February 2014

The Community Reinvestment Act and Community Development Financial Institutions: A Return to the Bailey Building and Loan Company Model

Jean Lam MacInnes

Follow this and additional works at: http://scholarship.law.nd.edu/ndjlepp

Recommended Citation
Available at: http://scholarship.law.nd.edu/ndjlepp/vol16/iss2/14

This Note is brought to you for free and open access by the Notre Dame Journal of Law, Ethics & Public Policy at NDLScholarship. It has been accepted for inclusion in Notre Dame Journal of Law, Ethics & Public Policy by an authorized administrator of NDLScholarship. For more information, please contact lawdr@nd.edu.
NOTES

THE COMMUNITY REINVESTMENT ACT AND COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS: A RETURN TO THE BAILEY BUILDING AND LOAN COMPANY MODEL

JEAN LAM MACINNES*

INTRODUCTION

The closing scene of *It's a Wonderful Life* may well be one of the most memorable in Hollywood history. Certainly every Christmas season and especially since the September 11th attacks in New York City and Washington, D.C., we are reminded of our communities' charitable nature. But what we fail to recognize is that the Pottersville aberration of a dilapidated shantytown is a reality across the United States, rural and urban. In spite of the magnitude of wealth generated in the economically prosperous times of the late 1990s, many low- and middle-income neighborhoods were omitted from sharing in the nation's growth. Former President Clinton emphasized this disproportionate effect in 1999 during a tour of the nation's most impoverished areas when he said, "I want everybody in America to know that while our

---

* B.S., 1996, Cornell University, School of Industrial and Labor Relations; J.D. Candidate, 2002, Notre Dame Law School; Thomas J. White Scholar, 2000–2002. I dedicate this Note to my husband, John Michael MacInnes, for his constant love and support. Many thanks and much gratitude to Vincent D. Rougeau, Conrad Kellenberg, Matthew J. Barrett, Lucy S. Payne, Emily Nyen Chang, Yvette Ho, Yvonne Ho, Daniel P. McCabe, Peter Hui, Brian Lam, my parents—Kowk Chee and Kam Fung Lam—and the rest of my family, for reminding me of the value of social responsibility and inspiring me through their examples.

1. *It's a Wonderful Life* (Liberty Films 1946).

2. In the movie, *It's a Wonderful Life*, George Bailey, who runs a local savings and loan institution, is shown how his world would have been if he had never existed. One illustration depicts how his town falls under the onerous dominion of Mr. Potter, the big town banker, because he controls all the money in the community. Without Bailey's credit resources, his neighbors are unable to afford nice homes or maintain the ones they have and are forced to live in a Hooverville-type district.

587
country has been blessed with this economic recovery, not all Americans have been blessed by it.”

Although low- and middle-income populations’ access to prosperity and corresponding credit has been hindered for decades, it was only first noticed in the 1950s and not addressed until the 1970s with the enactment of The Community Reinvestment Act of 1977 (“CRA”).

During the last twenty-five years, the CRA has attempted to equalize the opportunities for credit in communities of all income. However, no legislation charged with the noble task of correcting pervasive economic injustice is without its flaws. The CRA has endured strong criticism from the banking industry, community activists, and economists. But as a result, the CRA has undergone some reformation to better reflect the practical realities of the credit market and the banking industry. These new rules have incorporated the community activists’ desire to strengthen the CRA and have decreased the CRA’s administrative burden satisfying the banking industry.

As a more efficient tool, the new CRA achieves the CRA’s original goal of eliminating credit discrimination. One emphasis of the revised legislation is the creative use of Community Development Financial Institutions (“CDFIs”) as a vehicle for CRA compliance. CDFIs are better suited than traditional banks to meet the needs of low- and middle-income communities because they are formed with social responsibility along with economic profit as their mission. To fulfill their mission, CDFIs not only provide essential credit to their communities but also educational support to use that credit wisely and efficiently.

This Note advocates investment in CDFIs as the best form of CRA compliance for financial institutions. Additionally, this Note proposes additional revisions to retain the effectiveness of the CRA while reflecting the changing credit market and financial modernization movement.

Beginning with an examination of the lack of credit in low- and middle-income communities and the community banks’ lending practices presumed to provide this much needed credit prior to the enactment of the CRA, Part I discusses the legislation presented in the 1970s and strengthened in 1993 to alleviate the problems of disproportionate credit. A study of the historical and economic origins of the CRA follows, scrutinizing the limita-

---

tions and effectiveness of the 1977 act. Much criticism has arisen since the enactment of the CRA from parties on all sides of the credit argument—bankers, community development activists, and economists. To respond to these deficiencies, the regulatory agencies entrusted with the public responsibility to level the credit playing field reformed the CRA in 1993. Part II continues with a review of CDFIs, their definition, the Community Development Banking and Financial Institutions Act ("CDBFIA"), and the various entity structures available. The effectiveness of CDFIs in CRA compliance is evaluated in Part III.

The financial industry has gone through an immense transformation in the last decade resulting, in part, from a booming economy, deregulation, and the advent of the Internet. One congressional attempt to keep pace with these rapid changes was the enactment of the Gramm-Leach-Bliley Financial Modernization Act of 1999 ("GLBA"). However, this legislation fails to incorporate changes to the CRA required to conform with modifications in the credit market. The need for an update to the CRA is discussed in Part IV. Part V concludes with a summary of the need for community reinvestment in low- and middle-income communities, the means of achieving community reinvestment, and a call for continued reformation of the CRA.

I. The Community Reinvestment Act of 1977

A. History and Background

Many banks and local governments were blamed for abandoning poor neighborhoods and their seemingly unimportant residents. Reports of banks practicing "redlining" and "community disinvestment" led to public demand for investigation and reform. Denying these accusations, bankers claimed their lending practices were based on prudent business judgment and the bottom line. Any government interference would artificially dis-

5. Pub. L. No. 106-102, 113 Stat. 1338 (1999). Gramm, a longtime opponent of the CRA, sought to consolidate many of the financial services companies to remain competitive with foreign financial services conglomerates and to update the banking regulations by removing artificial restrictions on the financial services industry.

6. Whether proper blame belongs with the banks and local governments is a "chicken or egg" argument. Did the banks and local governments' preference of the high-income class at the expense of low-income families cause the decay of lower income communities? Or did the decay of lower income communities drive the banks and local governments to disinvest? This Note does not address the cause of the decay—many theories in this area have been well documented—but rather focuses on the effects of the decay and the productive process involved in correcting such injustice.
tort the free financial market. Bankers feared regulation in this area would cause a collapse of the banking industry and "if taken to an extreme, creat[e] a socialist-style redistribution of wealth." However, the effects of unregulated banking practices have been too detrimental to ignore, and requiring banks to assist in the redevelopment of their communities has become a legislative priority.

