In Defense of CRA

Making the Case for Community Investment

Produced by the

National Association of Affordable Housing Lenders and The Center for Community Lending

ONLY NAAHL

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Introduction

Judy Kennedy

By Judy Kennedy
President and CEO, NAAHL

The Community Reinvestment Act (CRA) provided incentives for insured depository institutions to help meet the credit needs of their communities, commensurate with safe and sound banking practices. For over thirty years now, banks and non-profit lenders have used these incentives to pioneer ways to increase private lending and investment in underserved communities, through an increasingly sophisticated mixture of products, services, and partnerships.

CRA continues to serve as the primary catalyst for responsible private lending and investment in affordable housing and community economic development across the country. Through CRA, banks and thrifts have made available more than $1.5 trillion in private capital in underserved communities, much of it leveraging scarce public subsidies for affordable housing for low-and-moderate-income persons and community economic development.

"CRA continues to serve as the primary catalyst for responsible private lending and investment in affordable housing and community economic development across the country."

In spite of this success, CRA has come under attack – unfairly and erroneously – by pundits, politicians, and others, as one of the 'triggers' of the current worldwide financial crisis. Nothing could be further from the truth, but in a viral world without sheriffs or even editors, urban myths can spread all over the globe in a matter of hours. NAAHL's mission is to encourage lending and investing in underserved areas, so to set the record straight, we are sharing articles, editorials and columns that debunk the CRA myth.

CRA is not perfect of course; over time some regulators have narrowed the box of what qualifies, diminishing the incentives for banks to seek an "Outstanding" rating, and guiding banks away from important community development work based on need, opportunity and the bank's business model. But we agree with the staff of the Federal Reserve Banks of Boston and San Francisco that:

"One error that ought to be avoided in a new look at the CRA is to exaggerate its influence. Extreme views here can result in missed opportunities. For example, erroneously ascribing to the CRA a central role in the subprime mortgage crisis runs the risk of diverting attention from more serious questions, such as the supervision of nonbank lenders, safety and soundness considerations, and fair lending enforcement. It also ignores the positive impact the CRA has had. Not only has the CRA increased access to mortgage lending for LMI borrowers, but it has also played a role in other areas, such as multifamily housing, community facilities, and economic development. By the same token, the CRA alone will not solve neighborhood and poverty issues."

"CRA alone will not solve neighborhood and poverty issues."

"CRA is not perfect of course; over time some regulators have narrowed the box of what qualifies, diminishing the incentives for banks to seek an "Outstanding" rating, and guiding banks away from important community development work."

At the Root of the Subprime Mess

Oct. 4, 2008, Washington Post
By Judy Kennedy, NAAHL

In his Sept. 26 op-ed column, Charles Krauthammer blamed the Community Reinvestment Act (CRA), the 1977 federal law that has facilitated the flow of more than $1.5 trillion in private capital to underserved communities in the United States, for pressuring Fannie Mae, Freddie Mac, banks and other lenders to offer mortgages "to people who were borrowing over their heads."

"It wasn't the CRA that created the subprime mess but the proliferation of unregulated mortgage originators during the housing boom, financed in part by the government-sponsored enterprises Fannie Mae and Freddie Mac."

It's Mr. Krauthammer's logic that is underwater here. It wasn't the CRA that created the subprime mess but the proliferation of unregulated mortgage originators during the housing boom, financed in part by the government-sponsored enterprises Fannie Mae and Freddie Mac. As House Financial Services Committee Chairman Barney Frank (D-Mass.) stated, "Most high-cost loans were originated by lenders that did not have a CRA obligation and lacked federal regulatory oversight."

CRA lending by leading national banks involves loans that help people with low or moderate incomes buy homes of high quality and lasting value, homes that remain affordable.

By contrast, Fannie and Freddie didn't have to be led to the water to drink; they ran. The two were determined to thwart the spirit, if not the letter, of a 1992 federal law that permitted them to take "less than the return earned on other activities" to assist "mortgages on housing for low- and moderate-income families."

"The CRA isn't the problem. It's been a critical part of the community and economic development solution for 31 years."

Instead of taking less of a return, Fannie Mae and Freddie Mac decided to take more of a return on affordable housing by issuing more than $400 billion in debt to finance higher-cost, higher-yield subprime mortgages, helping to fuel the subprime feeding frenzy.

Ironically, Fannie Mae and Freddie Mac were rewarded for their efforts by a lax regulator. The Department of Housing and Urban Development, which oversaw Fannie and Freddie's annual affordable-housing goals, allowed them to count triple-A-rated securities backed by higher cost, subprime loans, as meeting their "affordable housing" goals.

The CRA isn't the problem. It's been a critical part of the community and economic development solution for 31 years.

Was it Colonel Mustard with the Revolver in the Library?

Jack Markowski

CIC Developments, Fall/Winter 2008

By Jack Markowski

Markowski is president of Community Investment Corporation (CIC) in Chicago

Who killed the American housing market and sent shockwaves of economic meltdown rippling throughout the world? Predatory lenders? Lax regulators? Irresponsible brokers? Ignorant rating agencies? Reckless buyers? Careless underwriters? Unsuspecting investors? Deceitful developers? An infatuation with homeownership?

There's plenty of blame to go around. As financial commentator Terry Savage put it, there were "unbelievable levels of greed and stupidity" throughout our financial marketplace.

But, please, let's not blame the Community Reinvestment Act (CRA). CRA was enacted by Congress in 1977 to combat "mortgage redlining," the practice by which financial institutions actually drew red lines on maps to delineate the areas in which they would not lend. Under CRA, financial institutions were required to serve the credit needs of the communities from which they drew their deposits.

Does anyone really believe that the law had a delayed impact of 30 years before it caused havoc in the economy? CRA has been widely credited with dramatically increasing lending and investment in low and moderate income communities and access to capital for minority populations. Under CRA, over $1.5 trillion have been lent for community development. Comptroller of the Currency John C. Dugan recently said that he has "personally witnessed the positive impact that CRA partnerships have had in transforming communities, expanding homeownership, and promoting job creation and economic development."

> "So whether it was Colonel Mustard, Miss Scarlet, Mr. Green, or any other culprit that killed the housing market, it certainly was not the Community Reinvestment Act. In fact, in these troubled times, we need a responsible and expanded implementation of CRA to guide us on our path to recovery."

While CRA-regulated institutions have provided a significantly higher share of their loans to African-American and Hispanic households than non-CRA-regulated lenders, according to Comptroller Dugan,"the lenders most prominently associated with subprime mortgage lending abuses and high rates of foreclosure are not subject to CRA." Indeed, he cites 2006 data showing that "banks subject to CRA and their affiliates originated or purchased only *six percent* (emphasis added) of the reported high cost loans made to lower income borrowers within their CRA assessment areas."

No, CRA did not encourage reckless, predatory lending. CRA encouraged responsible lending and investment, exactly the type of activity that CIC has undertaken since its creation by a group of socially minded bankers in 1974. Since 1984, CIC has lent more than $900 million to acquire and rehab 40,000 units of affordable rental housing. CIC lending is not a short-term activity that maximizes profit at the expense of communities.

CIC loans are long-term investments that preserve housing and build communities.

And the important community building work of CIC can only take place because of the $550 million in commitments made by CIC's 47 investors, who by investing in CIC are carrying out the best intentions of CRA.

> "Does anyone really believe that the law had a delayed impact of 30 years before it caused havoc in the economy?"

As we look ahead to rebuilding our communities and our economy, we need more, not less, of CRA. Lawrence K. Fish, Chairman of RBS America and Citizens Financial Group (and a CIC investor through Charter One), has said that "we need to broaden the number of financial service providers that CRA covers, and redefine 'community reinvestment' as 'community responsibility' – the understanding that all financial institutions have an obligation to reinvest where they operate."

So whether it was Colonel Mustard, Miss Scarlet, Mr. Green, or any other culprit that killed the housing market, it certainly was not the Community Reinvestment Act. In fact, in these troubled times, we need a responsible and expanded implementation of CRA to guide us on our path to recovery.

A Lame Rap Aimed at Poor Folks

Clarence Page

Chicago Tribune, Oct. 8, 2008

By Clarence Page
Page is a columnist and member of the Tribune's editorial board

In the storm over who is to blame for Wall Street's financial meltdown, guess who's getting the biggest bum rap? Poor folks.

