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COMMUNITY REINVESTMENT ACT (CRA) POLICY BRIEF

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RECOGNIZING DISCRIMINATION: ADDRESSING THE PROPOSED COMMUNITY REINVESTMENT ACT MODERNIZATION POLICY

Executive Summary

The federal law, Community Reinvestment Act (CRA), emerged in 1977 to stimulate the economy in environments of low to moderate socioeconomic neighborhoods (Culhane, 2019). In 2019, The Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) proposed to modernize the agencies' regulations under the CRA after nearly twenty-five years without revisions (Office of the Comptroller of the Currency, 2019). The Advanced Notice of Proposed Rulemaking (ANPR) outlined several changes that would support banks seeking out large-dollar deals and discouraging loans to people with low- and moderate-incomes (LMI), and small business loans. The ANPR redefines community development to include large infrastructure projects like stadium improvements in LMI Opportunity Zones, which further encourages banks to seek out more significant deals over smaller loans to meet the ratio for the total dollar volume metric (Pederson, 2019). This policy brief will focus on the impact of the FDIC's and OCC's ANPR on the Black community and offer two recommendations to be performed by the State of Black Long Island Equity Council to raise awareness to Black Long Islanders to ensure that they do not continue to suffer financially.



DESCRIPTION OF THE PROBLEM

Since taking over the oval office in 2017, the Trump Administration has worked to rescind the progressive works of the Obama Administration. In this process, the objective appears to widen the wealth gap between the majority (White Americans) and the minority (Black Americans and Hispanics). While in office, Trump encouraged his appointed banking regulator Joseph Otting of the OCC to propose new regulations for the CRA (Johnson, 2019). The design of the ANPR by the FDIC and OCC illustrates the weakening of the anti-redlining law, which could hurt LMI areas and small businesses, which are majority-black communities. This is a fine example of modern-day racism.



DESCRIPTION OF THE PROBLEM- CONT'D

Past studies revealed that CRA created an increase in Black American homeownership (How the Community Reinvestment Act has Influenced..., 2017). However, the business loans in upper-income areas, which consist of White Americans, still exceed business loans in lower-income neighborhoods. A recent study in 2019, exposed that the homeownership rate for Black Americans is lower than in the late 1960s. According to the National Urban League, the economic gap between Black and White Americans is widening. This is demonstrated in the area of homeownership as the rate shows that white households are at 73.1% and Black families at 40.6% (The National Urban League, 2019). The illustrious history of Long Island exhibits the isolated communities between Black and White people across Nassau and Suffolk Counties. The nonprofit organization, Erase Racism conducted a study which illustrated how black and white communities on Long Island show segregated patterns (Lambert, 2002). Rusk, who analyzed the segregation patterns, reported that "African Americans have faced isolation far more than any other group, especially on Long Island (Lambert, 2002)." Rusk also added that several factors contribute to the segregation on Long Island that includes, zoning, housing, and education policies, and taxes (Lambert, 2002).

Nationwide, minorities, including Black Americans, Hispanics, and women, will be most impacted by the ANPR. Black Long Islanders continue to face racial disparities in a multitude of ways, and if the ANPR is approved, they will be at a disadvantage. Due to the original form, the law was written, the institutions of banks were to assist with loans to those in LMI areas and small businesses to build up the community and help individuals be financially healthy. Unfortunately, due to the segregation of the Long Island neighborhoods, the use of CRA is visible at approved institutions that lie in more affluent communities (How the Community Reinvestment Act has Influenced..., 2017).

