifying low- and moderate-income homeowners who are facing foreclosure on their primary residences.

That was helpful, but we could do more. We need to reconsider whether our treatment of CRA credit for mortgage modifications and other foreclosure prevention and mitigation activities covers the range of activities and communities where it can make a difference, in order to recognize and encourage activities that are responsive to the national crisis faced by our communities. This is an area where we could make improvements to our current regulations that would provide appropriate recognition and encouragement to these critically important efforts.

In the coming weeks and months, the OCC looks forward to working with the other bank and thrift regulators to see if there are sensible ways to adjust CRA incentives to support our nation's economic recovery. More broadly, I think there is momentum building for revisiting the broader architecture of CRA, both by Congress and the regulators. In that context it will be important to air the views of all stakeholders, including the organizations you so ably represent.

Thank you very much.