"Redlining" is the practice by bank officers of "actually or figuratively drawing a red line on a map around areas of their city" and instructing their bank lending personnel to reject loan applications from residents and businesses in those areas. Banks historically perceived the residents in these areas as "high credit risks" and prospective businesses as "unlikely to retain their value and are therefore inadequate collateral for loans." However, many studies have shown that these blacklisted communities were "disproportionately located in minority and low- to moderate-income neighborhoods in central cities." Racial and income discrimination have long been cited as the unconscious or possibly conscious reason for the practice of redlining.

"Community disinvestment" refers to the large-scale diversion of local community deposits to larger, more favorable money markets where the interest rates are higher. Thus, money invested by local community residents is shipped off to other lending markets, leaving the local urban and farming communities without sufficient credit resources even though the local community generated that money. In a two-year study conducted by

---

8. 123 Cong. Rec. 17,630 (1977) (statement of Senator William Proxmire of Wisconsin, sponsor of the CRA, reporting on the Banking Committee's study on the problem of redlining and disinvestment) [hereinafter Proxmire Statement].
10. Id.
the Senate Banking Committee prior to the passage of the CRA, data showed only about eleven percent of the money deposited in Brooklyn remained in the community and only ten percent of the money invested by residents of the District of Columbia was reinvested back into the district.13 Los Angeles, St. Louis, Indianapolis, and Cleveland documented similar results.14

B. The Enactment of the Community Reinvestment Act of 1977

In 1977, Congress responded to these detrimental practices by enacting the CRA. The CRA's purpose is to encourage banks to meet the credit needs of their surrounding local communities while remaining economically viable.15 Directed by four regulatory agencies—the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation (“FDIC”), and the Office of Thrift Supervision—the CRA allows regulators to evaluate CRA performance in routine regulatory examinations and through approvals triggered by banks' requests for charters, mergers, acquisitions, branch openings, office relocations, or deposit insurance coverage.16 Upon the completion of the evaluation, banks receive one of four possible CRA ratings: outstanding; satisfactory; needs to improve; or substantial noncompliance.17

The sponsors of the CRA believed banks needed “to take active roles in community revitalization not only because their lending practices help[ed] contribute to [the] urban decline, but also because banks are ideally situated to reverse that decline: They have ‘the capital, the know-how, and the efficiency to do the job.’”18

Additionally, banks, as corporate citizens, have a societal duty to sow the seeds of prosperity in their surrounding communities where the banks have reaped their rewards. Banks are social actors and are as responsible for their communities as are the local schools, churches, and other businesses. Indeed, Pope

14. Id.
15. See 12 U.S.C. § 2901(b) (2001) (“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”).
18. See Cassity, supra note 9, at 349 (citing Proxmire Statement, supra note 8).
John Paul II dictates this accountability in *Centesimus Annus*, "society is not directed against the market, but demands that the market be appropriately controlled by the forces of society and by the State, so as to guarantee that the basic needs of the whole of society are satisfied."\^{20}

The enactment of the CRA was a step in the right direction in furthering the public policy of community reinvestment and social responsibility. However, as worthy as these causes were, bankers contended that the onerous and ministerial requirements of the CRA misdirected scarce bank resources from valuable loan monies to the bureaucracy of CRA compliance instead. In contrast, other critics in community development complained that the CRA had bark but not bite. Frankly, it would be naive to believe a statute, which enacted such a major policy shift, would not be without its critics and growing pains.

C. *The Criticism and Limitations of the CRA*

Since its inception, the CRA has generated criticism from all sides—from the bankers it seeks to regulate to the communities it is supposed to help. The banking industry decries the onerous administrative burdens imposed by the CRA, while community groups fault regulatory agencies for lax and ineffective enforcement. At the same time, economists focus on the socialist philosophy of mandatory reinvestment calling it a "governmentally-imposed credit allocation"\^{21} coercing "a private sector industry . . . into providing a service which contradicts the dictates of the marketplace. Forced allocation of capital . . . is at best damaging to a financial institution and at worst a publicly mandated redistribution of wealth."\^{22}

1. From the Banking Industry

Not surprisingly, the banking industry, largely motivated by profit, agrees with the economists but also complains of several other issues: (i) the substantial paperwork required by the CRA; (ii) the vagueness of the CRA's language; (iii) the over-extension of authority by regulators; (iv) the abuse of public disclosure of

20. Id. at para. 35.
22. Santiago et al., supra note 4, at 583 (citing Macey & Miller, *supra* note 21, at 308–10, 312, 319–24).
CRA ratings by community activists, which increases transaction costs; and (v) the unfair competition resulting from the exclusion of similar CRA regulations for insurance and securities companies beginning to engage in banking practices.\(^\text{23}\)

The CRA requires banks to keep detailed demographic information of their loan applications, keeping track not only of granted loans but of loan applications that have been rejected as well. The banking industry has ranked CRA administration as the number one compliance burden of all bank regulations.\(^\text{24}\) Additionally, the CRA was vaguely drafted in order to remain elastic and applicable to future changes in the economy and the banking industry.\(^\text{25}\) The CRA’s lack of specificity, however, provides little guidance to bank officers who want to comply with its requirements.

Additionally, vague regulations can lead to inconsistent enforcement and abuse from the grant of too much discretionary power to regulators. Bankers resent evaluators who appear to overstep their regulatory authority. “The occasional use of harsh sanctions, such as cease-and-desist orders, has left many bankers feeling that regulators have grossly exceeded their statutory authority.”\(^\text{26}\) The vagueness of the CRA requirements also allows regulators much discretion in their evaluations, making it difficult for bankers to predict what CRA rating they may be granted. Bankers (and their lawyers) are generally averse to such uncertainties, especially in large transactions such as mergers or acquisitions, and will do whatever they can to reduce it.

Another complaint bankers have is with the CRA’s required public disclosure of bank compliance ratings and lending data. Bankers claim community activist groups abuse such information through damaging public opinion campaigns and increased political pressure on politicians and regulators, holding bank officers hostage and demanding approval of possibly unprofitable loans or investment in less than favorable markets.\(^\text{27}\) Certain events can precipitate CRA evaluation, such as when a bank

\(^{23}\) See id. at 586-87.


\(^{25}\) See Hylton, supra note 16, at 201 (stating “this uncertainty is a major reason for its continued vitality”).

\(^{26}\) Santiago et al., supra note 4, at 586.

\(^{27}\) See id. at 586-87 (citing Broderick & Teitelbaum, supra note 24, at 1070-71; Macey & Miller, supra note 21, at 333-37).
wants to charter in a new state, merge with another bank, or open a new branch.