In a desperate attempt to deflect blame from deregulation and other policy ideas they favor, conservatives are pointing their guns at a 1977 law that hardly anyone outside housing and banking circles cared about. It's called the Community Reinvestment Act. It requires banks that receive federal insurance to lend within their geographic communities.

Before laws such as the CRA came along, banks "redlined" entire neighborhoods, denying prospective home buyers, most of them minorities, conventional home loans. Thanks to the CRA, thousands of renters have become homeowners. Neighborhoods have been saved. Tax revenue has increased. Urban life has improved.

But now the CRA has become a convenient scapegoat for commentators, Internet bloggers and YouTube propagandists. They want to deflect blame for the credit crash away from the more obvious culprits, such as excess deregulation, lax oversight and reckless capitalism.

> "Thanks to the CRA, thousands of renters have become homeowners. Neighborhoods have been saved. Tax revenue has increased. Urban life has improved."

For example, Neil Cavuto of Fox News opined last month that if banks hadn't been forced to make loans to "minorities and risky folks," the Wall Street disaster would not have happened. Ann Coulter blamed "affirmative action lending policies" that loaded banks up with mortgages that eventually defaulted and brought the financial system to its knees.

George Will on ABC's "This Week" blamed "regulation, in effect, with legislation, which would criminalize as racism and discrimination if you didn't lend to unproductive borrowers," because "the market would not have put people into homes they could not afford."

And there's Rep. Michele Bachmann, a conservative Minnesota Republican, who caused a stir in Congress by quoting an Investor's Business Daily article that accused the CRA and President Bill Clinton of forcing banks to give out loans "on the basis of race and often little else."

Nice try, but the CRA's villainy has been wildly exaggerated. First, the CRA applies only to banks and thrifts that get federal insurance. It does not even apply to three- fourths of the institutions that made subprime loans, the high-interest loans at the heart of Wall Street's credit collapse.

Also, nothing in the CRA requires banks to offer subprime loans, interest-only loans, no-money-down

In the storm over who is to blame for Wall Street's financial meltdown, guess who's getting the biggest bum rap? Poor folks.

loans or any of the other gimmicks that inflated the now-fizzling housing bubble. Quite the opposite, the law calls on lenders to meet the credit needs of the communities in which they are chartered, "consistent with the safe and sound operation" of those lenders. Contrary to the myths, studies show that most CRA borrowers pay their bills on time and become successful homeowners.

"Nice try, but the CRA's villainy has been wildly exaggerated. First, the CRA applies only to banks and thrifts that get federal insurance. It does not even apply to three-fourths of the institutions that made subprime loans, the high-interest loans at the heart of Wall Street's credit collapse."

That's why the law has worked well for three decades, long before the recent Wall Street mess. No, it makes more sense to blame the explosion of unregulated mortgage originators, an industry that grew in the housing boom, partly financed by Fannie Mae and Freddie Mac, now taken over by the government.

Pressured by the Clinton administration, lenders in 1999 began to relax the credit requirements for minorities and others whose incomes, credit ratings and savings were too low to qualify for conventional loans.

But that pressure did not come in response to the CRA. Fannie Mae, Freddie Mac and independent mortgage brokers had no CRA obligation or much federal regulatory oversight. Yet they account for most of the subprime-lending boom in the late 1990s.

And remember this: While subprime loans went to large numbers of non-whites and low-income borrowers, studies show that these recipients were outnumbered by upper-income and white borrowers.

One study by Compliance Technologies, which consults to lenders, found that more than half of subprime loans that originated at the height of the lending frenzy two years ago went to non-Hispanic whites—and about 40 percent went to borrowers whose annual income was at least 120 percent of their local area's median.

"Fannie and Freddie didn't have to be led to the water to drink," Judith A. Kennedy, president of the National Association of Affordable Housing Lenders, recently wrote. "They ran."

"Yet the CRA is a convenient target for conservatives. It was created under pressure from "community organizers," a group ridiculed at the Republican National Convention. What's so bad about helping communities to organize? The GOP never said."

Yet the CRA is a convenient target for conservatives. It was created under pressure from "community organizers," a group ridiculed at the Republican National Convention. What's so bad about helping communities to organize? The GOP never said.

The CRA is a punching bag for the right along with ACORN, a left-progressive organization that has been pushing for deregulation and once was represented in a voting rights case by a young lawyer named Barack Obama. That's politics. But neither the CRA nor ACORN caused the housing market's crash. In fact, they tried to prevent it.

'Dear Colleague' Statement


Barney Frank


Maxine Waters


Mel Watt

'Dear Colleague' Statement signed by U.S. Reps. Barney Frank (D-Mass.), Maxine Waters (D-Calif.) and Mel Watt (D-N.C.); *edited for space*

We are troubled by efforts to blame the current crisis on the Community Reinvestment Act (CRA). There is no evidence to support the assertion that CRA caused lenders to make the risky subprime loans that contributed to the current crisis in the financial markets. CRA does not require banks or thrifts to make loans that are unsafe or unprofitable – the law states that CRA lending must be done consistent with safe and sound banking practices. In fact, studies by the Treasury Department and Federal Reserve have shown that CRA has significantly improved the availability of fair and affordable credit and services without negatively affecting safety and soundness.

Despite assertions by CRA critics, studies indicate that CRA obligations helped deter insured depositories from engaging in lending practices that fueled foreclosures and the subsequent financial crisis, finding that CRA-covered banks and thrifts were significantly less likely than other lenders to make high-cost loans. The vast majority of high-cost subprime loans were originated by independent mortgage and finance companies – lenders that are not covered by CRA and are under no other federal obligation to lend in low- and moderate-income communities.

The timing of the foreclosure crisis also reinforces that CRA was not responsible for the mortgage market meltdown. CRA regulations were strengthened in 1995 and contributed to a significant increase in prime lending to low- and moderate-income borrowers in the ensuing years. The riskiest subprime lending was most prevalent, however, between 2003 and 2006, a period in which federal banking regulators *reduced* CRA obligations on thousands of banks and thrifts.

It is unfortunate that those opposed to CRA would make assertions about the law that have little basis in reality. The CRA is widely acknowledged with helping provide constructive credit to low-and moderate-income borrowers and communities rather than the destructive credit that accompanied the explosive growth in subprime lending by unregulated lenders. Rather than incorrectly blaming CRA for imprudent and reckless lending, we should commit to work in a bipartisan manner to improve regulatory oversight for all lenders to prevent a repeat of the practices that led to this crisis.

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Mike Honda

Leaders of the House Tri-Caucus coalition – Congressional Asian Pacific American Caucus (CAPAC), the Congressional Black Caucus (CBC) and the Congressional Hispanic Caucus (CHC), from joint coalition statement; *edited for space*

"I am angered by the blame and burden put onto our minority communities for the current financial crisis," said CAPAC Chair Rep. Mike Honda (D-Calif.) "The CRA law requires that all CRA lending activities be executed through responsible and safe lending practices. To put further blame onto the victims of this financial crisis is cruel and borders on just plain bigoted."

"Predatory lending and greed are the root causes of the current downturn. To place the blame on those most victimized by these very practices is scapegoating of the worst kind and offends every sense of truth and moral responsibility."


Joe Baca

"The baseless claims made by some that minorities and home loans given to minority families are responsible for the current economic crisis are not only patently false, but also divisive and hateful," said CHC Chair Rep. Joe Baca (D-Calif.) "Predatory lending and greed are the root causes of the current downturn. To place the blame on those most victimized by these very practices is scapegoating of the worst kind and offends every sense of truth and moral responsibility."

"…any conjecture that the current financial crisis is due in part to minorities is absolutely unacceptable and un-American"


Carolyn Kilpatrick

"During economic down turns, minority communities are historically more vulnerable and suffer the gravest hardships," said CBC Chair Rep. Carolyn C. Kilpatrick (D-Mich.) "Therefore, any conjecture that the current financial crisis is due in part to minorities is absolutely unacceptable and un-American."


Daniel Akaka

Sen. Daniel Akaka (D-Hawaii), said "Instead of finding excuses to stop federal efforts to expand access to mainstream financial service, we must do more," said Akaka. "Repealing or weakening [CRA] would be a mistake."

