

NEW YORK STATE'S COMMUNITY REINVESTMENT ACT:

PUBLIC DISCLOSURE AND YOUR COMMUNITY

Why you should know and what you can do . . .

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Fellow New Yorkers:

I am pleased to forward a copy of "New York State's Community Reinvestment Act: Public Disclosure and Your Community" to your organization.

This report was written in response to the New York State Banking Department's release of its 1985 CRA ratings and narrative reports on the 168 state-chartered banks under its supervision. Public disclosure of the ratings was authorized in 1984 and represents another link in the hard-won victories of the Home Mortgage Disclosure Act (HMDA-1984) and the Community Reinvestment Act (CRA-1975). These legislative and regulatory acts provide the public with the "right-to-know" whether or not banks are meeting the affirmative credit needs of the communities who provide the backbone of their businesses, and a means to redress any grievances.

New York was the first, and remains only one of two states, to authorize public disclosure of CRA ratings. The response of our communities will play a key role in future banking legislation on this issue. As the report states, ". . . public disclosure of CRA ratings will have meaning only if everyone concerned -- banks, regulators, and community residents -- provides the information necessary for a substantive review of every bank's compliance with CRA."

40 Years of History

30 Years of Law

In this light, the report examines and evaluates some of the problems in the Banking Department's current system of ratings and summaries. The recommendations include a step-by-step description for community groups on when and how to use banks' CRA files, which are a key aspect of the assessment process.

The Commission's goal, and the purpose of this report, is to further educate the public on the meaning and implications of CRA ratings and public disclosure, and, ultimately, to further the use of CRA as an important tool for meeting the diverse credit needs of our low- and moderate-income neighborhoods.

"New York's Community Reinvestment Act: Public Disclosure and Your Community" was prepared by the Commission's Reinvestment Unit, an office of our Neighborhood Stabilization Program (NSP). The Unit provides research capabilities and technical assistance to NSP field offices and to non-profit community groups interested in addressing the issue of reinvestment. The Unit also monitors and evaluates proposed and existing banking regulations, and maintains a resource library for the public. Please let us know if the Unit's staff can be of any further assistance to you on the issues covered in this report.

Sincerely,

A handwritten signature in cursive script that reads "Marcella Maxwell". The signature is written in dark ink and is positioned above the printed name.

Marcella Maxwell,
Chairperson

In 1984 New York became the first state to authorize public disclosure of Community Reinvestment Act (CRA) ratings of state chartered banks. Public disclosure of this information has been a major issue for low- and moderate-income communities since CRA was passed by Congress in 1977 and subsequently adopted by New York State. In April of this year the NYS Banking Department made available for the first time both the 1985 CRA ratings of the 168 banks it supervises and the accompanying "narrative summaries" which describe the information about each bank's performance that determined its rating. Thus far, regulators for federally chartered banks have not authorized public disclosure, and only one other state, Minnesota, has followed New York's lead.

The purpose of this report is to acquaint community groups and concerned citizens with the significance and implications of public disclosure and to suggest some of the problems with the Banking Department's current rating system and reporting procedures. We hope this information will enable community organizations to better understand and employ CRA as part of their overall strategy for meeting the needs of low- and moderate-income residents.

The Community Reinvestment Act was developed in response to the serious problem of bank disinvestment, or "redlining," in inner-city neighborhoods during the 1970s. CRA mandates, ". . .

each supervisory agency to use its authority when examining financial institutions to help meet the credit needs of the local communities in which they are chartered [Furthermore,] in connection with its examination of a financial institution, the . . . agency shall (1) assess the institution's record of meeting the credit needs of the entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institutions; . . ." (See Attachment A)

In New York State, Part 76 of the General Regulation of the Banking Board requires the Banking Department to make annual community reinvestment assessments of all state-chartered banking institutions. These assessments are based upon information compiled by the Banking Department or obtained through other sources. Using this information, a written report summarizing the results of the assessment is prepared for each bank and a numerical rating from 1 ("excellent performance") to 5 ("unsatisfactory") is assigned. This rating is based, in part, on twelve assessment factors (see Attachment B) as they relate to the following five performance categories:

- (1) community credit needs and marketing;
- (2) types of credit offered and extended;
- (3) geographic distribution of credit applications, credit extensions, and credit denials;
- (4) discrimination and other illegal practices; and
- (5) community development.

In practice, both the language of CRA and the New York State rating system leave open a wide latitude for interpretation --

the interpretations of banks, regulators, and communities -- as to how banks are meeting their affirmative obligations under CRA. But CRA does provide communities with an important tool to use in their efforts to revitalize. Under CRA, community groups can challenge a bank's application to open a branch, merge with another institution, or acquire another institution. Newsletters listing these applications are available free of charge from the regulatory agencies.