HISTORICAL PERSPECTIVE OF THE COMMUNITY REINVESTMENT ACT

Aforementioned, the CRA was passed by the federal government in 1977. Before the CRA became law, many banks practiced "**redlining**". The practice of redlining is defined as "banks deny loans to home buyers and others based on their race or ethnic background (Johnson, 2019). This law emerged after a couple of acts passed that supported the prohibited housing discrimination and credit discrimination (Berry & Romero, n.d.) For this act to come into fruition, the regulatory agencies developed assessments that banks had to adhere to address the needs of their communities. Also, the banks would receive ratings from the regulatory agencies, which would be used to decide whether to approve mergers, acquisitions, or the opening of new branches (Berry & Romero, n.d.). **The purpose of CRA was created to counter redlining and to hold banks responsible for meeting the financial needs of their communities.** The idea behind the act was to empower lower and moderate-income (LMI) communities and small businesses. There have been a few reforms since 1977; banks continue to fail to meet the criteria of the lower-income communities. In response, Black Americans were forced to seek bank loans from institutions that are not in their neighborhoods with a high risk of being denied.

DESCRIPTION OF THE POLICY

In 2019, the Trump administration officials elected by FDIC and the OCC submitted the Advanced Notice of Proposed Rulemaking (ANPR) in which it would: "expand the types of activities that count toward CRA credit, encourage more capital, investment, lending, and services in the communities that need it most, provide clarity for banks regarding what counts for CRA credit, evaluate CRA performance more objectively and strengthen the CRA by updating rules and regulations, last updated in 1995 (Berry & Romero, n.d.)." According to the Republican Leader of the House Financial Services Committee, Patrick Henry, the revisions to the law emulate the evolution of banking services. They recommend that this will make things better for LMI areas (Berry & Romeo, n.d.). It should be noted that the opinions of the ANPR are not mutually shared amongst the LMI areas.

The federal government issued that they would like to pass the amendments to the CRA by mid-2020. Due to the recent pandemic, the acceptance of this law is delayed. After the release of the ANPR, there was a division amongst banking industries, Republican lawmakers who approved of the revisions and consumer advocates criticized it with the support of House Financial Services Committee Chairwoman Maxine Water, D-Calif. She showed her dismay of the ANPR by attending the FDIC board meeting (Pedersen, 2019). It was encouraged to place comments expressing their disagreement and how the revisions would negatively impact their communities.

POLICY ANALYSIS- PT 1

CRA regulations have been amended multiple times with some amendments focused on enhancing women and minority-owned businesses (How the Community Reinvestment Act has Influenced..., 2017). However, critics of the CRA argued that the policy has contributed to the financial downfalls in 2007-08. Those opposed to the CRA expressed that it was unnecessary to take risks to provide loans to LMI areas with the possibility of the loans not being paid. Literature suggests that the CRA was not responsible for the financial crisis of 2007-2008. The bulk of foreclosures occurred during 2004 and 2007 by mortgage lenders that were not subject to the CRA standards (Berry & Romero, n.d.). The latest efforts to modernize the CRA would negatively impact the black communities. As stated by Johnson (2019), "the law will only hurt communities of color, women and the poor: all communities that have already suffered hardships in American history."

Since the release of the CRA proposal by the OCC (Appendix A), roundtable discussions were held to provide assessments. Three principles were outlined during the roundtable discussion provided by the literature. The discussion focused on assessment areas, evaluating performance, and defining community development activities.

POLICY ANALYSIS- PT 2

Assessment areas. In the core component of the CRA lies geographic zones in which the banks are required to invest. This component is attached to the physical location of financial institutions. Banks have recently expressed that due to the evolving times, the need for physical branches is limited as there is an increase in online banking. Proposed by the FDIC and the OCC, it would allow banks to have the option to choose their geographic level because they believe it is their best option to determine the areas that their facilities serve (Pedersen, 2019).

Individuals who participated in the roundtable discussion reported that there should be an expansion on assessment areas based on the combination of the bank's lending activities defined by both the banks' physical and online presence (Culhane, 2019). The members proposed that the assessment area designations should reflect the community needs. They added that there would be a creation of "CRA zones" that would entail qualified activities by a bank that would provide banks with CRA credits (Culhane, 2019).



