

Beyond CRA

**Ellen Seidman
Director, Office of Thrift Supervision**

**Greenlining Institute
San Francisco, CA
October 2, 2001**

Thank you very much for being here today. I appreciate Greenlining's arranging this opportunity to talk with you. For most of you, it is likely the last time I will speak with you as OTS Director. I hope I will continue to be able to work with you as a colleague and friend—and trusted as someone who cares. You know I will speak my mind in an effort to move us all toward the goals we share—building and rebuilding communities and lives, in the context of a safe and sound, well-functioning financial services sector.

I've titled this talk "Beyond CRA." Not only because it always helps to have a somewhat provocative title for a talk if you're to get people to listen, but also because I believe it is critical that we all start thinking beyond CRA. The Community Reinvestment Act has served us well, if sometimes a little inefficiently, for at least the past decade, and it is essential that it remain in place. Moreover, I believe there is much that can and should be accomplished in the regulatory review. I strongly urge all of you to be fully and thoughtfully involved in the process, and to work together as parts of a single system, not as adversaries, to provide the regulators with intelligent, implementable solutions to the problems and concerns you raise.

But the review cannot do it all. Much has changed during the last decade, and even over the period since the last regulatory rewrite, including changes wrought by CRA itself. We must recognize those changes and understand how to move Beyond CRA if we are to continue the progress we, and especially you, have achieved in making and keeping all our communities strong and healthy places to live and work for all Americans.

Let's start by talking about some of those changes, first with respect to the banking sector. Two trends we have all noted are that the industry has a declining share of the financial services market, and that it is consolidating at a fairly rapid pace. The declining market share compels us to look beyond banks. And everyone in the non-profit world regularly complains about the declining number of banks they have to work with and to receive funding from. But I want to lay out some of the less obvious issues that are associated with consolidation. I hear about these from people working in the community all the time; it's important that the banking community be aware of them too, since some of them can probably be overcome with additional awareness and effort.

First is the issue of civic leadership. For years, bankers were key civic leaders, not only in terms of visibility, but also in that they were able to bring together the entire business community—and frequently the government too—and raise funds. We now have major

cities—Los Angeles is one—with no large banking organization headquartered there. The local bankers who remain are indeed active participants, but the scale of what they are able to do has diminished. Who is taking the place of those former leaders? Or do we need an entirely new paradigm, with a greater degree of shared responsibility?

Second, consolidation has moved decision-making, including development of products and services, toward the center. Where once a local bank CEO sat on a local non-profit's board and could commit the bank, today at best there is a branch manager, who sometimes cannot even make a decision for the branch, and who may just have been transferred in—and may very well be transferred away soon. Where once the decision to invest in a major project could be made locally, it now must be made far away, where local conditions, needs and opportunities may not be fully understood or, even if understood, may not matter very much. Where once products and services could be tailored to local needs and opportunities, and could be made available in small quantities, today the push is for national consistency—need I remind you, the same thing bankers complain about with respect to Fannie and Freddie! Even with respect to CRA, we see this trend, with bankers wanting to make deals with national intermediaries, that often involve standardized products, rather than serve each locality they're in separately. Yes, the community bankers are still there, bless them, and some of the large institutions try to keep a fair degree of decision-making and financial support local, but something has gone away, and the communities are feeling the pain.

In this context, let's take a brief look at some of the issues raised by CRA itself that suggest that we need to move beyond it. First, the statute clearly has a location bias. It is not particularly incomes based. It is certainly not race based. In the consolidating world we've just been talking about; in a world in which funding increasingly comes from the capital markets rather than local deposits; in a world in which nationwide banking is increasingly the MO for all large institutions, this location bias creates difficulties of interpretation and evaluation.

Second, the statute, and the regulations as they now stand, are heavily credit-based, and moreover, in practice, heavily focused on mortgage lending because that's what's easy to count. Make no mistake about it. The massive improvement in mainstream depository institution credit extension to low and moderate income communities and individuals with respect to home mortgage lending over the past ten years has been one of the great successes of the American financial system. Our record homeownership rate, I'm convinced, would not have been reached without CRA and its close relative, the Fannie/Freddie requirements. But we all know there's more to a community than homeownership. Services, business lending, rental housing, investments—including infrastructure and transportation investments—are all essential to building a whole community. Some of this can perhaps be dealt with during the review, but my question is whether we can get beyond what “counts” to what “works.”

Third, although perhaps most obvious, the statute deals only with depository institutions. Efforts to bring in subsidiaries and affiliates, particularly those that do mortgage and consumer lending, raise legitimate concerns on both the “for” and “against” sides. But

once again, even with the subsidiaries and affiliates, and even taking Gramm-Leach-Bliley into account, we're talking about a declining portion of the financial services sector.