If Wall Street Fails, Main Street Goes Down Too

Keith Ellison

Minneapolis-St. Paul Star-Tribune, Sept. 28, 2008

By U.S. Rep. Keith Ellison (D-Minn.); *article edited for space*

[President Bush] told the nation that the crisis is due to "the irresponsible actions of some jeopardizing the financial security of all." There are even lies circulating that blame minorities for the crisis through the Community Reinvestment Act. This is factually wrong – and repugnantly bigoted. In fact, the root cause of the failures today is the ideological rigidity of the Bush administration, and its conservative friends in Congress and on Wall Street who oppose regulation, oversight and corporate accountability. For eight long years their mantra has been "regulation and oversight is bad" and "the free market is good."

> "…the root cause of the failures today is the ideological rigidity of the Bush administration, and its conservative friends in Congress and on Wall Street who oppose regulation."

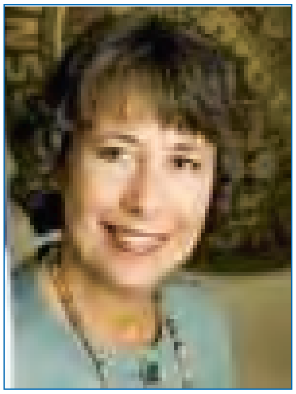
But now, when their policies have failed and the chickens have come home to roost, taxpayers are asked to help them out. We have little choice. We cannot let Wall Street fail, because if we do, Main Street fails as well. Credit markets are already frozen. If this plan fails, banks restrict lending, unemployment soars, credit cards will become useless and cash will become the king of the economy. We are on the precipice of economic disaster rivaling the Great Depression.

How we respond is critically important. Serious action is needed – not just for Wall Street, but for homeowners, too. I support government intervention to rescue our economy, not to bail out Wall Street.

If we are to rebuild our economy, let us do so with deliberation, insisting on the taxpayers' terms. The package should ensure that homeowners are protected. We will not stabilize markets if millions of homeowners continue to lose their homes. We should include a "cram-down" provision permitting bankruptcy judges to restructure mortgages for primary residences, thus allowing millions of working families to remain in their homes.

Most important, there should be both judicial and congressional oversight and accountability. Eight years of irresponsible and unregulated free-market lending run amok got us into this fix.

> **"Eight years of irresponsible and unregulated free-market lending run amok got us into this fix."**



Sheila Bair

Excerpt of **speech by FDIC Chairman Sheila Bair at the Consumer Federation of America,** Dec. 4, 2008

The main reason I'm here is to have a vigorous discussion with you about the consumer issues we now face as a result of the financial crisis. But first I want to clear up some myths that have been circulating lately ... in particular, that the Community Reinvestment Act caused the financial crisis.

I think we can agree that a complex interplay of risky behaviors by lenders, borrowers, and investors led to the current financial storm. To be sure, there's plenty of blame to go around. However, I want to give you my verdict on CRA: NOT guilty.

"I want to give you my verdict on CRA: NOT guilty."

Point of fact: Only about one in four higher-priced first mortgage loans were made by CRA-covered banks during the hey-day years of subprime mortgage lending (2004-2006). The rest were made by private independent mortgage companies and large bank affiliates not covered by CRA rules.

You've heard the line of attack: The government told banks they had to make loans to people who were bad credit risks, and who could not afford to repay, just to prove that they were making loans to low- and moderate-income people.

Let me ask you: Where in the CRA does it say to make loans to people who can't afford to repay? Nowhere! And the fact is, the lending practices that are causing problems today were driven by a desire for market share and revenue growth ... pure and simple.

CRA isn't perfect. But it has stayed around more than 30 years because it encourages FDIC-insured banks to lend in low- and moderate-income (or LMI) areas and, I quote, "consistent with the safe and sound operation of such institutions." Another question: Is lending to borrowers who can not afford to repay "consistent with the safe and sound operations"? No, of course not.

CRA always recognized there are limitations on the potential volume of lending in lower-income areas due to safety and soundness considerations, and that a bank's capacity and opportunity for safe and sound lending in the LMI community may be limited. That is why the CRA never set out lending "target" or "goal" amounts.

That is why CRA partners have worked together for three decades to figure out how to do it safely.

John Dugan

Excerpt of **speech by Comptroller of the Currency John Dugan at the Enterprise Annual Network Conference, Nov. 19, 2008**

CRA supports banks doing what they do best and what they should want to do well – making viable lending and investment decisions, with acceptable rates of return, consistent with their business plans, in their own communities.

Given recent public discussion, it is appropriate to ask about the role that CRA plays in the credit challenges we face on so many fronts. In my view, it plays a very positive role. Unfortunately, however, current market disruptions have clouded the accomplishments that CRA has generated, many of which we recognized last year during its 30th anniversary. There are even some who suggest that CRA is responsible for the binge of irresponsible subprime lending that ignited the credit crisis we now face.

Let me squarely respond to this suggestion: I categorically disagree. While not perfect, CRA has made a positive contribution to community revitalization across the country and has generally encouraged sound community development lending, investment, and service initiatives by regulated banking organizations.

CRA is not the culprit behind the subprime mortgage lending abuses, or the broader credit quality issues in the marketplace. Indeed, the lenders most prominently associated with subprime mortgage lending abuses and high rates of foreclosure are lenders not subject to CRA. A recent study of 2006 Home Mortgage Disclosure Act data showed that banks subject to CRA and their affiliates originated or purchased only six percent of the reported high cost loans made to lower-income borrowers within their CRA assessment areas.

Over the last ten years, CRA has helped spur the doubling of lending by banking institutions to small businesses and farms, to more than $2.6 trillion. During this period, those lenders more than tripled community development lending to $371 billion.

CRA projects also act as catalysts for other investments, job creation, and housing development. Such infusion of capital into these markets leverages public subsidies, perhaps as much as 10 to 25 times, by attracting additional private capital. Many of these CRA equity investments can be made under national banks' public welfare investment authority.

Overwhelmingly, this lending has been safe and sound. For example, single family CRA-related mortgages offered in conjunction with NeighborWorks organizations have performed on a par with standard conventional mortgages. Foreclosure rates within the NeighborWorks network were just 0.21 percent in the second quarter of this year, compared to 4.26 percent of subprime loans and 0.61 percent for conventional conforming mortgages. Similar conclusions were reached in a study by the University of North Carolina's Center for Community Capital, which indicates that high-cost subprime mortgage borrowers default at much higher rates than those who take out loans made for CRA purposes.

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banks' public welfare investment authority. These bank investments have grown significantly over the years – totaling more than $25 billion over the past decade. To meet the demand to invest in similar types of projects, OCC successfully sought legislation last year to raise the cap on public welfare investments from 10 to 15 percent of a bank's capital and surplus. This rise will enable the amount of such investments to increase by as much as $30 billion.

"CRA projects also act as catalysts for other investments, job creation, and housing development. Such infusion of capital into these markets leverages public subsidies, perhaps as much as 10 to 25 times, by attracting additional private capital. Many of these CRA equity investments can be made under national banks' public welfare investment authority."

Randall Kroszner

Excerpt of **speech by former Federal Reserve Governor Randall S. Kroszner at Federal Reserve poverty conference,** Dec. 3, 2008

Some critics of the CRA contend that by encouraging banking institutions to help meet the credit needs of lower-income borrowers and areas, the law pushed banking institutions to undertake high-risk mortgage lending. We have not yet seen empirical evidence to support these claims, nor has it been our experience in implementing the law over the past 30 years that the CRA has contributed to the erosion of safe and sound lending practices.

Over the years, the Federal Reserve has prepared two reports for the Congress that provide information on the performance of lending to lower-income borrowers or neighborhoods—populations that are the focus of the CRA. These studies found that lending to lower-income individuals and communities has been nearly as profitable and performed similarly to other types of lending done by CRA-covered institutions. Thus, the long-term evidence shows that the CRA has not pushed banks into extending loans that perform out of line with their traditional businesses. Rather, the law has encouraged banks to be aware of lending opportunities in all segments of their local communities as well as to learn how to undertake such lending in a safe and sound manner.

The research focused on two basic questions. First, we asked what share of originations for subprime loans is related to the CRA. The potential role of the CRA in the subprime crisis could either be large or small, depending on the answer to this question. We found that the loans that are the focus of the CRA represent a very small portion of the subprime lending market, casting considerable doubt on the potential contribution that the law could have made to the subprime mortgage crisis.