Community groups will often take advantage of the evaluation period to highlight a bank's lack of commitment to community development. A bank is highly vulnerable to this political pressure because the costly process of consummating a transaction has begun. A great deal of capital has been invested and the bank has relied upon the expected returns of the transaction. Due to the imbalanced leverage, banks may enter into last minute side agreements with community groups that are not in the best interest of the bank. These heavy-handed tactics may substantially increase transaction costs and, at the very least, are distracting to the deal at hand. Agreeing with the banking industry, Senator Gramm has likened community groups to extortionists.

Finally, with the current financial modernization movement, commercial banks, securities firms, and insurance companies are now allowed to merge their businesses and enter each other's market prompted by the repeal of the 1933 Glass-Steagall Act, the amendment of the 1956 Bank Holding Company Act, and the enactment of the GLBA. As a result of this movement, many insurance and securities firms have entered the banking market without having to comply with the onerous CRA requirements. Bankers argue that the CRA should be extended to include these new financial holding companies engaging in banking practices because a failure to do so creates unfair competition.

---

28. See Macey & Miller, supra note 21, at 322–37.
32. See Santiago et al., supra note 4, at 587–88.
2. From the Community Groups

Community groups actually agree with bankers that the CRA's reach should be extended to include other companies that have access to capital and could therefore strengthen the financial infrastructure of their communities. However, community groups also assert that necessary changes to CRA enforcement are required for the CRA to be effective in the banking industry and in the financial services industry as a whole. Recommended CRA reforms include the following: (i) elimination of CRA grade inflation; (ii) proportional investments in low- to middle-income communities; (iii) public hearings on all major bank applications; (iv) public input on bank community development activities; (v) increased disclosure of banking practices; and (vi) denial of "safe harbors" and small bank exemptions.\(^3\)

Statistics show that more than ninety-eight percent of banks currently receive a passing CRA rating of "outstanding" or "satisfactory."\(^3\) Community groups and banks give various contradictory reasons for the overwhelming statistic. Because less than two percent of its industry is rated at "needs to improve" or "substantial noncompliance," banks argue they have succeeded in responding to Congress's initiatives on community reinvestment.\(^3\) Banks could contend they are being vilified for actually doing a good job of meeting local credit needs and complying with banking regulations.\(^3\)

Community groups, on the other hand, argue that the statistics alone provide clear evidence of CRA grade inflation. Prior to the enactment of the CRA, studies showed an absence of banks' community involvement. Had the banking industry been so supportive of community reinvestment, as the CRA ratings demonstrate, the CRA would have been unnecessary. As such, there must be another reason for such high CRA ratings other than the fact that banks have improved their practices to such "outstanding" levels. Senator Proxmire postulates his theory at the 1988 Congressional hearings on the status of the CRA:

> Redlining hasn't disappeared. Neighborhoods are still starving for credit. Too many bankers still think the grass is greener elsewhere . . . [yet] U.S. lenders are all above

---

\(^{33}\) See id. at 588.


\(^{35}\) See id.

\(^{36}\) The banks could claim this is similar to a "damned if I do and damned if I don't" argument.
average. Almost all get high ratings year after year and almost none is ever held back. . . . And I ask myself, how is it that so many neighborhoods are continuing to fail while so many lending institutions are continuing to pass?  

One reason for the banking industry's success, community groups suspect, is that banks have "mastered the CRA examination and evaluation process to guarantee passing ratings, regardless of actual CRA performance." Another reason focuses on the bank regulator's lenient granting of high marks. Dr. Kenneth H. Thomas, a lecturer in finance at The Wharton School in Philadelphia, Pennsylvania, presented a working paper for The Jerome Levy Economics Institute on CRA Grade Inflation, where he identifies and examines a "Friendly Regulator Hypothesis." Thomas's hypothesis is based on suspicions that "bank regulators are more interested in appeasing and becoming friendly with banks by inflating ratings than objectively evaluating and rating them."

Many motivations exist for bank regulators to embrace this practice. Poor CRA ratings often result in confrontational and stressful interviews for CRA evaluators, generally with bank management or their superiors. The "unwanted scrutiny from superiors at the regional (and sometimes even Washington, D.C.) office [may be caused by] complaints and even formal appeals from upset bankers." Being more lax in their evaluations make the CRA regulators' job much easier. In addition, some critics claim friendly CRA evaluators want to use their government position as a stepping-stone to more lucrative positions in the private banking industry as CRA compliance officers or consultants.

38. Thomas, supra note 34, at 1 n.3.
40. Thomas, supra note 34, at 1–2, 29, 37–38. Thomas uses a CRA grade inflation methodology and regression analysis under both the original CRA and the later amendments to the CRA to first determine if grade inflation exists (which he finds it does) and then to determine if the "Friendly Regulator Hypothesis" is supported by the research (which he finds it is).
41. Id. at 1.
42. Id.
Community groups argue that consistent grade inflating CRA regulators must be held more accountable. The undesirable scrutiny from Washington, D.C. should not come when the CRA rating is low, but when the CRA rating is high. The presumption needs to be shifted to reflect the studies conducted before the enactment of the CRA, which showed banks were generally not active in community reinvestment.

Another recommendation community groups feel is necessary to fully effect the goals of the CRA is "the use of a detailed market share analysis mechanism that would require banks to make investments in [low- to moderate-income] communities proportional to the bank’s total assets." The 1993 CRA proposal originally included this recommendation but was withdrawn when bankers accused legislators of imposing a form of forced credit allocation. Additionally, holding public hearings on all major bank applications, seeking and considering public input on bank community development activities, increased disclosure of banking practices, and denial of "safe harbors" and small bank exemptions would further strengthen the CRA's effectiveness.

3. From the Economists

Economists, however, question the true effectiveness of the CRA. Macey and Miller outlined several flaws of the CRA, while "applaud[ing] the basic goals of this legislation." Beginning with similar arguments advanced by the banking industry, Macey and Miller agree: the CRA’s language is vague and self-contradictory, resulting in arbitrary enforcement; CRA compliance increases transaction costs; and unfair competition is created as a negative externality of financial reform laws failing to apply CRA obligations to similar lending institutions. In addition to these arguments, the two law and economic theorists claim that some of the CRA’s premises are outdated and without justification, that the CRA’s purpose has been distorted to include social benefits, and that the CRA forces banks to make unsound lending decisions.

43. See id. at 24–26. Thomas outlines his findings of Most Significant CRA Grade Inflators (the Minneapolis Federal Reserve System is listed as number one) and Most Realistic CRA Graders (the New York FDIC is listed first), in Table 1—Overall Grade Inflation Under the New CRA by Regulator and District.