I want to turn now to the community side of why we need to get "Beyond CRA." For here too, there has been a sea-change in the last ten years. For one thing, as banks have been consolidating, community-based non-profits have been proliferating. This is a potentially deadly combination, and one that the non-profit community, and those who fund them, such as foundations, need to face up to. For every non-profit who has complained to me that they can't get funded any more because there are fewer banks in their area, I've had a bank complain that they're bombarded with requests from far more non-profits, many of whom appear to be doing the same thing, than they can responsibly fund, particularly at more than token levels. And while banks tend to respond to this by staying with a few older institutions they know well, foundations and other funders, including the government, continue to plough money into startups and projects, and not into operating support for institutions that have proven they can produce, and do it sustainably and efficiently.

It's important that those in the non-profit community ask some very difficult—often personally difficult—questions. What are we here for? Is it community improvement, however our community is defined? Are we accomplishing that? Or are we accomplishing "what we've always done," even if the needs or successful strategies are different now? Precisely why do those we serve need us, in particular? Are we better at what needs to be done, more efficient, better funded, better connected, more creative? Or is it that we've always been here, so we assume we must be doing something good? I've watched as people who work for OTS have tried to convince institutions whose markets have dried up and whose strategies do not seem to be successfully building new markets that the time to merge or liquidate is before they're broke—and it's hard. How much more difficult for a non-profit whose very existence is predicated on the notion that the community needs me, and that, moreover, may be personally identified with one or a few individuals! But it's analysis that must be done, and done analytically not emotionally, for the community's broader benefit.

For those in the affordable housing business, it's especially important to ask these questions, for two reasons. First, the fact is that many funders have decided—correctly in my opinion—that housing is not an end in itself, but must be part of a broader strategy that also has a focus on community building, jobs and income. Yet, most in the affordable housing community regard as pretty alien economic development, many of the social services that go into making a livable community, and issues such as effective infrastructure and transportation. While some affordable housing providers can add some of the broader needs to what they do, few, if any, can effectively add all. This is where a well-thought-through response to changing conditions, one that probably has more to do with alliances than with expansion, is essential.

The second reason those in the affordable housing business need to do some deep thinking is that we are likely entering a disquieting period in which the high homeownership rate we've worked so hard to build has the potential to turn on us. The combination of an economic downturn and increasing joblessness can be especially hard on low-income homeowners, whose new-found emotional attachment and financial responsibilities may make it even harder than it has always been to pick up and move on when the jobs disappear. Add high debt burdens beyond the mortgage, and the combination gets worse. I'm not saying we should cease trying to get low- and moderate-income families into their own homes. After all, for many, the question "compared to what?" answers itself. What I am saying is that those who have been doing this job for all these years now have new jobs to do:

- up front strategies to try to prevent over-extension;
- keeping tabs on those you've helped to make certain that you know at the first possible moment when they're having problems;
- working with lenders, government entities and others on foreclosure prevention and workout strategies; and,
- focusing more attention on non-homeownership strategies, such as mutual housing, that can develop good places to live while not overburdening a family financially or immobilizing them should the local economy change.

Why is this "Beyond CRA?" Because virtually none of it has to do with getting banks to make more commitments to provide individual credit. It has everything to do with looking inside each organization and the movement as a whole and reassessing how best to serve those who rely on it, even if sometimes that means changing who you are and what you do.

I'd like to turn now to some strategies that will help all of us make that move. Again, let's start with the banking sector. For those in the room who are OTS-supervised, much of this will sound familiar, because it's what we've been saying for some years now, and what was, to a great extent, the theme of our Leadership Conference in Atlanta last April.

In essence, the theme is: the people and places CRA was meant to benefit are, in many cases, precisely where the new markets and new business opportunities are. But turning opportunities into business and profit requires a long-term focus and up-front investment. That includes the kind of investment required for any new line of business: investment in understanding the market; hiring the people who can effectively serve the market; developing products and services that meet the market's need. But for the kinds of markets we're talking about here, the investment goes much further, on at least four dimensions. First, we're talking about investment not just in individual customers but in an entire community. Being part of building or rebuilding the community so that the customers want to stay there and have good reason—including jobs—to do so, is what makes the community a good place to do business.

Second, we're talking about serving the entire person, and sometimes the entire family or community. Whereas CRA has to some become largely about counting loans, Beyond CRA is about serving customers on multiple dimensions. Serving them not just with a

mortgage loan, but with the savings and investment products they need, the services—checking accounts, ATMs, money orders and remittances, bill payment, even check cashing if that’s what works—that make it possible for them to function in the financial mainstream, and ultimately the loan products they need not only for themselves but for their businesses and, often, their friends and family. And it means doing this while avoiding trading long-term opportunities for short-term gains. Sure, it’s hard when analysts are breathing down your back, but think of the other lines of business where you’ve made investments for the long haul. We now have enough success stories of institutions that have embraced this strategy to know it can be done.