Second, we asked how CRA-related subprime loans performed relative to other loans. Once again, the potential role of the CRA could be large or small, depending on the answer to this question. We found that delinquency rates were high in all neighborhood income groups, and that CRA-related subprime loans performed in a comparable manner to other subprime loans; as such, differences in performance between CRA-related subprime lending and other subprime lending cannot lie at the root of recent market turmoil.

In analyzing the available data, we focused on two distinct metrics: loan origination activity and loan performance. With respect to the first question concerning loan originations, we wanted to know which types of lending institutions made higher-priced loans, to whom those loans were made, and in what types of neighborhoods the loans were extended. This analysis allowed us to determine what fraction of subprime lending could be related to the CRA.

Our analysis of the loan data found that about 60 percent of higher-priced loan originations went to middle- or higher-income borrowers or neighborhoods. Such borrowers are not the populations targeted by the CRA. In addition, more than 20 percent of the higher-priced loans were extended to lower-income borrowers or borrowers in lower-income areas by independent nonbank institutions—that is, institutions not covered by the CRA.

Putting together these facts provides a striking result: Only 6 percent of all the higher-priced loans were extended by CRA-covered lenders to lower-income borrowers or neighborhoods in their CRA assessment areas, the local geographies that are the primary focus for CRA evaluation purposes. This result undermines the assertion by critics of the potential for a substantial role for the CRA in the subprime crisis. In other words, the very small share of all higher-priced loan originations that can reasonably be attributed to the CRA makes it hard to imagine how this law could have contributed in any meaningful way to the current subprime crisis.

> "…the long-term evidence shows that the CRA has not pushed banks into extending loans that perform out of line with their traditional businesses. Rather, the law has encouraged banks to be aware of lending opportunities in all segments of their local communities as well as to learn how to undertake such lending in a safe and sound manner."

Of course, loan originations are only one path that banking institutions can follow to meet their CRA obligations. They can also purchase loans from lenders not covered by the CRA, and in this way encourage more of this type of lending. The data also suggest that these types of transactions have not been a significant factor in the current crisis. Specifically, less than 2 percent of the higher-priced and CRA-credit-eligible mortgage originations sold by independent mortgage companies were purchased by CRA-covered institutions.

I now want to turn to the second question concerning how CRA-related subprime lending performed relative to other types of lending. To address this issue, we looked at data on subprime and alt-A mortgage delinquencies in lower-income neighborhoods and compared them with those in middle- and higher-income neighborhoods to see how CRA-related loans performed. An overall comparison revealed that the rates for all subprime and alt-A loans delinquent 90 days or more is high regardless of neighborhood income. This result casts further doubt on the view that the CRA could have contributed in any meaningful way to the current subprime crisis.

To learn more about the relative performance of CRA-related lending, we conducted more-detailed analyses to try to focus on performance differences that might truly arise as a consequence of the rule as opposed to other factors. Attempting to adjust for other relevant factors is challenging but worthwhile to try to assess the performance of CRA-related lending. In one such analysis, we compared loan delinquency rates in neighborhoods that are right above and right below the CRA neighborhood income eligibility threshold. In other words, we compared loan performance by borrowers in two groups of neighborhoods that should not be very different except for the fact that the lending in one group received special attention under the CRA.

When we conducted this analysis, we found essentially no difference in the performance of subprime loans in Zip codes that were just below or just above the income threshold for the CRA. The results of this analysis are not consistent with the contention that the CRA is at the root of the subprime crisis, because delinquency rates for subprime and alt-A loans in neighborhoods just below the CRA-eligibility threshold are very similar to delinquency rates on loans just above the threshold, hence not the subject of CRA lending.

…we believe that the available evidence runs counter to the contention that the CRA contributed in any substantive way to the current mortgage crisis.

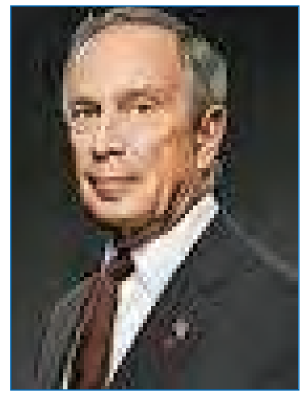
"…the very small share of all higher-priced loan originations that can reasonably be attributed to the CRA makes it hard to imagine how this law could have contributed in any meaningful way to the current subprime crisis."

"…less than 2 percent of the higher-priced and CRA-credit-eligible mortgage originations sold by independent mortgage companies were purchased by CRA-covered institutions."

“CRA was not a contributor to the mortgage crisis, if it had been community banks would be at the epicenter and they are not,” said former Office of Thrift Supervision (OTS) Director John Reich.

John Reich

Comments made in response to a reporter’s question regarding CRA: “… It’s been general consensus for an awful long time that homeownership is part of the great American dream,” the mayor said. “We all benefit, the more people that own their own homes, they tend to take care of their neighborhoods, they give to people in the construction industry” and even “their kids are better students,” said New York City Mayor Michael Bloomberg.

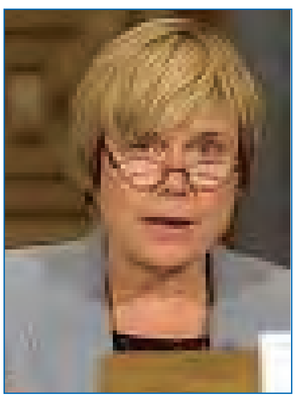


Michael Bloomberg

Government Officials


Shaun Donovan

"So, just to be clear, the idea that the [CRA] caused the sub-prime crisis, the numbers just don't match up," said Housing and Urban Development (HUD) Secretary Shaun Donovan.

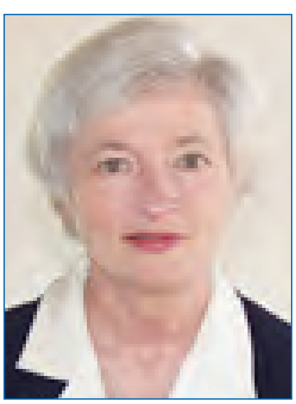

Elizabeth Duke

"Although the current problems appear to be rooted in high-risk subprime lending, I would like to dispel the notion that these problems were caused in any way by Community Reinvestment Act (CRA) lending. The CRA is designed to promote lending in low- to moderate-income areas; it is not designed to encourage high-risk lending or poor underwriting," said Federal Reserve Governor Elizabeth Duke.

"There has been a tendency to conflate the current problems in the subprime market with CRA-motivated lending, or with lending to low-income families in general."

"There has been a tendency to conflate the current problems in the subprime market with CRA-motivated lending, or with lending to low-income families in general. I believe it is very important to make a distinction between the two. Most of the loans made by depository institutions examined under the CRA have not been higher-priced loans, and studies have shown that the CRA has increased the volume of responsible lending to low- and moderate-income households. We should not view the current foreclosure trends as justification to abandon the goal of expanding access to credit among low-income households, since access to credit, and the subsequent ability to buy a home, remains one of the most important mechanisms we have to help low-income families build wealth over the long term," said Janet Yellin, President and CEO, Federal Reserve Bank of San Francisco.

"We should not view the current foreclosure trends as justification to abandon the goal of expanding access to credit among low-income households"


Janet Yellin

No, Larry, CRA Didn't Cause the Sub-Prime Mess

"To blame a statute enacted in 1977 for something that happened 25 years later takes a fair amount of chutzpah"

April 15, 2008

By Ellen Seidman, New America Foundation
Seidman is a former OTS director


Ellen Seidman

It has lately become fashionable for conservative pundits [Larry Kudlow] and disgruntled ex-bankers [Vernon Hill] to blame the current credit crisis on the Community Reinvestment Act. This is patent nonsense. The sub-prime debacle has many causes, including greed, lack of and ineffective regulation, failures of risk assessment and management, and misplaced optimism. But CRA is not to blame.

First, the timing is all wrong. CRA was enacted in 1977, its companion disclosure statute, the Home Mortgage Disclosure Act (HMDA) in 1975. While many of us warned against bad subprime lending before the turn of the millennium, the massive breakdown of underwriting and extension of risky products far down the income scale-without bothering to even check on income-was primarily a post-2003 phenomenon. To blame a statute enacted in 1977 for something that happened 25 years later takes a fair amount of chutzpah.