44. Santiago et al., supra note 4, at 588.


46. Macey & Miller, supra note 21, at 294.

47. See id.
Macey and Miller challenge the CRA's archaic ideology that banks should be local entities, that banks drain credit from their local communities, and that banks owe some responsibility to their local communities. Much of this localism proposition is derived from the historical folklore of the local banker, a pillar of the community, as portrayed in It's a Wonderful Life. However, the economists assert that banks were local earlier in the twentieth century by necessity due to the transportation, technological, and legal limitations of banking outside their communities, not because localism is inherent in a bank's nature. Furthermore, "[t]he erosion of localism was not a matter of bankers' collective moral lapse in failing to serve their home towns; it was a product of [economic] forces over which bankers had little control and that, on balance, have served the overall economic welfare of the American people."

Deregulation, economies of scale, and diversification of bank portfolios motivated banks to merge and expand into interstate markets. Additionally with the advent of Internet banking, direct deposit, wire transfer services, and automatic teller machines, consumers rarely require the local presence of their bank. In fact, consumers may prefer more national banks due to increased traveling and the globalization of capital markets. As our economy becomes more worldwide and technology advances, banks must grow to remain competitive. This growth not only leads to the severance of local ties to their community, but also more efficient banking, improved services, and enhanced asset diversification, which challenges whether banks really should be local entities.

The premises that banks drain credit and owe some responsibility to their communities are also analyzed from a purely economic perspective. Banks are traders of credit, just like any other commodity, and sell this commodity to the buyer who values it the most, regardless of the buyer's location. Ignoring this pricing system might be a breach of the bank's fiduciary duties to its shareholders and weaken its viability.

Banks may have had a previous obligation to their localities originating from valuable market privileges extended by the community, such as an effective monopoly when only few banks were chartered. However, in recent times, the growing number of financial institutions permitted to conduct banking activities

48. It's a Wonderful Life, supra note 1.
49. See Macey & Miller, supra note 21, at 304–07.
50. Id. at 305.
51. See id. at 307–10.
has increased competition and virtually eliminated any privileges previously granted.\textsuperscript{52} Thus, banks should no longer be indebted to their communities.

Banks’ obligations to their community also should not include social responsibilities. Macey and Miller argue that the CRA’s original purpose did not include social benefits, such as affirmative action-type lending and charitable giving. The CRA was not intended to induce banking practices based solely on politically correct criteria, but instead its purpose was to encourage reinvestment in local communities.\textsuperscript{53} However, as discussed earlier, Senator Proxmire’s concerns of redlining and community disinvestment resulted in the enactment of the CRA.\textsuperscript{54} Such social benefits could be interpreted as the intended by-product of the CRA, if not its implied purpose as well.

Macey and Miller finally contend that if good profitable opportunities exist within their communities, banks, in their primary motivation for profit, would certainly invest locally. Thus, government intervention in the form of the CRA is unnecessary and may even be detrimental in compelling banks to make unsound lending decisions. CRA compliance also discourages diversification of a bank’s portfolio, which increases risk by centralizing their loans in one community. Inducing banks to institute banking practices based on CRA compliance and not economic factors results in unsound and unsafe business consequences.\textsuperscript{55}

However, by applying strict economic theory, Macey and Miller minimize the need for social responsibility and omit the human factor in bank management. A bank must fulfill its role as a responsible corporate citizen. Playing a very important role in the local community, banks provide credit, savings, and checking services and loans for neighborhood development and revitalization. In this capacity, banks are in the unique role of being able to equalize the credit gap due to human failings in the subjective evaluation of loans.

“[M]any people . . . do not have the means which would enable them to take their place in an effective and humanly dignified way . . . . They have no way of entering the network of knowledge and intercommunication which would enable them to see their qualities appreciated and

\textsuperscript{52} See id. at 310–12.
\textsuperscript{53} See id. at 337–41.
\textsuperscript{54} See Proxmire Statement, supra note 8; see discussion supra Parts I.A, I.B.
\textsuperscript{55} See Macey & Miller, supra note 21, at 318–22.
utilized. Thus, . . . they are to a great extent marginalized; economic development takes place over their heads . . . .

[T]here are many human needs which find no place on the market."56

Pope John Paul II advises corporate citizens to act socially responsible, knowing that "even the decision to invest in one place rather than another, . . . is always a moral and cultural choice."57 Furthermore, governments must intervene in the public interest for "there are collective and qualitative needs which cannot be satisfied by market mechanisms. There are important human needs which escape [the market's] logic."58

Additionally, profitable loans within a bank's community have been overlooked partly because the lending decision was made by a fallible human being, not a pure economic actor with full information and only motivated by profit. As previously discussed, discrimination and the erroneous belief that marginalized communities were not bankable markets lead to a wholesale abandonment of neighborhoods.59 But this is simply not true. As exemplified by the success of the responsible subprime lending market, investment in lower credit-rated communities can be very profitable. Also, the required community where a bank must invest is its community. In the best position to evaluate lending decisions, the local bank can incorporate the intangible factors not listed on a loan application, for example, the local behaviors and preferences of consumers and the local reputation of an applicant.

The Federal Reserve Board has also recently released a study on the profitability of CRA lending, which reported that the majority of lending was profitable,60 "pleas[ing] the double bottom line—social impact and financial rewards."61 But this voluntary study is limited in scope because only 143 out of 500 banking institutions responded to the survey. Also, the level of profitability varied with the type of lending and the size of the banking institution, resulting in some unprofitable CRA lending and some less profitable loans when compared to market lending.62

56. CENTESIMUS ANNUS, supra note 19, at paras. 33–34.
57. Id. at para. 36 (emphasis in original).
58. Id. at para. 40.
59. See discussion supra Part I.A.
61. Pinskey & Weinmann, supra note 29.
62. See id.; Profitability Survey, supra note 60; Phil Gramm, CRA Needs Reform, All Right, to Stop Bad Lending, AM. BANKER, Aug. 4, 2000, at 13.
4. Evidence of CRA Effectiveness

Unfortunately, no comprehensive evidence establishing the effectiveness (or ineffectiveness) of the CRA has emerged. Statistics do show an economic improvement in inner city lending markets. However, with so many factors having a substantial impact on the economic development in communities, it is hard to attribute the success of any community redevelopment to any one factor. Since 1980 and before the recent economic downturn, interest rates and unemployment have declined. The economy, as a whole, was in an upswing during the last decade with the Dow Jones Industrial Average and NASDAQ reaching the highest point levels in history.