POLICY ANALYSIS- PT 3

Evaluating performance. Financial institutes have expressed that the agencies have yet to develop a clear and concise program evaluation. They reported that they are unaware of how the CRA loans are scored. The FDIC and OCC suggest that banks set an updated list of approved CRA activities as a guide. The agencies also would like to introduce a process in which banks would have the opportunity to have activities approved for the CRA credit before being underwritten (Pedersen, 2019). The FDIC and OCC suggested that banks be evaluated based on a total unit number of CRA-eligible loans and the total dollar amount being lent to projects benefiting LMI areas (Pedersen, 2019). Community members argued this would only encourage banks to lend to large market value projects, not small businesses. The roundtable participants have suggested that the bank's CRA evaluation should be based on more than the money loaned and focused on the impact of the bank's activities (Culhane, 2019).



POLICY ANALYSIS- PT 4

Defining community development activities. Bankers have expressed that they have yet to determine what qualifies as an eligible community development activity and have asked for an expansion of the services that are eligible for CRA credit (Culhane, 2019). According to ANPR, the FDIC and OCC were not clear and concise as to what the services were as they would like to preserve the evaluation that is already in place (Office of the Comptroller of the Currency, n.d.). The participants recommended that the CRA encourage banks to offer financial products and services that would help them become financially healthy through educational programs (Culhane, 2019).



POLICY RECOMMENDATIONS

The revisions suggested by the FDIC and OCC should be challenged because even though they may indicate that they are focusing on the LMI area, it is clear that if approved, then the Black communities will be impacted negatively.

As for Black Long Islanders, neighborhoods are segregated, and such proposals will be detrimental in receiving various loans that include mortgage, auto, and business.

The Economic Equity Action Team recommends that the State of Black Long Island (SOBLI) educate Black Long Islanders by:

- Providing Black Long Islanders with **facts** and **literature** about the Community Reinvestment Act.
- To mobilize Black community leaders to encourage their community members to **attend** virtual town halls about the CRA and **provide input**.
- To create a **multigenerational** social media campaign to address the negative impact of the CRA.
- To **develop a specific campaign** that targets the population in the age range of 20-50 years old because they have a higher rate of consumption.

BENEFITS OF COMMUNITY BANKING

With regards to the recommendation of supporting community banking on Long Island it is essential for Black Long Islanders to understand the benefits of community banking:

- Community banks help with the creation of jobs because they **play a significant role in funding small businesses**.
- Community banks support the local economy by **providing loans** in times of financial hardships.
- Community banks support special causes by providing monetary **donations to local nonprofits**.
- Community banks offer online banking, fraud protection, and percentage rates for savings accounts (Community Banking, 2019).



CONCLUSION

The creation of the Community Reinvestment Act (CRA) developed in a series of acts to prohibit discrimination against the minority population and to empower them financially. Despite its good intentions, the CRA requirements are not being met by the larger financial institutions in communities that are made up of Black Americans because of weak federal enforcement. FDIC and OCC proposed revisions illustrate redlining in a subtle form by limited marketing in LMI areas and the geography of financial institutions. The reforms necessary for the CRA's success will continue to be a matter of debate for community members, bankers, and policymakers.



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APPENDICES

APPENDIX A

Summary of Proposal to Modernize Community Reinvestment Act Rules

The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) are soliciting comment on a proposal to modernize Community Reinvestment Act (CRA) regulations by clarifying what counts, updating where activity counts, measuring performance more objectively, and making reporting more timely and transparent.

The proposed rule would apply generally to all insured depository institutions regulated by the OCC and the FDIC, including national banks, state-chartered banks that are not members of the Federal Reserve System, and federal and state savings associations (banks). These banks conduct approximately 85 percent of all CRA activity across the country. The proposed rule is intended to encourage covered institutions to better serve their communities, including low- and moderate-income (LMI) neighborhoods by increasing lending, investment, and services in areas that need it most.