Third, in many of the communities we’re talking about, government, certainly at the local level, but also at the county, state and national level, must also be part of the process, and thus financial institutions that want to maximize the likelihood that their investment will pay off, must be able and willing to work with government. As mentioned earlier, to some extent this is a return to an earlier day, when the bank-local government relationship was a strong one.

And fourth, financial literacy is a large part of what many Americans need, including especially those new to the financial mainstream. This goes well beyond housing counseling, and well beyond credit counseling. Many banks and thrifts have established financial literacy programs, primarily with schools, and these need to be evaluated, continued and strengthened. However, for the obvious reason that most of the population is well beyond school age, we cannot depend solely on schools. As providers of financial products and services, banks and thrifts need to be in the lead, working with other financial service providers, educators, governments and community-based organizations, and the media in extending literacy education into community centers, houses of worship, and other places those in need are likely to go to and likely to trust. And they need to pay attention to the needs of their own customers, especially the elderly and those with limited resources. Every mainstream financial institution should consider it an insult and a failure when one of their customers turns to a predatory provider of financial services rather than to them.

From the community based organization perspective, the challenge of going “Beyond CRA,” is in many ways the challenge of becoming more business-like without becoming a business, and without losing the soul that makes many CBOs effective. This means doing the high level things all good businesses must: developing a conscious strategy and revisiting it periodically; establishing measurable goals, monitoring results against them and making changes when results aren’t being achieved; making certain the staff, including board members, are competent to do the job you’re attempting to do; having discipline with respect to record-keeping and expenses; and establishing and maintaining strategic partnerships and alliances. CBOs and other non-profits who can achieve these disciplines present themselves as useful and effective partners, not only to those with a statutory and regulatory mandate for partnership but, more importantly, to those whose decision to partner will be based more exclusively on an assessment of what a non-profit partner can provide and how well it can do it.

To accomplish this goal, CBOs and other non-profits need to be working with all their funders, including governments and foundations, to reach a new understanding of what each will bring to the table. Non-profits will bring their better understanding of what they do, better controls and better evidence that they achieve desirable outcomes. Funders need, in particular, to face up to the fact that while start-up and project funding is more satisfying to the funder—there’s a “we did that” to point to—sustainable and effective non-profits desperately need operating funds. If both parties could be more outcomes oriented, moreover, some of the bureaucracy and red-tape of both government and non-government funding might be able to be reduced.

And what of both groups together? How do they collectively get “Beyond CRA?” First, by looking to add new partners. This work has already started with respect to portions of the financial services industry other than banks and thrifts. The insurance industry is, for example, under significant pressure here in California, as well as elsewhere, to become part of the kinds of coalitions banks, thrifts and CBOs have been working in for a decade; and to extend services on a truly fair and equitable basis to all communities. I believe substantial progress is being made, with one important effort the work of the National Insurance Task Force. As with the banking industry, focusing greater attention on the positive business opportunities for insurance companies in our communities, including a full understanding by both communities and companies of actual, rather than perceived risks, needs to be on a parallel track with any statutory or regulatory mandates.

The insurance industry, of course, like the banking industry, has a place-based focus, so translating some of the traditional CRA concepts to them has been rather more straightforward than with other parts of the financial services industry, such as investment bankers, mutual funds, and nation-wide non-depository lenders funded in the commercial paper markets or through securitization. For these other parts of the financial services industry, the emphasis on business opportunities has to be paramount. As with the banking industry, the key is an emphasis on long-term opportunities in entire communities, opportunities that require some strategic investment.

But why limit ourselves to the financial services industry? After all, some other industries, primarily manufacturing but also some of the older retail establishments and public utilities, have very long traditions of substantial financial support for their communities and of concern for their long-term well-being. The challenges here are to assist these industries to understand both the needs and the opportunities for them to help in new ways. Yes, our universities, hospitals, performing arts centers and downtown revitalization projects continue to need assistance. The question is whether we can convince those who have traditionally and generously supported these causes to leverage that support by backing the communities on which they depend, for customers and clients but, more relevantly in many cases, for employees.