It's even more outrageous because of the good CRA clearly did in between. The 1990s were the heyday of CRA enforcement-for a variety of reasons including the raft of mergers and acquisitions that followed the 1994 Riegle-Neal Interstate Banking and Branching Act, increased scrutiny of lending practices by the media and activism by housing advocacy groups and tougher enforcement by the Clinton Administration. That period saw increased home mortgage lending to lower income households and in lower income communities by the banks and thrifts covered by CRA, and a steady increase in the homeownership rate, especially for lower income and minority families. In addition, there was significant investment in affordable rental housing, community facilities and broader community economic development, directly by banks and thrifts earning investment credit under CRA or indirectly through bank investment in Community Development Financial Institutions and other community-based organizations.

Second, CRA does not either encourage or condone bad lending. Bank regulators were decrying bad subprime lending before the turn of the millennium, and warning the CRA-covered institutions we regulated that badly underwritten subprime products that ignored consumer protections were not acceptable. Lenders not subject to CRA did not receive similar warnings. And we also explained to those we regulated how to serve lower income communities and borrowers in a manner that was good for the borrower, good for the bank, and earned CRA credit.

For example, in October 2000, when I spoke to the National Association of Affordable Housing Lenders, a group of CRA-covered lenders, I said, "key to successful community reinvestment activity is being a responsible lender. Being responsible means making loans on responsible terms to people who can afford to pay them back, and making certain borrowers both understand the terms of the loan and have the opportunity to get the best terms available given their credit and financial position. But it also means expanding both the market for and affordability of loan products. It means working with customers to make them more bankable, helping families find the loan that is right for them, and investing in their success and yours by supporting organizations that assist you by counseling these individuals on the front and the back end of a loan."

CRA enforcement became a lower priority for bank regulators after 2001. My successor at the Office of Thrift Supervision, in fact, led an effort – eventually thwarted – to unilaterally loosen CRA regulations for institutions with more than $1 billion in assets. Nevertheless, CRA regulations were eased more generally in 2005.

The years that coincided with reduced CRA enforcement are also the years when CRA-covered entities wandered deeper into "higher priced loans," a category that includes, but is not limited to, "exploding ARMs" and other particularly pernicious kinds of loans. Thanks to the valiant efforts of late Fed Governor Ned Gramlich, starting in 2004 we have data about "higher priced loans." In that year, bank, thrifts and their subsidiaries-the entities covered by CRA-made about 37% of high cost loans. By 2006, the bank, thrift and subsidiary percentage was up to 40.9%. That a lack of interest in CRA enforcement coincided with CRA-covered entities getting into higher priced lending does not seem to me an argument for less CRA enforcement. Rather, it's an argument for better enforcement of a statute that, when well enforced, had proven its worth in helping both borrowers and communities.

> "key to successful community reinvestment activity is being a responsible lender. Being responsible means making loans on responsible terms to people who can afford to pay them back, and making certain borrowers both understand the terms of the loan and have the opportunity to get the best terms available given their credit and financial position."

Finally, it is nevertheless the case that CRA-covered lenders are not the source of the problem. One of CRA's major failings, in fact, is that it only applies to banks and thrifts. Remember all the investment banks that demanded product and then sliced and diced loans until it was impossible to understand their quality? They're not covered. Neither are the independent mortgage banks, the kinds of firms that have gone bankrupt or nearly so because of their abysmal lending practices, who regularly made about 50% of the high cost loans. Bank affiliates, another uncovered group, made about 12% of the high cost loans.

CRA is not perfect. It doesn't cover a substantial portion of the financial services landscape. It has become complex, and the primary focus is on numbers of loans, with less attention to the quality of those loans. Asset-building depository and other services are given short shrift. And banks and thrifts have been allowed to "count" loans made by affiliates that are not subject to effective regulatory scrutiny. Governor Gramlich was right when he said that these entities – like the independent mortgage bankers – should be subject to far greater regulatory scrutiny, for many reasons. Certainly banks should not be allowed to count loans made by these affiliates for CRA purposes without such scrutiny.

But these are not reasons to repeal CRA or blame it for a mess caused primarily by those not subject to its reach during a period when even those under its umbrella were not encouraged to take it seriously. Rather, our challenge is to respond to the ongoing credit crisis in part by modernizing CRA, expanding its reach and making it even more effective than it was in the 1990s.

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"…our challenge is to respond to the ongoing credit crisis in part by modernizing CRA, expanding its reach and making it even more effective than it was in the 1990s."

The End of the 'Any Breathing Borrower' Era

Boston Globe, Oct. 8, 2008

By Nicolas Retsinas, Harvard University
Retsinas is a former HUD official and OTS director; article edited for space

"It is wrong to blame government policies to increase homeownership for this Wild West market. In 2004, the homeownership rate in the United State rose to an all-time high: 69 percent. But the subprime market did not blossom until 2005."

Nicolas Retsinas

The subprime market operated outside the corral: few federal regulations, minimal federal oversight. This market made money the new-fashioned way: by selling. Almost 250,000 people worked at mortgage brokerage firms all focused on "selling" mortgages. The solvency of the borrower was secondary. With "liar's loans," a would-be borrower "verified" his own employment history, including salary.

It is wrong to blame government policies to increase homeownership for this Wild West market. In 2004, the homeownership rate in the United State rose to an all-time high: 69 percent. But the subprime market did not blossom until 2005.

The credit for the increase in homeownership during that pre-subprime era goes to several factors: a robust economy, with low unemployment; low interest rates; credit scoring that identified credit-worthy borrowers; and banks' commitment to fill their CRA obligations. Federal oversight worked.

As for subprime lending, this uncorralled market introduced two innovations: first, the "any breathing borrower" rule. Brokers' and lenders' compensation was based on loans originated, not on loans repaid.

Ironically, while the subprime market soared, homeownership fell - especially for low-income and minority households.

As for the loan, the lender sold it to a mortgage bank who mixed it with other loans (some better, some worse - much like the bags of potatoes in the supermarket), sold the bundle to a trust that chopped it into tranches to get a good bond rating on some of them, then passed those on to other investors, maybe a pension fund or an overseas bank. Regulatory oversight was outsourced to ill-equipped credit rating agencies.

The second innovation was the "rabbit hole" loan. With subprime loans, you paid nothing down, then almost nothing for months, maybe years, then - poof! You plunged down the rabbit hole, in a nightmare Wonderland. Some payments escalated gradually after two years; others ballooned. Brokers counted on shortsighted, or optimistic, borrowers.

Only nine percent of subprime borrowers used the loan to buy a first home. Many borrowers were investor/flippers, riding the market to a windfall. Others used the loans to move up, from one home (sold in a bull market) to another, one out-of-budgetary-reach under the old-fashioned rules of stodgy banking (remember when down payments were required). Other borrowers were lured into second mortgages, or equity loans - for some people, the debt paid for a new roof, or a medical bill. In a culture where credit card debt is normative, the sell was not hard.

Ironically, while the subprime market soared, homeownership fell - especially for low-income and minority households.

Now that the subprime market has imploded, we are seeing a landscape, literally, of foreclosed homes. An estimated 15 percent of subprime borrowers will lose their homes. While some were first-time buyers, others were lured into trading up, or borrowing on their home.

As for the "prime" market of traditional lenders, credit is now tight. The demographics still propel homeownership: Over 1 million new families form each year. Those families find it harder to get mortgages. If unemployment rises significantly, not only will those families not be able to afford a mortgage, but many who borrowed in the "prime" mortgage market will fall delinquent.

In the wake of massive foreclosures, critics are lambasting the subprime market; but they should be lambasting the lack of regulations, not the subprime market per se. It is reasonable to give credit-impaired borrowers access to credit, at interest rates that compensate for the greater risk. Subprime lenders did just that. But without regulation, the market went awry.

Regulators should step in. They should outlaw the "any breathing borrower" innovation, the "rabbit hole" loans, and the compensation schemes that tie brokers' earnings to sales made, not loans repaid. They, like Ponzi schemes, should be illegal. We let subprime lending operate unregulated; we are living with the carnage.

"We let subprime lending operate unregulated; we are living with the carnage."

