NCRC

OPENING DOORS TO
ECONOMIC OPPORTUNITY

MANUAL

CRA 101

About NCRC

NCRC and its grassroots member organizations create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fairness in banking, housing and business development.

Our members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority and women-owned business associations, and social service providers from across the nation.

For more information about NCRC's work, please contact:

John Taylor
President and CEO
johntaylor@ncrc.org
(202) 688-8866

Jesse Van Tol
Chief Operating Officer
jvantol@ncrc.org
(202) 464-2709

Nicole Barden
Director, Membership & Organizing
nbarden@ncr.org
(202) 464-2724

Contents

Introduction

National Community Reinvestment Coalition (NCRC) members stand on the front line in the fight for a just economy in which all communities can prosper. Of all the tools at our disposal, the Community Reinvestment Act (CRA) is primary. A transformational piece of legislation, CRA establishes a framework for partnerships between community groups and banks, a partnership whereby banks not only profit from the communities they reside in but also maintain an obligation to serve and reinvest in those same communities.

While the spirit of the legislation itself is transformational, in practice it only works if we do. This document is designed to empower NCRC's membership to make sure that CRA works. After reading it, you will not only have a better understanding of CRA but will be prepared to use the framework it creates to advocate on behalf of your community. This booklet is not an academic resource but a how-to manual for community organizations and other stakeholders who desire to see their communities prosper. Whether you hope to better understand how CRA can work for your community, how to approach meetings with bank officials or simply how to be a more proficient advocate for low- and moderate-income communities, this document will be a powerful resource.

This document is broken into two sections, *CRA 101* and *CRA Action: Points of Engagement*. *CRA 101* introduces CRA and *CRA Action: Points of Engagement* provides information on how to make CRA work for your community. NCRC members are provided with another document titled *CRA Strategies* that goes into more detail on how to conduct a successful CRA campaign, including a number of helpful resources such as sample comment letters and public benefit agreements.

After reading this, we encourage you to become more engaged with CRA advocacy and to partner with NCRC in doing so. We at NCRC are committed to our members and the prosperity of the communities they represent. Our staff is not only committed but also prepared to offer expertise on a variety of CRA and broader community development matters. Together, we are building a just economy!

CRA Background and Impact

CRA was passed by Congress in 1977 to encourage deposit-taking banks to reinvest in the communities where they operate. The law was passed to combat "redlining" – a practice where banks would not issue loans in neighborhoods with high populations of low- and moderate-income or minority residents.

CRA requires banks to meet the credit needs of all communities, including low- and moderate-income areas, consistent with the safety and soundness of the banks' operations. The law created a framework wherein community organizations, banking regulatory agencies and financial institutions interact in assessing how well a financial institution is meeting the needs of disadvantaged communities.

This framework has proven critical in promoting greater investment and service in areas that banks might otherwise disregard. In the three decades since Congress passed CRA, lenders and community organizations signed $6 trillion worth of CRA agreements, resulting in loans and investments for affordable housing, small businesses, economic development, and community service facilities in minority and low- and moderate-income neighborhoods.[1] A Federal Reserve study found CRA agreements increased bank lending to minorities and low- and moderate-income borrowers by up to 20 percent.[2]

While CRA agreements are not required by the law, they often came into being as a result of community organizations using the regulatory points of engagement that are created through the framework of CRA. This document will explore those potential points of engagement and how community organizations can use them to increase investment in their communities.

1 NCRC's "CRA Commitments," which includes $4.6 trillion in commitments. See http://www.ncrc.org/images/stories/whatWeDo_promote/cra_commitments_07.pdf
After the CRA Commitments publication, Bank of America pledged $1.5 trillion when it was acquiring Countrywide. See http://newsroom.bankofamerica.com/index.php?s=press_releases&item=8152

2 Raphael Bostic and Breck Robinson "Do CRA Agreements Influence Lending Patterns?" July 2002, available via https://lusk.usc.edu/research/working-papers/do-cra-agreements-influence-lending-patterns

How CRA Works

CRA was enacted in 1977 and states that *"regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered."* CRA establishes a framework for monitoring banks' performance in serving low- and moderate-income communities and also requires that banks' lending and investing practices are consistent with safe and sound business practice.

Examination Process

CRA establishes a regular schedule of examinations for banks that are insured depositories – mortgage companies and other financial institutions that do not take deposits are not currently subject to CRA.

The federal agencies that conduct CRA examinations are the Office of the Comptroller of the Currency, which examines nationally chartered banks and savings and loan institutions; the Federal Deposit Insurance Corporation, which examines state-chartered banks; and the Federal Reserve Board, which examines state-chartered banks that are a part of the Federal Reserve System.