With the strong economy and bull market of the late 1990s, society’s attitude about investment changed. Though not without its dips and peaks, the prevailing belief remains that the market is still a smart investment, especially to achieve diversification. Wealthy and middle income individuals shifted their savings out of traditional bank accounts, which may have only achieved a two to four percent interest rate, and into the stock market either through direct investments or mutual funds, which yielded returns up to fifty percent. Also because of the financial modernization movement, mortgage companies began competing with banks, drawing some of the favorable lending business away. To respond to this movement of investment funds and lending prospects, banks need to reach out to new, underserved markets which include deposits from less wealthy customers. “Lower income borrowers have emerged in recent years as the fastest growing segment of the home mortgage market.”

Lastly, metropolitan mayors have made business development a priority in their administration, providing more incentives to encourage businesses to stay or, alternatively, relocate to the city. New businesses and, with the help of local city govern-

63. See Hylton, supra note 16, at 204.
64. See id. at 204–05.
65. Certain current events have dramatically changed the national economy, namely the end of the dot com era, the September 11th attacks, the ensuing War on Terrorism, a return to budget deficits, and the Enron/Arthur Andersen financial scandal. However, because these events are so recent and some have never been encountered, no concrete data exist to factor these changes into our analysis and their effect on CRA lending.
ments, more successful businesses strengthen the financial infrastructure, thereby making inner cities a more attractive lending market.68

The number of valid and manifold factors makes it difficult to truly assess the effectiveness of the CRA in achieving its social responsibility and credit equalizing goals. Certainly, it would be inaccurate to deny that the CRA has had a positive impact. At the very least, Congress sent the banking industry a distinct message requiring some amount of corporate duty to its communities.

D. The New CRA

To address the criticisms and limitations of the originally enacted CRA, in 1993 former President Clinton asked the four regulatory agencies to develop CRA reforms, focusing on lessening the administrative compliance burdens, developing more objective evaluation methods and reducing the adversarial conflict between the banking industry and community activist groups.69 After two proposals70 and almost 14,000 public comment letters,71 the Federal Reserve Board of Governors issued the final rules on May 4, 1995, with an effective date of July 1, 1995.72

To lessen the substantial paperwork for the banking industry, the new rules require less documentation and concentrate on “performance context” evaluations, resulting in less interruption of a bank’s daily routine.73 The new rules also provide more guidance with recommendations of the type of activities that would achieve a passing CRA grade. This gives the CRA rating process more certainty and allows banks to properly tailor their practices for compliance.

Additionally, the new rules offer banks a choice of being evaluated under alternative performance standards. These new

68. See id. at 205 (citing America's Cities: They Can Yet Be Resurrected, ECONOMIST, Jan. 10, 1998, at 19).
69. See Santiago et al., supra note 4, at 590 (citing 60 Fed. Reg. 22,156–57 (May 4, 1995)).
71. See Santiago et al., supra note 4, at 590–91.
73. Santiago et al., supra note 4, at 591 (explaining “[t]his ‘performance context’ provides a crucial qualitative element that allows examiners to adjust bank compliance scores to account for special circumstances related to the context of their local business environment.”) (citing 12 C.F.R. § 228.21(b) (1998)).
74. See id. at 593.
standards "recognize that CRA should not be a one-size-fits-all regulation."\textsuperscript{75} Banks have the option of developing their own strategic plan to meet CRA compliance or using a tripartite test, which evaluates lending, investing, and financial services. Both options offer a more tailored yet objective approach to the CRA grading process. More guidelines would reduce the amount of discretion of a CRA evaluator, and therefore, may possibly counter the previously stated problem of CRA grade inflation.

This new flexibility also allows smaller banks to opt into a performance standard appropriate to the nuances of their subcategory. Most of their traditional lending activities can now satisfy the CRA requirements. In return for this easier satisfaction, smaller banks will have to fulfill the more burdensome paperwork and process requirements of the original CRA. Larger retail banks, which due to their size make data collection more difficult, can take advantage of the lesser documentation requirements of the new CRA. At the same time, they will also have to be more creative in their compliance with the CRA requirements.

One creative measure the new CRA emphasizes repeatedly is indirect, third party intermediary lending and investing, for example, contributing to CDFIs.

In addition to providing for direct loans straight to individuals and businesses, the regulations now contain requirements and incentives for banks to lend money to, invest resources in, and provide financial services to and through a form of local organization called a community development financial institution ("CDFI"). These organizations, in turn, re-lend or invest the money in the community, enabling the bank to receive CRA "credit" for the funding.\textsuperscript{76}

This recommendation from the regulatory agencies strikes a better balance between the banking industry and community activist groups, creating a valuable symbiotic relationship. CDFIs are an innovative way of reaching the safe, sound, and profitable lending goals of banks and the economic development goals of community reinvestment groups. The relationship between the two goals no longer needs to be adversarial or exclusive of each other.


\textsuperscript{76} Santiago et al., supra note 4, at 591–92. CDFIs are discussed in more detail in Part II.
II. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS

Although CDFIs were not statutorily recognized until 1994, some have claimed the grassroots movement and philosophy of CDFIs have existed since the days of "immigrant guilds of New York City's Lower East Side [and] the Prairie Populists of the late 1800s." Others feel CDFIs more closely parallel the early credit union movement in 1990 because credit unions were formed during the recession to consolidate scarce financial resources of certain populations, generally along occupational lines, and provide financial support to each other. Still others equate CDFIs with other community-based organizations ("CBOs") that were "based on the idea of local residents learning to help themselves after the failure of various government programs" in the second half of the twentieth century.

The scope of CBOs, however, is much broader than that of CDFIs. CBOs provide services that range from lending advice, home building or maintenance tips, assistance in applying for and understanding welfare and other social services programs, to child care help. CDFIs could be considered a sub-organization of CBOs, and in fact, some large CBOs have formed CDFIs as a part of their community assistance. One example is the Union Settlement Federal Credit Union, a community development credit union (one type of CDFI), which is run by the Union Settlement Association of East Harlem (a CBO).

However they originated, CDFIs are now a very successful and promising form of community reinvestment, meeting the credit needs of the unbankable. Approximately 500 CDFIs are in operation across the United States, with the highest concentration located in New York State (80). These CDFIs are in the form of Community Development Banks ("CDBs"), Community Development Credit Unions ("CDCUs"), Community Development Loan Funds ("CDLFs"), and Community Development Venture Capital Funds ("CDVCFs"). Community organizations are continually becoming more creative in forming CDFIs and have also developed Micro-Enterprise Loan Funds ("MELFs")

77. Id. at 598 (brackets in original) (quoting Coalition of Community Dev. Fin. Inst., Who We Are, at http://www.cdfi.org/whoweare.html (last visited Feb. 24, 2002)).
78. Id.
79. Id. at 598–99.
80. See id. at 599.
and community development corporation-based lenders. With
the banking industry, government, and public’s support of these
CDFIs, in whichever form, community organizations can con-
tinue to develop other beneficial, financial entities to provide
credit that will stimulate the growth of new local businesses, job
development, and revitalized housing.