Poor Homeowners, Good Loans

New York Times, Oct. 18, 2008

By Michael Barr and Gene Sperling
Barr and Sperling were both advisors to President Clinton; article edited for space


Gene Sperling

For those who championed a hands-off approach to the supervision of finance, the economic meltdown should have prompted reflection on the value of common-sense regulation. Unfortunately, a growing chorus in conservative circles is trying to shift blame for the current crisis to the poor and the advocates for the poor.

Here's their story line: our current problems were caused not by people in high finance and government over the past eight years, but powerful antipoverty groups and the Clinton administration, which through their advocacy for the Community Reinvestment Act and homeownership goals for Fannie Mae and Freddie Mac bullied a Republican Congress and the titans of Wall Street into bringing global finance to its knees.

There's only one problem with this story: it isn't true.

It is not tenable to suggest that the Community Reinvestment Act, which was enacted more than 30 years ago, suddenly caused an explosion in bad subprime loans from 2002 to 2007. During the 1990s, enforcement under the reinvestment act was strong, prime lending to low-income communities increased and it was done safely. In 2000, a Federal Reserve report found that lending under the act was generally profitable and not overly risky.

Poor Homeowners, Good Loans

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Michael Barr

By contrast, in the 2002 to 2007 period, the act's enforcement was weak and its advocates had little influence with Congress. In 2003, President Bush's chief thrift regulator – holding a chainsaw in his hands as a prop – boasted of his plans to cut banking regulations, including the scope of the reinvestment act and his enforcement staff, which he carried out over the next two years.

Instead, the bad subprime loans were predominantly made by financial firms not covered by the act. According to recent Fed data, 75 percent of higher-priced loans during the peak years of the subprime boom were made by independent mortgage firms and bank affiliates that were not covered by the act.

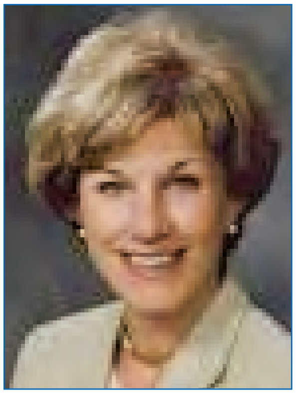
If the Community Reinvestment Act caused the subprime crisis, it is hard to make sense of why non-covered lenders drove the growth. These subprime lenders were competing with more responsible lending under [CRA] by banks and thrifts. Their loans undid the work of community banks that had been making sound mortgage loans to creditworthy low- and moderate-income borrowers for years.

There are many lessons to learn from the financial meltdown. Chief among them is to beware the reckless spending, conflicts of interest and opaque practices of those seeking high profits. But it is a serious mistake to attribute any of our troubles to consumer protection laws and the actions of those in the nonprofit community with a history of promoting responsible lending to families of moderate incomes.

"These subprime lenders were competing with more responsible lending under [CRA] by banks and thrifts. Their loans undid the work of community banks that had been making sound mortgage loans to creditworthy low- and moderate-income borrowers for years. "

"…it is a serious mistake to attribute any of our troubles to consumer protection laws and the actions of those in the nonprofit community with a history of promoting responsible lending to families of moderate incomes. "

Defending the CRA



Cathy Minehan

November 20, 2008

By David M. Abromowitz and Cathy Minehan, Center for American Progress
Abromowitz is a senior fellow at the Center for American Progress. Minehan served as president of the Federal Reserve Bank of Boston from 1994 to 2007; article edited for space.

Amid the largest financial market meltdown since the 1930s, the search for scapegoats is on. Clearly the rapid expansion of mortgage lending and the related proliferation of new loan products offered to unqualified borrowers in an environment of low interest rates and insufficient risk monitoring played a key role in the underlying credit mess. But the reasons why these abusive lending practices prevailed for so long has nothing to do with the Community Reinvestment Act.

Under the CRA, banks are evaluated on how well they serve these credit needs, and they face penalties if such service is not deemed adequate by regulators. Were these practices excessively risky, or less profitable than loans to other types of borrowers? Not at least through 2000. At the behest of Congress, the staff of the Board of Governors of the Federal Reserve System that year surveyed 500 of the largest banks in the United States subject to the CRA and asked for both quantitative and qualitative assessments of CRA loans versus other types of credit. This study revealed that CRA lending on balance was about as profitable as other mortgage lending and performed about as well.

Moreover, according to another 2000 study done at the request of Congress by staff of the Brookings Institution and Harvard's Joint Center for Housing Studies, the CRA-covered institutions increased their lending to low- and moderate-income borrowers from 1993-98 at a much faster pace than to other income groups, reflecting the economic progress being made by this lower income demographic. This new market was served without the increase in foreclosures or credit market turmoil seen recently.

"…according to another 2000 study done at the request of Congress by staff of the Brookings Institution and Harvard's Joint Center for Housing Studies, the CRA-covered institutions increased their lending to low- and moderate-income borrowers from 1993-98 at a much faster pace than to other income groups, reflecting the economic progress being made by this lower income demographic. This new market was served without the increase in foreclosures or credit market turmoil seen recently."

But that was then and this is now. Did CRA lending somehow run amuck during the housing bubble, causing trouble for both borrowers and lenders? Data collected in 2006 under the auspices of the Home Mortgage Disclosure Act suggest not. Banks covered by CRA did make subprime loans, but the great majority of those loans went to middle- or upper-income borrowers or neighborhoods. In fact, of all the subprime loans made by banks covered by CRA, only 6 percent were CRA loans targeted borrowers in their assessment areas.

The real issue is that the CRA only applies to banks regulated by the federal government. The majority of the subprime loans made from 2001 to the peak in 2006 were made by mortgage entities not covered under the CRA. Thus, to the extent that such loans were made to low- and moderate-income borrowers – and many were with well-publicized negative consequences – it was not the government that "made them do it." Rather, it was some combination of new, overly aggressive, financial products and selling techniques; perverse incentives of the originate-to-distribute model of mortgage financing; easy financing conditions; and, yes, pure greed.

Experience has shown that lending to low- and moderate-income families does not inevitably mean high delinquency or foreclosure rates when care is taken in the lending process and borrowers fully understand their obligations. Take the experience of the Massachusetts Affordable Housing Alliance, which

Former Government Officials

has assisted over 11,000 families of modest means in buying their first home. It boasts a delinquency rate roughly half that of conventional mortgage borrowers.

The subprime mortgage crisis afflicting our financial markets today stems from many bad decisions. Borrowers made errors, but so did some of the most sophisticated private-sector financial players and government regulators, as well as Fannie Mae and Freddie Mac. At this point, there are undoubtedly some who are rethinking what is a "safe" loan for a family of modest income and assets, and this may be appropriate.

"But the current crop of finger-pointing at the CRA and its mission to help ensure low- and moderate-income borrowers are included in the American Dream of homeownership and business formation comes dangerously close to writing off a whole swath of hard-working potential owners as "too risky" the next time around. That would be a tragedy both for those directly involved and for the continuing resurgence of our inner-city communities."

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Bankers


Ken Lewis

"CRA has become a scapegoat" for the current mortgage crisis. "The great majority of loans that caused this problem were outside of CRA," said Bank of America CEO Ken Lewis.

The Last Word On The CRA

An Interview With Ron Grzywinski

Progress Illinois, Oct. 9, 2008
By Adam Doster; article edited for space
In 1976, Grzywinski, co-founder of ShoreBank, proposed the idea for the CRA.


Ron Grzywinski

RG: But contrary to all this stuff that anybody against it has ever said, there is never any suggestion by anybody that banks should be making irresponsible loans. And the last time, about five years ago, when somebody got fairly far in Congress and tried to ditch CRA, the big banks all testified in favor of it.

AD: Do you think the regulations are still important today? What do you think the lending landscape would look like without CRA?

RG: Well, I don't know. That makes for good speculation. Despite what I just said, getting involved in public policy isn't what ShoreBank does a lot of. I think in this current environment, it's very hard to say what it would or will look like. Because it's easy for the story to get clouded up and make it look like the regulating banks under CRA were the cause of the problem.

What you had was a whole industry that had absolutely no skin in the game. They were just writing and peddling stuff … and there was nobody checking. It was just reckless stuff – sell it, make your fees, and move on. And people have no down payments and they were told they could own a home – why wouldn't they?

AD: How are the loans that your bank gives out to lenders who might also qualify as subprime different from some of these peddled loans from the bigger mortgage firms?