When conducting the evaluations, examiners consider the "performance context" of the financial institution. In other words, examiners are advised to consider factors such as the economic conditions and business opportunities available to a lending institution and its size and financial condition. Examiners may, and should, also speak to local community organizations to get a better sense of the needs of low- and moderate-income people in the community and to hear how the bank is perceived locally.

Although CRA does not explicitly cover racial discrimination, a CRA rating can be downgraded if a federal agency uncovers evidence of illegal, abusive, or discriminatory lending on fair lending exams that occur approximately at the same time as CRA exams. It is critical that community groups bring fair lending concerns to the attention of CRA examiners if they know of abuses and improprieties.

Examiners are required to consider public comments, a key part of the process that allows people and organizations from the community where the bank operates to give candid feedback about the bank's local performance. CRA establishes different tests for lending institutions based on asset size and bank structure. It also provides an option for banks to write their own strategic plan. The different kinds of examinations based on asset size are explained below.

Large Bank Exam

Lending institutions with assets greater than approximately $1 billion, commonly known as large banks, undergo the most rigorous exams. They are primarily evaluated under a lending test that considers the number and percentages of loans made to low- and moderate-income individuals and census tracts. They are also evaluated under an investment test and a service test that consider the number and types of investments and services (branches and bank accounts) in low- and moderate-income communities, respectively.

Mid-Size Bank Exam

In 2005, the federal agencies established a streamlined exam for "intermediate small banks" (institutions with assets of approximately $250 million to $1 billion, with an asset range adjusted annually for inflation). These intermediate small banks or mid-size banks undergo a lending test and a community development test. The community development test incorporates elements of the large bank's investment and service tests. The community development test scrutinizes the amount and responsiveness of a mid-size bank's community development lending, investing, and services. Unfortunately, the mid-size banks are not required to report small business or community development lending data.

Small Bank Exam

Small banks (institutions with less than approximately $250 million in assets) are evaluated under a test that encompasses less than the evaluations of their larger counterparts. Small banks are not subject to investment and service tests. Their lending test consists of the following five criteria: a loan-to-deposit ratio analysis; the percentage of loans in a bank's assessment area; a bank's distribution of loans to individuals of different income levels and businesses and farms of different sizes; the geographic distribution of loans; and a bank's record of responding to written complaints about its lending performance in its assessment area.

Wholesale and Limited Purpose Bank Exam

The traditional framework of CRA focuses on banks that use consumer deposits to make home mortgages and other loans, but wholesale and limited purpose banks are also assessed under a test tailored to their capabilities. These banks provide services such as offering credit cards, or specialize in large commercial deposits. Lending tests cannot adequately assess wholesale and limited purpose banks because many of these banks do not accept consumer deposits or make retail loans. Instead, examiners focus their evaluation of these banks on their number of community development loans and investments, such as construction loans for housing developments, Low Income Housing Tax Credits (LIHTC), or investments in organizations that finance small businesses. The tests for mid-size and large banks also consider community development loans and investments.

Strategic Plan Option

Any lending institution can choose to develop a strategic plan in lieu of a regular examination. Developed in consultation with neighborhood organizations, a strategic plan seeks to satisfy the credit needs of a bank's assessment area and must address the lending, investment, and service criteria that would have been part of the usual evaluation. Federal regulators must approve the strategic plan and rate it at least "Satisfactory." If a bank receives a lower rating on its plan, it has the option of submitting to the applicable tests for large, small, or limited purpose banks.

Examination Ratings and CRA Enforcement

Banks receive a rating based on their evaluations. The bank receives an overall rating and a rating on each of the tests it undergoes. Banks that operate in a larger footprint receive a rating in each "assessment area," or market where they have branches.

The ratings a bank can receive are:

- Outstanding
- Satisfactory
- Needs to Improve
- Substantial Noncompliance

The last two scores are considered failing and can result in delays or denials of mergers, acquisitions, or expansions of services. If a lending institution receives one of these ratings because it is not adequately serving low- and moderate-income borrowers and neighborhoods or borrowers and neighborhoods of color, regulatory agencies can delay or deny that institution's request to expand their business through mergers, opening branches or expanding their services.

CRA Action: Points of Engagement

The actions of financial institutions have lasting, tangible impacts on communities, and community organizations have a vested interest in ensuring that banks are held accountable for their actions, good and bad. Fortunately, enforcement of CRA includes important elements of public accountability.

Banking regulators are required to consider comments from the public in evaluating a bank's CRA performance or in determining whether or not to approve an application for banks to merge or open new branches. Community members, and organizations that represent them, interact with local banks on a regular basis. They are equipped with first-hand knowledge about the implications of a bank's practices within their communities. Federal agencies are ultimately responsible for assessing a bank's performance and regulating it accordingly, but agency examiners can only see a snapshot of a bank's interaction with low- and moderate-income consumers and neighborhoods without regular feedback from local organizations.