A. Defining CDFIs

The common thread defining a CDFI is its philosophy to
serve as a “financial intermediary that has community develop-
ment as its primary mission and develops a range of programs
and methods to meet the needs of low-income communities.”
A CDFI commonly provides more than just loan funds to its cus-
tomers. Its investment is not just in the loan but also in the bor-
rowers themselves and in the community where both the CDFI
and borrowers operate. In addition to a wide range of financial
services, a CDFI also provides extensive technical support ser-
vices, which include training and education in credit, financial
accounting, business planning, and even basic bookkeeping.
Unlike a bank, a CDFI does not simply lend money and wait for
payments to come in. Lending officers of a CDFI will often fol-
low up with their borrowers, checking in, making house calls,
and offering further advice or assistance to their borrowers.
A CDFI has a greater incentive, other than pure profit, to insure
that the financial health of its customer base is strong; a CDFI
has a vested interest in strengthening the financial infrastructure
of its surrounding community.

B. The Community Development Banking and Financial
Institutions Act

In 1994, Congress began to recognize the benefits of CDFIs
and decided to encourage their operations by enacting the
CDBFIA, which endowed a Community Development Financial
Institutions Fund ("CDFI Fund") to be administered by the
Department of the Treasury.

82. Coalition of Community Dev. Fin. Instrs., What’s a CDFI?, at http://
www.cdfi.org/whatcdfi.html (last visited Feb. 24, 2002) [hereinafter What’s a
CDFI].
83. See Faith, Hope and Capital (PBS Broadcast, Mar. 31, 2000), http://
don't just sit back and wait . . . . [T]hey get out and try to teach people the
things they need to know . . . .") [hereinafter Faith].
84. See 12 U.S.C. § 4701 (2001) (also known as the Riegle Community
and Regulatory Improvement Act of 1994). Congress appropriated $391 mil-

ion to the CDFI Fund over a four-year period. Several states, including New
tions that meet the federal definition of CDFIs can receive funding through capital grants, loans, equity investments, deposits, and acquisition of credit union shares.

To fall under the federal definition of a CDFI, a community lending organization must be an institution that: (i) identifies its primary mission as one of community development; (ii) serves either an investment area or targeted population; (iii) provides development services to support the borrowers and their loan obligations; (iv) maintains community accountability either through governing board representation or otherwise; and (v) cannot have any government affiliation.85

Once the CDFI has met these criteria, the community lending organization must also submit a Comprehensive Strategic Plan, a business plan-type application outlining its five-year strategy, management, projections, and capital contributions from non-federal sources.86 Upon designation as a CDFI, the federal government releases the approved funds, limiting the total amount to no more than $5 million for any three-year period.87

This financing scheme is one of the three main limitations of the CDBFIA; the others are enforcement and lack of diversification. First, although obtaining capital contributions from other sources demonstrates marketplace approval, this federally mandated fundraising diverts staff resources from community development to grant solicitation.88 Also, even with increased appropriations by Congress to the CDFI Fund, total funding is still approximately $100 million below the initially agreed upon amount in the CDBFIA.89 Second, the sole discretion and power endowed to the Administrator of the CDFI Fund lacks accountability checks on the distribution of millions of scarce public dollars.90 Similar to the economists' argument that the CRA discourages diversification, which increases risk, the CDBFIA also

---

88. See Cassandra Jones Havard, Synergy and Friction—The CRA, BHCs, the SBA, and Community Development Lending, 86 Ky. L.J. 617, 648–50 (1997).
90. See Havard, supra note 88, at 666.
concentrates loans to a specific locality. Thus, a local economic event, such as the main town employer filing for bankruptcy or moving overseas, would directly and substantially decrease the profitability and even affect the viability of a CDFI.\textsuperscript{91}

However, the Act remains appealing as a private sector incentives program, working with the market instead of against it. Professionals trained to target the specific niche of consumers in their neighborhoods organize CDFIs. They can fill the credit gap and provide the social capital needed to redevelop abandoned communities.

There are a variety of forms under which CDFIs may operate. Each type has developed a range of strategies to reach the central goals of community reinvestment and economic revitalization.

C. Types of CDFIs

CDFIs can: (i) be urban or rural; (ii) serve single or multiple communities; (iii) operate in one state or a number of states; (iv) be free-standing entities or subsidiaries of other community development corporations; (v) be a subsidiary of a large retail commercial bank's holding company; (vi) serve a geographic community or a particular population, like minorities or women; (vii) be based in religious organizations; (viii) support specific types of projects, such as micro-enterprises; (ix) be for-profit or not-for-profit; and/or (x) be federally insured.\textsuperscript{92}

The financing for CDFIs can also come from a variety of sources. As explored above, one major source of financing is the federal government through distributions from the CDFI Fund. But matching capital, depending on the CDFI's structure, can also be raised from stock sales; equity capital investments; member deposits; short and long term loans from commercial banks at below-market rates for debt capital; secondary market loans; revenue from financial services; and charitable grants from private foundations, corporations, government programs, and banks.\textsuperscript{93} With the above permutations available to community organizations, they are able to find the business financing structure that best fits their community's needs. These are, however, the five most popular organizational structures.

\textsuperscript{91} See id. at 649.

\textsuperscript{92} See Santiago et al., supra note 4, at 599–601 (citations omitted).

\textsuperscript{93} See id. at 601–02.
1. Community Development Banks

CDBs are for-profit corporations, utilizing a stock form of ownership, regulated by federal and state banking authorities, and have their deposits insured by the FDIC. Investors need to consider the large capital requirement and regulatory compliance in deciding whether to choose this form of entity. CDBs rely on grants from the CDFI Fund and deposits from individuals and institutions, yielding below-market rates, as their primary source of capital. Their purpose is to “provide capital to rebuild economically distressed communities through targeted lending and investment.” Their typical borrowers are non-profit community organizations, individual entrepreneurs, small businesses, and housing developers.

CDBs tend to be larger than the other forms of CDFIs and can have subsidiaries providing other community development services. Due to their size and corporate structure, CDBs are probably the most flexible of the CDFI entities, offering a wide range of financial services to their customers, including home mortgage financing; home improvement; small business, non-profit and student loans; and traditional consumer banking. Large CDBs could also provide funding and technical assistance in establishing and maintaining other CDFIs.