RG: We do it the old fashioned way. It sounds like an advertisement but it's the truth. We don't do credit scoring; we do it after the fact in order to put a piece of paper in the file in case we ever do decide to sell it. We do not do variable rate loans or subprime adjustable rate mortgages. To the best of my knowledge we have never given out variable rate loans. And we meet with the borrower, and its old fashioned lending. Who is the borrower? What kind of down payment do they have? Where's the money coming from? How real is the value of the house? Can they make these payments? All that kind of stuff. We do verification of value and of income. We lend in the markets that we know, here on the South Side and West Side of the city. There's no magic about it. And our numbers right now in our homeowner portfolio are just about where they have historically been. They are up a touch, but that's mostly the economy. It's not rocket science. We're just old fashioned bankers.

"What you had was a whole industry that had absolutely no skin in the game. They were just writing and peddling stuff … and there was nobody checking. It was just reckless stuff – sell it, make your fees, and move on. And people have no down payments and they were told they could own a home – why wouldn't they?"

Editorials

> **"…you can hardly pick up a newspaper or turn on the television these days without hearing critics argue that [CRA] created the current mess we're in by forcing banks to lend to people in poor areas who were bad credit risks."**

"Misplaced Blame," New York Times, Oct. 15, 2008 (editorial)

Editorial has been edited for space

In recent weeks, Republicans in Congress have been blaming a lot of things, besides themselves, for the subprime mortgage debacle. And many of these same Republicans have long wanted to abolish the Community Reinvestment Act, a landmark law that helped to rebuild some of the nation's most desolate communities by requiring banks to lend, invest and open branches in low-income areas that had historically been written off.

These two goals have converged in a new attempt to blame the law for the financial crisis. The act, passed in 1977, is one of the most successful community revitalization programs in the country's history. According to a recent report by the National Community Reinvestment Coalition, an advocacy group in Washington, the act has encouraged lenders to invest more than $4.5 trillion in minority and low-income areas.

This money helped to remake devastated neighborhoods like the South Bronx, helping to finance new housing and businesses. It has helped provide essential services in such neighborhoods, including medical centers and housing for the elderly and disabled –projects that the private sector too often refused to back.

But you can hardly pick up a newspaper or turn on the television these days without hearing critics argue that [CRA] created the current mess we're in by forcing banks to lend to people in poor areas who were bad credit risks. Representative Steve King of Iowa has introduced legislation that would repeal the act

The charges do not hold up. First, how could a 30-plus-year-old law be responsible for a crisis that has occurred only in recent years? Then there's the fact that the regulatory guidance issued under the reinvestment act and other banking laws actually impose restraints on the riskiest kinds of subprime lending.

In addition, subprime lending was not driven by banks, which are covered by the act. Rather, most subprime lending was driven by independent mortgage lending companies, which the act does not cover, and, to a lesser extent, by bank affiliates and subsidiaries that are not fully covered by the act. By some estimates, nonbank lenders and bank affiliates and subsidiaries may have originated 75 percent or more of the riskiest subprime loans.

"Subprime Meltdown Culprits," Los Angeles Times, Oct. 25, 2008 (editorial)

Editorial has been edited for space

As the cost of Wall Street's credit crisis has mounted, the hunt for villains has intensified and the accusations of fault have widened. At first the focus was on greedy profiteers among lenders and investment bankers, who were an easy (and deserving) target. Then the finger-pointing became politicized, with Democrats blaming deregulation advocates in the Bush administration and previous GOP-controlled Congresses, and Republicans citing influential Democrats at Fannie Mae and Freddie Mac and their allies on Capitol Hill. Lately, even former Federal Reserve Chairman Alan Greenspan, who once incited hero-worship among lawmakers, has been heaped with blame.

But it's not just the rich and powerful who have been held up for scorn. Some politicians have also started pointing fingers toward the bottom of the economic ladder, associating the problems in the financial markets with irresponsible low-income borrowers and advocates for affordable housing. The latter include the controversial group ACORN, the Assn. of Community Organizations for Reform Now, which was best known as a lobbyist for low-cost housing before it gained infamy for its fraud-tolerant voter-registration drives. Had banks not been forced to make loans to minorities and people with lower credit scores, some say, the subprime meltdown would not have occurred.

Underlying this point of view is the belief that government regulation and intervention in markets cause more problems than they solve. In particular, these critics maintain that the 1977 Community Reinvestment Act pushed banks to make bad loans by requiring them to serve low-income neighborhoods. Although the law set no lending quotas or even targets, it enabled community groups to extract concessions from banks that sought to expand or acquire rivals. ACORN, for example, has used the CRA as leverage to compel banks to create pools of loans for low- and moderate-income families. Its efforts have generated about $6 billion in loans to these borrowers, while also generating funds for ACORN's nonprofit housing corporation. Supporters call that a win-win scenario; critics say it's legalized extortion.

Linking the credit crisis to the push for more affordable housing, however, is blaming the victim. Had banks covered by the CRA been the driving force behind the boom in subprime lending, or had Fannie Mae and Freddie Mac been true to their mission of promoting affordable homes and apartments, the housing market wouldn't have inflated as dramatically, and the pain wouldn't have been as great when the bubble burst. Borrowers made their share of mistakes and reckless decisions, but the more fundamental problem is that too many mortgage brokers, lenders and investors stopped caring whether loans could be repaid. They abandoned the underwriting standards that would have protected borrowers and lenders alike.

"Some politicians have also started pointing fingers toward the bottom of the economic ladder, associating the problems in the financial markets with irresponsible low-income borrowers and advocates for affordable housing."

It's easy to dismiss the rap against the CRA if you understand why Congress enacted the law. Commercial banks' reluctance to serve minority and low-income communities had left these areas open to exploitation by less savory sources of credit, such as payday lenders. Consumer advocates pushed Congress to end this redlining because they wanted banks' good lending practices to drive predatory lenders out of those communities. The law and subsequent regulations made clear that banks and thrifts were being asked to try harder to find capable borrowers, not to make loans that were more likely to default. As the Federal Reserve Board put it in Regulation BB, "[T]he board anticipates banks can meet the standards of this part with safe and sound loans, investments and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations."

"Linking the credit crisis to the push for more affordable housing, however, is blaming the victim. Had banks covered by the CRA been the driving force behind the boom in subprime lending, or had Fannie Mae and Freddie Mac been true to their mission of promoting affordable homes and apartments, the housing market wouldn't have inflated as dramatically, and the pain wouldn't have been as great when the bubble burst. "

Here are three more data points that show the CRA or affordable-housing efforts in general can't be blamed for the growth in subprime loans. Most subprime loans started with brokers and lenders not covered or affected by the CRA, such as now-defunct New Century Financial. Such loans went mainly to middle- and upper-income borrowers. And the vast majority were for home refinancing, not new purchases. The problem with these refinancings was that they were built on sand – they existed to generate fees for brokers and lenders and/or to tap equity that would evaporate soon after the bubble burst. Beyond that, a recent study found that loan programs aimed specifically at low-income borrowers have significantly lower default rates than subprime loans in general.

The last things anyone wanted from the CRA were the exotic mortgages that have failed at alarming rates, including "liar loans" and "negative amortization" mortgages whose low payments pushed borrowers deeper into debt. So why did those types of loans and other questionable practices proliferate? Because they generated higher returns for lenders and investors.

"The last things anyone wanted from the CRA were the exotic mortgages that have failed at alarming rates, including "liar loans" and "negative amortization" mortgages whose low payments pushed borrowers deeper into debt. So why did those types of loans and other questionable practices proliferate? Because they generated higher returns for lenders and investors."

"Subprime Scapegoats," **Boston Globe, Oct. 11, 2008 (editorial)**

Editorial has been edited for space

Amid a global financial crisis that began with unsustainable loans to people with bad credit, it was only a matter of time before apologists for Wall Street excesses would try to pin the blame on the poor – and on government policies meant to help them.

Sure enough, the Community Reinvestment Act has emerged in recent weeks as a favorite target of conservatives and others who oppose any government intervention in the market, for it requires banks to lend in neighborhoods they might otherwise avoid.

And yet the Community Reinvestment Act has nothing whatsoever to do with the subprime mess.

The law applies specifically to commercial banks, which in recent months have been the least volatile part of the financial-services industry. The measure was passed in 1977 to combat redlining, the practice of banks refusing to write mortgages in poor neighborhoods – even when they were taking deposits from residents of those neighborhoods.