APPENDICES

APPENDIX A - CONT'D

Clarifying What Counts

The proposal would clarify what qualifies for CRA credit by requiring regulators to develop, publish, and maintain a publicly available list of pre-approved CRA activities. The list would be illustrative, not exhaustive, and would be updated regularly. The proposal would establish a process for stakeholders to submit additional items for inclusion on the list.

Updating Where Activity Counts

The proposal would update where activity counts today by preserving the current approach of evaluating CRA activity in geographies surrounding headquarters, branches, and deposit-taking ATMs as well as areas where banks conduct a significant volume of retail lending. In addition, the proposal would require banks to designate additional assessment areas where they draw a significant portion of their deposits, if outside their facility-based assessment areas.

APPENDICES

APPENDIX A - CONT'D

Measuring CRA Performance More Objectively

The proposal would measure CRA performance more objectively by assessing the distribution and the impact of a bank's CRA activity. The proposal would require examiners to assess what portion of a bank's retail lending is targeted to LMI individuals and areas within their assessment areas and to evaluate the impact of that activity by comparing the ratio of the value of all of a bank's CRA activity (lending, investment, and services) divided by its retail deposits to an objective benchmark in each assessment area and at the overall bank level. These two measures for distribution and impact would establish a bank's presumptive rating, which an examiner would adjust using her judgment regarding performance context and considering evidence of discriminatory or other illegal credit practices.

APPENDICES

APPENDIX A - CONT'D

Making Reporting More Transparent and Timely

The proposal would make reporting more transparent and timely by making evaluations more objective, providing clearer definitions of qualifying activities and data elements, clarifying recordkeeping requirements for banks, and establishing standardized reporting for banks. Stakeholders would have access to annually reported data to assess industry trends and individual bank progress. More objective measures would focus examinations on validating data submission and bank processes, applying performance context, and considering discriminatory or other illegal practices in assigning a final rating. Performance Evaluations could be streamlined, which would reduce the time required to produce these reports.

Encouraging More Lending, Investment, and Services

The proposal would encourage more lending, investment, and services by clarifying and expanding the types of activities that qualify and objectively measuring their value.

APPENDICES

APPENDIX A - CONT'D

Reducing CRA Deserts and Hot Spots

The proposal would help reduce CRA deserts and hotspots by clarifying when banks can receive credit outside their CRA assessment areas, requiring banks to designate additional assessment areas where they have concentrations of deposits outside their facility-based assessment areas, and providing banks more flexibility to serve areas with identified needs, including in LMI census tracts, distressed areas, underserved areas, and Indian country.

Focusing on LMI Individuals and Areas

The proposal would increase the focus on LMI individuals and areas by evaluating what portion of a bank's retail activity targets LMI individuals and areas and by providing credit for certain activities to LMI borrowers or certain activity in LMI areas.

APPENDICES

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Preserving Branches While Embracing Changes in Delivering Bank Services

The proposal preserves the importance of branches, particularly in LMI areas, by retaining the existing approach to designating assessment areas around branches and providing banks credit for the portion of their branches that are in LMI areas within their assessment areas. At the same time, the proposal would support the evolution of banking services by requiring banks that draw a significant portion of deposits from outside their branch-based assessment areas to designate additional assessment areas where they have a concentration of deposits.

Increasing Support for Small Businesses and Small Farms

The proposal would increase support for small businesses and small farms by raising the eligible size of loan that qualifies as a small business loan or small farm loan in LMI areas and indexing that ceiling to inflation going forward. The proposal would also provide credit to banks for certain lending to family farms regardless of the location of the farm.

APPENDICES

APPENDIX A - CONT'D

Increasing Support to Rural and Underserved Areas

The proposal would increase support to rural and underserved areas by articulating specific criteria for qualifying community development activities, providing credit for family farms, and providing credit for certain activities that serve areas in need of financial services (including LMI communities, rural and urban areas, and areas targeted by a federal, state, local, or tribal government for development).

Provide Flexibility to Small Banks

The proposal also would provide an opt-in for small banks to allow banks to determine whether to be evaluated under existing criteria or the revised framework based on their unique business models.