NCRC encourages member organizations to be active in monitoring and responding to bank activity in their communities. NCRC's own work has shown how using CRA can create a dialogue between banks and local organizations about how to increase investment in their communities. The section below explores different points of engagement that are created within the framework of CRA, and also gives examples of how NCRC and our member organizations have used these leverage points to increase investment in low- and moderate-income communities.

On a quarterly basis, NCRC publishes a CRA Action Alert which lists upcoming opportunities to influence bank activity in your community that can be used as points of engagement.

CRA Exam Comments

Examiners (individuals at the federal regulating agencies) conducting CRA examinations are required to consider comments submitted by members of the public. Timely comments can influence a bank's CRA rating by directing examiners to particular areas of strength or weakness in a bank's lending, investments, or services in low- and moderate-income neighborhoods. Community organizations can submit a comment to a bank's CRA file at any time, even when it is not up for its CRA performance examination. In that case, the comment letter will be considered the next time the bank is due for its exam. Banks generally do not want critical letters in their CRA file. Submitting a comment to regulators in this way, and sending a copy to the bank, is a possible approach to initiate a relationship with the bank and a step toward meeting with the bank to achieve your goals.

Comments submitted on CRA exams should speak to a community member's experiences with the bank, positive or negative. Comments should be grounded in data as much as possible, and should focus on the bank's performance in meeting community needs. More than any other entity, community organizations in low- and moderate-income neighborhoods are able to speak to what the banking needs of their communities are, and how well those needs are being met. If you are interested in submitting a comment letter, NCRC provides analysis of a bank's lending, investment and service activity in your neighborhood or city to members free of charge.

Examinations focus on particular areas where the bank does business, and the bank receives ratings for each of those markets. Comments can have an influence on the overall CRA rating for a market or one of the component tests – lending, investment, or service – on the CRA exam. Even changing a rating from an "Outstanding" to "Satisfactory" in one market or one component test can motivate a bank to increase the number of loans, investments, and services to low- and moderate-income communities.

Success Story: BBVA Compass Bank CRA Exam, 2014

In 2014, NCRC member organizations submitted comment letters on the upcoming CRA exam of BBVA Compass Bank, a nearly $80 billion bank headquartered in Birmingham, Alabama. The letters brought up the bank's levels of community development activity and its lending record to low- and moderate-income and minority borrowers. An examination by the Federal Reserve resulted in BBVA Compass receiving a "Needs to Improve" rating on its CRA evaluation.

The impact of a bank of this size failing its examination is serious – BBVA Compass Bank faces restrictions on its ability to expand its footprint or open new branches. In order to address the issues raised by NCRC's member organizations, BBVA Compass announced an $11 billion public benefit commitment to low- and moderate-income communities over five years. This includes $6.2 billion in lending to small businesses, $2.1 billion in home lending to low- and moderate-income borrowers, and $2.7 billion in community development and investments. Additionally, the bank agreed to hire new staff for a new department that would centralize community development functions and provide a more direct connection to the bank's leadership. This type of activity provides an example for other banks as they pursue stronger CRA performance.

Mergers and Acquisitions

One of the greatest opportunities for CRA engagement is when a bank applies to merge with or acquire another bank. As with a CRA exam, banking regulators are required to look at a bank's previous performance, but in the case of a merger they must also assess whether or not a bank's projected future performance will create even greater value for the community. Banks are required to include a forward-looking "convenience and needs" assessment in their application, which is meant to demonstrate how the merger will create a public benefit.

Community organizations can offer written comments on a bank's performance when a bank has submitted an application to merge or acquire another bank. These comment letters can explore a bank's prior CRA and fair lending performance and the bank's branching pattern. They can also respond to the bank's newly proposed public benefits or lack of adequate benefits.

The vast majority of merger applications are approved, but, even if a merger is permitted, challenging a bank merger can still produce significant benefits for low- and moderate-income communities. Submitting comments asking the regulatory agency not to approve the application can significantly delay the approval process, which costs the bank time and money. The average merger approval process (without public opposition) lasts 50 days, but that approval time increases to an average of 212 days—more than half a year—with public opposition. Because of the threat of delays, banks are often willing to negotiate about public benefits, particularly if they have clear areas of weakness in their performance. This can be used as leverage to formalize commitments designed to better serve a community through a public benefits agreement. A sample public benefits agreement is provided to NCRC members.

A federal agency can approve the merger application but still indicate in the approval order that the bank should improve upon its area of weakness or approve the order under specific conditions. Community members should engage regulatory agencies throughout the process of formulating a public benefits agreement with a bank to encourage the agency to include the agreement in any conditional merger approval.