For other potential partners, the challenges may be even more difficult and require a greater degree of creativity. The national retail and restaurant chains that are coming to dominate much of our retail landscape may have resources that could make a substantial difference, but their connection with an individual local community may be far more

remote than even the most oft-swallowed bank branch. How can we get and keep them interested? Is this a place where national intermediaries can really make a difference? High tech companies, even before the recent slowdown, presented a special challenge: often the entrepreneurs who founded them are ready to “give back,” but they are very interested in doing it their way, whether by directly running foundations or by providing services, rather than funds, with high outcome demands attached. Learning how to connect with these enterprises and entrepreneurs, and to work with them, is a very different skill from asking Ford or McArthur, let alone a bank subject to CRA, for funds. But it may well be worth pursuing.

And finally there are the truly local businesses, often now individually of a smaller scale than in the days of the big manufacturing plant or the giant department store, but collectively at least as large in the community’s economy. These are the people who are as connected to their communities as you are, are as dependent on the health of those communities as the people you serve, and collectively are the ones who will recycle dollars spent in the community back to it. How can these businesses, who sometimes may be struggling and in need of better financial market access themselves, collectively come together with others active in the community to make positive things happen? To bring needed capital into the area? To bring together all those concerned, including businesses, government, old residents and new, to make their communities good places to live and profitable places to do business?

Bringing a broader group of entities together for community building is of course only a beginning, although a critical beginning. The question then is how to go “Beyond CRA” in what we’re doing. Let me suggest just a few strategies and ideas.

A first strategy is to take a little more time to understand what the barriers to effective community building really are today. Years ago, we might have thought that a lack of mortgage or consumer credit was critical. Over the last ten years we’ve learned that while these are important elements, they may not have been the true barriers. During the past several years, we’ve focused increased attention on discrimination, as well as on some of the broader impacts of apparently voluntary decisions of racial and ethnic communities to co-locate. Here in California, as I discussed with you last March, land costs and regulatory barriers, as well as the forms of governmental organization and responsibility, add to the problems. And then there are ever-changing priorities, which can cause us to lose focus. We all knew the federal domestic budget was under severe pressure before September 11. With the fight against terrorism and enhanced security and the pressure for fiscal stimulus in the form of a tax cut taking on new importance, funding for enhancing our communities—the very foundation of a civil society—may well diminish, ironically at the same time as we’re finding a broader need for community within our nation.

But this leads to a second important strategy: to let your creativity run wild. In the environmental movement, for example, over the last ten years, the most creative participants have moved away from prohibitions and regulations and toward ideas such as emissions trading, demand side management (including for example utilities giving away

energy efficient appliances and sharing the savings with the community) and financing of energy-efficient building improvements based on the stream of expected savings. Learning to efficiently conceive, develop and finance mixed income and mixed use development, particularly in our cities, requires some of this same type of creativity. Are some of the environmentalists' ideas applicable to what we do? And if the ideas aren't, how about the out-of-the-box thinking that led to them?

Third, many of the communities we work in have huge sunk investments in infrastructure, including not only streets and transportation systems, but also universities, hospitals, cultural and even sports institutions. It is possible to leverage these resources in a multitude of ways, ranging from enhancing residential density around both local transportation hubs and facilities with high employment levels, to using the facilities to attract other employers, to partnering with the institutions to develop effective job training and job ladders, including ladders that involve multiple institutions. We've all seen these strategies work; and we've all seen them lead to gentrification and displacement of older, lower income and minority residents. The goal, obviously, is to accomplish the positive results while retaining diversity in all its dimensions.

Finally, and to some extent an extension of the prior strategy, is putting a stronger focus on place as well as people. Obviously, it's individual people who most of you work with directly, and it's commitments for specific loan or job amounts that have always gotten much of the CRA attention. But ultimately, most banking, like most politics, is local. Those loans, jobs and investments go that much further if they are positively leveraged by others in close proximity. Place-based strategies involve concentrating not only marketing but also service, investment and partnership efforts, including partnerships not only with other businesses and CBOs but also with government. I realize that some in the room may raise questions about how this fits in with serving an entire assessment area, and I think that as regulators we need provide useful guidance and leadership in this respect, but I do not think it is impossible. In doing this, Beyond CRA may, in fact, be getting back to CRA basics.

Conclusion

During the past decade, many of the people in this room, and your colleagues around the country, have done a truly remarkable job to rebuild communities, make credit and other financial services far more broadly available, and generally help more Americans take advantage of what this country has to offer. I firmly believe that one of the government's more important contributions in this effort has been in the effective implementation of the Community Reinvestment Act. But, as I hope I've put in some perspective today, if we are to continue on this road, particularly in an economically more challenging environment, we need to move Beyond CRA. By recognizing how our own evolution demands rethinking of what we do and how we do it; by building broader coalitions and respecting the special competencies of each member of those coalitions; and by developing and implementing new strategies to help us reach our sometimes elusive but always important goal: building and rebuilding communities and lives, in the context of a safe and sound, well-functioning financial services sector.