2. Community Development Credit Unions

Credit unions are financial cooperatives formed around a group of people with a commonality. CDCUs are basically non-profit financial cooperatives owned and operated by their members, generally lower-income persons, who adopt a community charter that requires the CDCU only to serve members of

95. See Coalition CDFI Types, supra note 94.
96. See id.; Community Capital CDFI Types, supra note 94.
97. Community Capital CDFI Types, supra note 94.
98. See id.
99. See Santiago et al., supra note 4, at 603.
100. See Coalition CDFI Types, supra note 94; Community Capital CDFI Types, supra note 94; Santiago et al., supra note 4, at 603.
101. An example of a CDCU is the Vermont Development Credit Union, at http://www.vdcu.org (last visited Feb. 24, 2002).
their particular community. The "community" can be a geographic community, a religious or ethnic group, or an occupation. The promotion of "community ownership of assets and savings, [the provision of] affordable credit and retail financial services to lower-income people with special outreach to minority communities" serves as the CDCU's purpose.

The start-up considerations for a CDCU are the need to organize the community it's attempting to serve and, similar to a CDB, to comply with federal and state regulatory agencies and the accompanying burdens. Additionally, CDCUs are subject to the National Credit Union Administration ("NCUA") regulations because the NCUA insures CDCUs.

Government grants, member deposits and limited non-member deposits from social investors generally fund CDCUs. Like CDBs, CDCUs also offer a wide range of consumer banking services, ranging from savings accounts, check cashing, personal and home rehabilitation loans, and credit counseling, to business planning support.

3. Community Development Loan Funds

CDLFs are non-profit, democratic loan funds that pool capital from individual and institutional social investors, such as the government, private corporations, banks, religious organizations, insurance companies and foundations. CDLFs often receive this capital at below-market rates and then re-lend this money to economically distressed urban and rural lower-income communities. The board and loan committees, consisting of community investors, borrowers, and technical experts, generally cater to non-profit community organizations, social service providers, and small businesses.

Unlike CDBs and CDCUs, CDLFs cannot receive deposits because they are not insured depository institutions. Therefore, CDLFs are limited in the services they can offer, basically...
providing only housing construction, and business start-up and expansion loans. However, CDLFs are very involved in their loans, extensively guiding borrowers before, during and after the transaction. Additionally, CDLFs are largely self-regulated, which results in more flexibility in start-up and lending requirements.

4. Community Development Venture Capital Funds

Being emerging sources of financing in the private sector, it was only natural for venture capital funds to be adapted for community reinvestment. CDVCFs "specialize[ ] in providing financial equity investments in new and existing businesses which need something more than additional debt through bank loans." Their efforts, funded by foundations, corporations, individuals, and the government, are well suited for community real estate and medium-sized business projects, especially for the start-up of a new business.

5. Micro-Enterprise Loan Funds

Small businesses and self-employed entrepreneurs often need loans for routine business purposes. These small-scale loans tend to be smaller and less favorably viewed by traditional lenders because they are not tied to an expansion or new idea that would increase potential profitability. Thus, many commercial banks do not want to approve or even go through the trouble of paperwork for these loans. But often, these general operating support loans are crucial in continuing community businesses. With the purpose of fostering social and business development, MELFs were created to meet this need, providing a few thousand dollars or less (sometimes without collateral) with substantial training and technical assistance in social and business development. Like CDLFs, MELFs can be funded and organized in a variety of forms, "as long as the basic focus and activity is primarily oriented at community economic development."

The variety of available CDFI entities provide communities with distinct organizational structures created specifically to meet the individualized needs of the surrounding neighborhood. Just

112. See Coalition CDFI Types, supra note 94; Community Capital CDFI Types, supra note 94.
113. See id.
114. See id.; Santiago et al., supra note 4, at 606.
115. Santiago et al., supra note 4, at 607.
116. See Coalition CDFI Types, supra note 94; Community Capital CDFI Types, supra note 94; Santiago et al., supra note 4, at 608.
117. Santiago et al., supra note 4, at 609.
as businesses have a number of entity structures to choose from, the structure of a CDFI is only limited by one's creativity. New secondary markets, like the securitization of CRA loans,\textsuperscript{118} and new entities mirroring for-profit vehicles, such as the real estate investment trust,\textsuperscript{119} have evolved as "innovative, market-driven approach[es] that provide[ ] sustainable capital flows into under-served communities."\textsuperscript{120} Community lending organizations can form their CDFIs to fit the nuances of their communities. With this flexibility, CDFIs are perfectly poised to not only fulfill the credit void in low- and middle-income communities, but to fulfill the CRA requirements for banks as well.

III. Using CDFIs to Satisfy CRA Requirements

Seeing the synergistic benefits, the federal regulators specifically recommended and encouraged the banking industry to embrace the use of CDFIs in satisfying CRA requirements. CDFIs can provide banks with the indispensable human resources of local knowledge of surrounding businesses and residents, whereas banks can commit the necessary capital. CDFIs welcome the influx of capital from banks, and banks can receive CRA compliance credit for their CDFI investments. This marriage of labor resources from the CDFIs and capital resources from banks create an effective partnership, which meets the original stated purpose and goals of the CRA.

Community activists, who organize CDFIs, are truly passionate about their neighborhoods, loans, and customers. Unlike their retail bank counterparts who are only interested in the bottom line, CDFI loan officers see their loans as three-dimensional: people, families, and communities. They are willing to provide the additional, necessary support, financially and psychologically, to back up their borrowers. "Sometimes I find I'm just a cheerleader, back there trying to keep somebody going."

Although all CDFIs are formed with the social goal of community reinvestment, CDFIs and their investors do expect a return on their loans.\textsuperscript{122} Loan applicants do have to go through a thorough evaluation process and CDFIs do require certain cri-

\textsuperscript{118} See Joshua Brockman, \textit{CRA Loan Securitization Market Grows As Banks Add to Their Savvy, Experts Say}, \textit{Am. Banker}, Apr. 23, 1999, at 8.
\textsuperscript{121} Faith, supra note 83 (quoting Dave Kleiber of Cascadia Revolving Fund in Seattle, Wash.).
\textsuperscript{122} See id.
teria to be met. But CDFIs will forgo some of the more conventional credit standards, attributable to retail banks, for loans that promote community building and financial independence. "[D]oes this person have the drive, do they have the experience? . . . [T]hose are strengths. It's not collateral . . . but it's a reason for us to believe that this person can pay this loan back." CDFIs believe that some of the loan applications turned away by banks are "good credit risks and if given the chance to succeed, they can become anchors that strengthen whole communities."

Being locally active, CDFIs have inside knowledge of the best lending opportunities. They really get to know their borrowers and the nuances of the community; thus, CDFIs can more effectively evaluate loans with that in mind. Although only CDBs and CDCUs are federally insured, the Federal Reserve Board reported that default and delinquency rates were low. Additionally, the study confirmed that overall, CRA lending is profitable. Logically for CDFIs to remain viable, similar to banks, they too must make safe and sound lending decisions.