"The subprime mortgages that have failed left and right are the antithesis of the carefully designed, well-supervised loans provided by tightly regulated banks. No law forced a mob of unregulated lenders to make loans in poor neighborhoods. "

"…the Community Reinvestment Act has nothing whatsoever to do with the subprime mess."

The subprime mortgages that have failed left and right are the antithesis of the carefully designed, well-supervised loans provided by tightly regulated banks. No law forced a mob of unregulated lenders to make loans in poor neighborhoods. Rather, mortgage companies and Wall Street financiers saw a business opportunity in subprime lending, where the risk of default was high but so were the interest rates.

Never mind that subprime mortgages were once considered as disreputable a business as check-cashing stores and payday loans; big-time investors took a keen interest once the potential rewards became clear. When financial firms began buying up and bundling mortgages, rediviving them into securities, and selling them off, individual brokers had no incentive to make sure any given mortgage would be sustainable if housing prices fell.

Far from being forced to write new loans, brokers competed to sell home mortgages to lower-income customers. Nadine Cohen, a senior attorney in the consumer unit of Greater Boston Legal Services, has a client who had been living in public housing in Cambridge for $350 a month - before getting a $500,000 home loan.

In that case, as in so many of today's mortgage horror stories, the lender wasn't a traditional bank. The subsequent meltdown of the nation's entire financial system could not have happened without a huge – and entirely voluntary – inflow of money from Wall Street into a sketchy sector of the mortgage market. Nobody forced investment firms to wager billions of dollars directly on these loans, or to build an elaborate web of complex financial transactions dependent upon their continued performance. But they did.

"The recent animosity over the Community Reinvestment Act, in short, simply can't be explained by the facts."

The recent animosity over the Community Reinvestment Act, in short, simply can't be explained by the facts. Among the law's critics, there's more than a whiff of social Darwinism – the certainty that only a government policy aimed at helping losers could lead the whiz kids of Wall Street so far astray. Hogwash. The current financial crisis grows out of loose regulation that gave big investors plenty of freedom to make foolish bets, and then force their losses upon the taxpayers.

Daniel Gross

***"The Subprime Good Guys,"* Slate, Nov. 15, 2008**
By Daniel Gross
Gross is a columnist for Slate and Newsweek; article edited for space

In recent months, conservative economists and editorialists have tried to pin the blame for the international financial mess on subprime lending and subprime borrowers. If bureaucrats and social activists hadn't pressured firms to lend to the working poor, the story goes, we'd still be partying like it was 2005 and Bear Stearns would be a going concern. The *Wall Street Journal*'s editorial page has repeatedly heaped blame on the Community Reinvestment Act, the 1977 law aimed at preventing redlining in minority neighborhoods. Fox Business Network anchor Neil Cavuto in September proclaimed that "loaning to minorities and risky folks is a disaster."

"Since ethical subprime lenders know they're going to live with the loans they make –rather than simply sell them – they invest in initiatives that will make it more likely the loans will be paid back."

This line of reasoning is absurd for several reasons. Many of the biggest subprime lenders weren't banks and thus weren't covered by the CRA. Nobody forced Bear Stearns to borrow $33 for every $1 of assets it had, and Fannie Mae and Freddie Mac didn't coerce highly compensated CEOs into rolling out no-money-down, exploding adjustable-rate mortgages. Banks will lose just as much money lending to really rich white guys like former Lehman Bros. CEO Richard Fuld as they will lending to poor people of color in the South Bronx.

But the best refutation may come from Douglas Bystry, president and CEO of Clearinghouse CDFI (community-development financial institution). Since 2003, this for-profit firm based in Orange County – home to busted subprime behemoths such as Ameriquest – has issued $220 million worth of mortgages in the Golden State's subprime killing fields. More than 90 percent of its home loans have gone to first-time buyers, about half of whom are minorities. Out of 770 single-family loans it has made, how many foreclosures have there been? "As far as we know," says Bystry, "seven." Last year Clearinghouse reported a $1.4 million pretax profit.

Community-development banks, credit unions, and other CDFIs – a mixture of faith-based and secular, for-profit and not-for-profit organizations – constitute what might be called the "ethical subprime lending" industry. Even amid the worst housing crisis since the 1930s, many of these institutions sport healthy

“…What sets the “good” subprime lenders apart is that they never bought into all the perverse incentives and “in-novations” of the bad subprime lend-ing system”

payback rates. They haven’t bankrupted their customers or their shareholders. Nor have they rushed to Washington begging for bailouts. Their numbers include tiny startups and veterans such as Chicago’s ShoreBank, founded in 1973, which now has $2.3 billion in assets, 418 employees, and branches in Detroit and Cleveland. Cliff Rosenthal, CEO of the National Federation of Community Development Credit Unions, notes that for his organization’s 200 members, which serve predominantly low-income communities, “delinquent loans are about 3.1 percent of assets.” In the second quarter, by contrast, the national delinquency rate on subprime loans was 18.7 percent.

“Community-development banks, credit unions, and other CDFIs – a mixture of faith-based and secular, for-profit and not-for-profit organizations – constitute what might be called the “ethical subprime lending” industry. Even amid the worst housing crisis since the 1930s, many of these institutions sport healthy payback rates.”

Participants in this “opportunity finance” field, as it is called, aren’t squishy social workers. In order to keep their doors open, they have to charge appropriate rates slightly higher than those on prime, conforming loans – and manage risk properly. They judge their results on financial performance and on the impact they have on the communities they serve. “We have to be profitable, just not profit-maximizing,” says Mark Pinsky, president and CEO of the Opportunity Finance Network, an umbrella group for CDFIs that in 2007 collectively lent $2.1 billion with charge-offs of less than 0.75 percent.

What sets the “good” subprime lenders apart is that they never bought into all the perverse incentives and “innovations” of the bad subprime lending system – the fees paid to mortgage brokers, the fancy offices, and the reliance on securitization. Like a bunch of present-day George Baileys, ethical subprime lenders evaluate applications carefully, don’t pay brokers big fees to rope customers into high interest loans, and mostly hold onto the loans they make rather than reselling them. They focus less on quantity than on quality.

Since ethical subprime lenders know they’re going to live with the loans they make –rather than simply sell them – they invest in initiatives that will make it more likely the loans will be paid back.

“Rather than pinning the current financial crisis on the rules designed to end unfair lending practices, policy makers should work together to improve regulatory oversight for all lenders, promote access to credit for all qualified home buyers and prevent a repeat of the practices that helped create this crisis.”

Excerpt from ***“Blaming the Victims,”*** **Pittsburgh Post-Gazette, Oct. 22, 2008**
By Peter Harvey
Harvey is executive director of the Fair Housing Partnership in Pittsburgh

CRA lending has led to the creation of businesses and jobs, decent and affordable housing for seniors, accessible housing for persons with disabilities and participation in the American dream of homeownership for many families, especially families of color.

Rather than pinning the current financial crisis on the rules designed to end unfair lending practices, policy makers should work together to improve regulatory oversight for all lenders, promote access to credit for all qualified home buyers and prevent a repeat of the practices that helped create this crisis.

Final Word

Bill Clinton

"Some of the conservatives said that I was responsible because I enforced the Community Reinvestment Act, and they said that's what made all these subprime mortgages be issued. That's also false," said President Bill Clinton.

The National Association of Affordable Housing Lenders (NAAHL) represents America's leaders in moving private capital to those in need. Started in 1990, NAAHL encompasses 200 organizations committed to increasing private lending and investing in low- and moderate-income communities. Members are the "who's who" of private sector lenders and investors in affordable housing and community economic development: banks, thrifts, insurance companies, community development corporations, mortgage companies, loan consortia, financial intermediaries, pension funds, foundations, local and national nonprofits, and allied professionals.

By pooling the knowledge and resources of our members, we can do an even better job of making a real difference. Through conferences, publications, public policy advocacy and other activities, NAAHL supports private investment in communities: in affordable housing, small business, micro-enterprises and community development. NAAHL is open to all community investment practitioners.

The Center for Community Lending, a 501 (c) 3 foundation, was formed by nonprofit organizations in 2000. It is dedicated to conducting and sponsoring research and education about community lending to expand the availability of credit, promoting revitalization of distressed neighborhoods and families, eliminating discrimination in lending and promoting equality of opportunity for access to credit.

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