For instance, a community group may research a state-chartered bank's lending history and practices in their area, which would include a review of the regulator's previous ratings and assessments, and decide that a bank is not meeting its local CRA obligations. The group will then contact the bank to meet and discuss the area's un-met credit needs. The bank's regulator(s) should receive copies of all correspondence and be kept informed of all discussions. If negotiations with the bank do not produce a satisfactory resolution, the group will file a challenge with the regulator, arguing, for example, that bank X's application to open a branch in a suburban township should be rejected until they improve their CRA performance in the community initiating the challenge. The regulator assumes the role of mediator in this dispute.

In the case of federally chartered banks, however, the community is not privileged to the information gathered by the regulator on the bank's overall performance. In other words, the community engages in this process without having any idea of the regulator's past and present assessment of the bank's activities

with regard to CRA. This situation, which is so unfavorable to the community, was the catalyst for New York State's commendable authorization of public disclosure of CRA ratings and narrative reports. Without public disclosure, it can be argued, CRA assessments and ratings are an internal process between regulators and banks which exclude the very communities the law was designed to serve.

In theory, therefore, public disclosure is a significant step toward fulfilling the goals of CRA: it provides concerned communities with more information than they might otherwise have access to, and enables them to hold both the bank and the supervising agency accountable for the validity of the CRA assessments.

Unfortunately, New York State's first complete set of ratings and narrative summaries demonstrates some serious problems which effectively prevent them from being truly useful to the public. Taken as a whole, it is evident that the Banking Department has not yet developed a thorough and credible method of collecting, evaluating and presenting their information.

This is initially suggested by the fact that of the 168 banks assessed by the Department, 159 were rated a "2 - satisfactory performance", while only 3 were rated "1 - excellent," and 1 bank was rated "3 - acceptable (National Savings Bank of the City of Albany." The accompanying narrative summaries which outline the basis for these ratings do not provide any obvious justification for or against the Department's conclusion that approximately 95% of New York State's banks are "satisfactory" in their CRA performances.

Some of the more apparent problems with the narrative summaries are:

1. Most of the summaries have a paragraph that mentions the delineation of the bank's service area; the loans originating within the bank's service area; and the loans originating from low- and moderate income areas within the service area. The information covers #3 of the five performance categories (listed above) that the Department uses in its assessments. This kind of data is highly significant because it has been used by groups concerned with redlining as an indicator of patterns of bias or discrimination in a bank's lending practices.

A review of the summaries, however, reveals that it is impossible to determine the means by which a bank's lending practices within its service area and in particular low- and moderate income neighborhoods was evaluated. For instance, while some summaries specified the percentages of loans originating in low- and moderate income areas, other summaries never address the subject and some use vague phrases like, "significant percentages." Since 159 banks were rated "2," how much weight this crucial information was given in the overall assessment procedures remains unclear. Given that CRA is essentially a credit-based law, a more systematized approach to the assessing and reporting of credit activities is needed.

2. One of the mandates of CRA is that banks must produce a public statement of their policies with regard to the law and keep a file available to the public of all correspondence to and from the bank concerning their CRA performance in the communities

they serve. A brief survey conducted by the Commission indicated that both the access to and availability of the CRA statements and files varied widely: some banks had CRA statement brochures readily available in all the branches surveyed and CRA files available in at least one location within every borough in which branches were located; other banks had no CRA statement brochures for distribution to the public and the CRA file was available only in the administrative headquarters of the bank.

Even though all the banks surveyed on this point were in "technical compliance" with the law, these differences suggest significant disparities in the seriousness with which different banks view this aspect of CRA. Although some of the narrative summaries mention technical compliance on this issue, there is no mention or evaluation in any of the summaries of the efforts taken by individual banks to make their CRA materials accessible to the public.

3. Last but not least is the problem of independent verification of banks' CRA performances. Many of the summaries state that the banks maintain close ties with community groups in order to ascertain the credit needs of their market and service areas, but these claims originate with representatives from the banks. The Banking Department does not contact independent community organizations annually in order to provide a diversity of viewpoints on a bank's programs and activities. Although this kind of independent verification would lend greater credibility to the Department's rating system, the burden of responsibility is effectively on community residents to provide commentary.

In practice, this means that groups concerned with local economic and credit needs should use the CRA files of all the banks that service their community! The CRA files of banks in the metropolitan area are severely under-utilized at present. Unfortunately, the files are often used only by groups confronting a dramatic problem such as a branch closing or an obvious, large scale divestment of mortgage funds (which for a variety of reasons is less and less a problem). The degree to which the credit and customer service programs of a bank are actually appropriate to a particular area's needs, or to the needs of a particular segment of the population (such as senior citizens, moderate-income homeowners, or non-profit housing developers who need low-cost financing for renovation or construction of housing affordable to low- and moderate-income residents) often goes if not unnoticed, then un-commented upon by community organizations. Increased use of the CRA files to comment on both the negative and the positive aspects of a bank's activities will go a long way towards improving the accountability and responsiveness of both banks and their regulators to our communities. Ultimately, public disclosure of CRA ratings will have meaning only if everyone concerned -- banks, regulators, and community residents -- provide the information necessary for a substantive review of every bank's compliance with CRA.