Commercial banks used to be able to provide many of the services that CDFIs now offer. Banks used to be much more local and community-based, but with the need to create economies of scale and their duty to maximize profits, banks could no longer provide the personal service necessary to their communities. However, now banks can return to their roots by supporting and investing in CDFIs. Banks can open CDFIs as subsidiaries in their holding company structures, have their officers sit on CDFI boards to advise on lending or organizational matters, or simply provide financial support. In addition to meeting their societal responsibilities, banks would also receive CRA credit for these activities. "Since 1995, banks have been one of the fastest growing sources of funds for [CDFI] lending and investing."

CDFIs are one of the most effective and easiest ways to comply with the CRA requirements. Rather than entering into unfamiliar community-based loan transactions, banks can have CDFIs, the community experts, review the application, conduct the transaction, and follow-up during the loan period. To

123. Id.
124. Id.
125. See Santiago et al., supra note 4, at 610–11.
127. Id.
128. Nat'l Community Cap. Ass'n, Bank-CDFI Partnerships, at 1 (citing a subset of their membership (34 CDFIs) for which they have five years of data).
receive CRA credit, all a bank needs to do is provide the financial resources. The relationship between banks and CDFIs is mutually favorable and increases the overall community economic health.

This beneficial relationship can easily be broadened to include other financial services organizations as well. Nowadays, banks are not the only entities that extend credit to consumers. Financial holding companies offer a variety of financial services, and with economies of scale, can sell loans at extremely competitive rates. Rather than fighting for the market share in community lending, these financial holding companies can also share synergies with CDFIs, achieving profit and meeting their social responsibility.

IV. THE FINANCIAL MODERNIZATION MOVEMENT

In the last few years, the banking and financial services industry has experienced much deregulation. Mainly through the repeal of the 1933 Glass-Steagall Act, the amendment of the 1956 Bank Holding Company Act, and the enactment of the GLBA, Congress has allowed some consolidation of the banking, insurance, and securities industries. However, these updated changes were made without corresponding changes to the CRA. Currently, CRA regulation only applies to the banking industry. With further consolidation, it will be difficult to delineate which companies are considered in the banking industry. These new financial holding companies can avoid CRA requirements by shifting their banking activities and assets into their holding company affiliates, which are not subject to CRA regulation. The CRA needs to be equally modernized to bring securities firms and insurance companies in line with banks to advance community revitalization goals.

In this climate of high merger activity, creating larger financial conglomerates, the CRA and CDFIs have become more visible and important. For expansion-oriented banks, the CRA is an essential component of business planning because the regulatory agencies can reject bank merger applications solely based on poor CRA compliance. As banks get larger and larger, they are

less adept at meeting local community needs. Thus, the need for CDFIs and the benefits of investing in CDFIs to meet CRA requirements becomes more apparent.

The economy and marketplace have changed dramatically since the inception of the CRA. Although the original premise of the act is still applicable, its application is outdated. Banks were previously the only institutions capable of lending, but with the deregulation of the financial services industry, other institutions are entering the banking business. It would be illogical to hold the banking industry accountable for community economic development while ignoring insurance companies and securities firms who have entered the practice of banking.

Another good example of the need to update the CRA is the introduction of e-business. Would an Internet bank be subject to CRA requirements? What would their defined “community” be? Some creative Internet companies have found a market in providing payment services for Internet purchases. These accounts can hold deposits for future purchases, are insured up to $100,000, and can earn interest in a money market fund.133 Though performing one of the main banking functions as a payment system, these Internet sites are not chartered as banks, nor are they regulated as banks.134 Another problem arises with banks that have 24-hour Internet access as the boundary of their “community” in this case is ill-defined. The federal legislature needs to look at the CRA provisions and update its applicability to meet today’s changed financial services environment.

V. CONCLUSION

After several decades of abandonment, low- and middle-income communities have discovered that economic revitalization and restoration require their own efforts and innovation. They can no longer wait for their knight in shining armor to

134. One example is PayPal.com, an on-line payment system where money can be sent directly to an email address. Although, PayPal vehemently claims it is “not a bank and the Service is a payment processing service rather than a banking service,” four states are investigating to see if PayPal is engaged in banking practices and thus, subject to a regulatory process. See PayPal, About Us, at http://www.paypal.com/cgi-bin/webscr?cmd=p/gen/about-outside (last visited Feb. 24, 2002); Paypal Warning, at http://www.paypalwarning.com (last updated Feb. 22, 2002). Other examples are AnyPay.com, Billpoint.com started by eBay.com and backed by Wells Fargo Bank, c2it.com started by Citibank, and Western Union Bid Pay at bidpay.com, which pays with money orders. See Alternatives to Paypal, at http://www.paypalwarning.com/Alternatives/Default.htm (last visited Feb. 24, 2002).
endow their communities with prosperity with the wave of a wand. In these days of economic recession, this could not be more relevant. In order to gain financial independence, low- and middle-income communities must build and strengthen their economic infrastructure from within. One necessary means is the availability of credit tailored to lower income communities and their needs.

The problems and discrimination that motivated Senator Proxmire to sponsor the CRA still exist today. In order to retain the effectiveness of the CRA and reflect the changing financial industry, we need to update the CRA and keep pace with the modern economy. Legislators need to review the impact of the Internet, bank deregulation, and globalization of the credit market.

With government support in the forms of an updated CRA, the CDFFIA, increased appropriations to the CDFI Fund, and community organizations continually developing innovative entities and programs, we, as a society, are hopefully making inroads in eradicating such barriers. Using the CRA and CDFIs, communities can continue to hold their corporate neighbors accountable for community development.

"CDFIs represent one of the most progressive means for community revitalization entrepreneurs to have a long-lasting impact on their neighborhoods through their grass roots knowledge of local lending and investing markets."135 This local expertise creates a unique opportunity for banks to receive CRA credit without entering into unfamiliar transactions. The economic goals of banks and the societal goals of community groups do not need to be mutually exclusive of each other. Although banks may not receive the highest interest rate through these loans, they receive the greater social profit of fulfilling their moral obligations as corporate citizens and promoting the success of the surrounding community.

CDFIs can limit a bank’s risk and cost in CRA compliance while providing full-service lending support to its community. The primary goal of community reinvestment is addressed as well as continued community development. CDFIs are unique in their role as a bridge between the social goals of community reinvestment and the profit-making goals of any business entity. Community lending organizations take ownership of their communities and have a vested interest in not just the one loan transaction, but also the continued success of the borrower.

135. Santiago et al., supra note 4, at 650–51.
Exemplifying the adage, you can give a man fish, and it will feed him for a day, but teach a man to fish and you will feed him for a lifetime.