Success Story: Midland States Bank, 2014

In 2013, NCRC and its members challenged the merger of Midland States Bank, a $1.8 billion bank from Effingham, Illinois, and Heartland Bank, a smaller lender based in St. Louis, Missouri. Comment letters submitted by NCRC and its members showed that Midland States had a lack of applications and loans to minority borrowers and a dearth of branches in low- and moderate-income and minority neighborhoods. Based on the data in these letters, the Metropolitan St. Louis Equal Housing Opportunity Council, an NCRC member, filed a fair lending complaint with the U.S. Department of Housing and Urban Development (HUD), which pursued the case.

In response to the concerns raised, Midland States Bank entered into a public benefits agreement that pledged $16.6 million to minority communities over three years. The agreement included a commitment to open three new branches in minority areas and $15 million in home lending programs for minority borrowers. The commitments made by the bank were mentioned broadly in the final approval order written by the Federal Reserve for the merger, which was not approved until after the agreement was signed.

Branch Closures

The closure of a bank branch can have a devastating effect on low- and moderate-income communities. For many, bank branches are the clearest route to the financial mainstream. Additionally, branches serve as anchors of economic development and sources of stable jobs in low- and moderate-income communities.

Banking regulators cannot prevent a bank from closing a branch, but if the closure occurs in a low- or moderate-income census tract, community members can request that the bank's regulator hold a community meeting with the bank to discuss how the neighborhood will still receive vital banking services without a branch. In some cases, these meetings can also be points of leverage to encourage the bank to either keep the branch open, donate the branch building to a local credit union, increase funding for local community organizations or other commitments to continue to serve the neighborhood in different ways.

Even if the branch still closes, the dialogue begun by submitting a comment letter and participating in a community meeting is invaluable since it can help build a coalition focused on the banking and capital needs of the affected neighborhoods and begin the process of forming productive relationships with the banks doing business in your community.

Success Story: Bank of Hawaii, 2013

In the winter of 2013, Bank of Hawaii announced that it would be closing the last two branches it operated in the U.S. territory of American Samoa. These two branches were the last remaining American bank branches in the territory, and their closure would have serious ramifications for Samoans. Forced to open accounts with a bank based in New Zealand – the only other bank on the island – Samoans would have to wait weeks for checks from American banks to clear (including many of their paychecks), and would no longer be able to continue the common practice of sharing bank accounts with family members in Hawaii or the continental U.S.

NCRC members in Hawaii sent a letter to the Federal Reserve requesting that a meeting be held to discuss alternatives to the closure. Representatives from Bank of Hawaii, the Federal Reserve Bank of San Francisco, and local community organizations attended a broadcast hearing held simultaneously in Honolulu and Pago Pago, American Samoa. Testimony from Samoans about their irregular access to technology and difficulties they would endure in switching banks made a clear impact on the CEO of Bank of Hawaii. By the end of the hearing, he announced that the branches would stay open a few more months, which eventually transformed into an indefinite extension until a local bank could be chartered. As of February 2016, one Bank of Hawaii branch was still open in the territory as a locally chartered bank prepared to open.

Local Responsible Banking Ordinances: Another Opportunity for Engagement

NCRC members have worked in coalitions to pass local responsible banking ordinances. While these ordinances may take a variety of forms, at their core, they are designed to increase transparency about the local performance of banks that receive taxpayer money. These ordinances can have a transformative effect on a community by shining a light on the practices of institutions that public agencies contract with.

Conclusion

The knowledge in this document is a result of NCRC's 25 years of experience engaging with banks on community reinvestment campaigns. In particular, NCRC's Organizing Department has engaged NCRC members to undertake successful CRA-related campaigns and win. Even though the work of increasing community reinvestment and rejuvenating a long-standing regulatory system is slow, the examples we provided earlier are noticeable changes that have occurred in bank and regulatory behavior in the past few years. With even greater participation from community organizations in this process, the success stories are sure to grow as well.

CRA is only as strong as the community organizations that use the processes it creates. We hope that you'll join us in using it to increase investment in your community.

How NCRC Can Help

NCRC members work with a Regional Organizer who is part of the NCRC staff. Your Regional Organizer will support and assist you in forming partnerships, providing resources and information, and organizing campaigns of any size. Please contact your Regional Organizer if you would like to discuss any of the above CRA organizing suggestions, or if you have an idea you'd like to explore. Your Regional Organizer can provide materials, resources, planning and strategic support necessary to organize a successful local or regional campaign. In addition, if CRA campaigns are being organized in your locality, state, or region, you will receive information on how to get involved with them as well as the quarterly CRA Action Alert. If you are not an NCRC member, you can learn more about membership by visiting ncrc.org or by calling us at 202.628.8866.

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727 15th Street, Suite 900 • Washington, DC 20005

www.ncrc.org