We hope the following recommendations on how and when to use CRA files will help make CRA and public disclosure of CRA ratings work for your neighborhood and all our communities.

RECOMMENDATIONS

I. The first step toward understanding and working with the financial institutions in your area is to undertake a community needs assessment. This entails researching the lending histories of banks and private mortgage companies in the categories of:

- a. residential mortgage lending to small homeowners and owners of multi-unit apartment buildings;
- b. home-improvement loans;
- c. rehabilitation loans for multi-unit buildings;
- d. commercial mortgage lending;
- e. commercial loans to small businesses.

(See Attachment D for resources.)

II. Find out what services your local banks offer, what programs they participate in, and how responsive they are to CRA issues. For example:

1. A simple way of reviewing the services offered by local banks is to subscribe to the NYS Banking Department's quarterly publication, "Consumer Guide to Bank Services." This free pamphlet lists the current services, fees and interest rates for all banks operating within the state. (See Attachment C for address.) Are the minimum balance requirements and/or fees and the types of credit programs offered appropriate for senior citizen and low- and moderate income residents?
2. Do your local banks participate in government programs that benefit low- and moderate-income residents, such as

the Home Improvement Program (H.I.P.), the Small Business Administration, and SONYMA? Have they made financial commitments to public/private sector development programs for affordable housing in the metropolitan area?

3. Obtain copies of your banks' CRA statements and review their CRA files.

III. Bring together leaders from all segments of your community, e.g. tenants, business persons, and homeowners to assess and discuss local credit needs and reinvestment issues. This group can then provide further education and information to residents on the concerns that have been identified.

IV. Open-up lines of communication with appropriate representatives from your local banks!

V. On this basis -- a needs assessment, a profile of banking practices and programs, and discussions with community and bank representatives -- use the CRA files! You can comment on any of the aspects described above. Request in the letters that your correspondence be placed in the institutions' CRA files and remember to send a copy of all your correspondence to the appropriate regulator(s). (See Attachment C) Keep in mind that

letters providing both positive and negative feedback will be helpful in creating a responsive relationship between your community, banks, and regulators.

YOUR LETTERS WILL SEND A MESSAGE TO BANKS AND THEIR REGULATORS THAT NEW YORKERS ARE CONCERNED ABOUT THE VITAL ROLE THESE INSTITUTIONS PLAY IN THE ECONOMIC HEALTH OF OUR COMMUNITIES.

ATTACHMENT A

CRA

TITLE VIII-COMMUNITY REINVESTMENT

SEC. 801. This title may be cited as the "Community Reinvestment Act of 1977."

SEC. 802.(a) The Congress finds that-

(1) "regulated financial institutions" are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

SEC. 803. For the purpose of this title-

(1) the term "appropriate Federal financial supervisory agency" means --

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to state chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies:

(2) the term "regulated financial institutions" means an insured bank as defined in Section 3 of the Federal Deposit Insurance Act or an insured institution as defined in Section 401 of the National Housing Act; and

(3) the term "application for a deposit facility" means an application to the appropriate Federal

ATTACHMENT A, CONT.

financial supervisory agency otherwise required under Federal law or regulations thereunder for--

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered State bank, savings bank, savings bank, saving and loan association or similar institution;

(C) the establishment of a domestic branch or other facility with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under Section 18(C) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under Section 3 of the Bank Holding Company Act of 1956 or Section 408(e) of the National Housing Act.

SEC. 804. In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall--

(1) assess the institution's record of meeting the credit needs of the entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such institution; and

(2) take such record into account in its evaluation of an application for a deposit facility by such institution.

SEC. 805. Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

SEC. 806. Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

ATTACHMENT B

CRA ASSESSMENT FACTORS

There are 12 "assessment factors" that bank regulators are mandated to employ in determining how and if a bank is meeting its obligations under the Community Reinvestment Act (CRA). These are:

1. What methods did the bank employ to determine the credit needs of the community?
2. What efforts did the bank make to publicize its loan programs?
3. To what extent did the bank's Board of Directors participate in the establishment of its CRA policies?
4. Did the bank have any practices which would have discouraged applicants from applying for credit?
5. What was the geographic distribution of the bank's credit extensions (loans granted), credit applications (loans applied for), and credit denials (applicants denied credit and their addresses)?
6. Is there any evidence that the banks engaged in illegal and/or discriminatory practices?
7. The bank's record of opening and closing branches.
8. The bank's participation in local community development programs and reinvestment projects.
9. The banking institution's record of housing-related loans in the community, either originated by the bank or purchased from another financial institution.
10. The bank's participation in government-insured loan programs for housing, small businesses, or farms.
11. The bank's ability to meet community credit needs based upon its size, financial condition, local economic development, and other factors.
12. Other factors in the regulatory agency's findings that reflect upon the bank's record of meeting community credit needs.