Remarks of David M. Dworkin, President and CEO of the National Housing Conference, to the National League of Cities Community and Economic Development Federal Advocacy Committee

March 11, 2018

The Community Reinvestment Act of 1977 was enacted in response to concerns over disinvestment in low-income communities and persistent allegations of redlining, the practice of avoiding investment in minority neighborhoods.

As Americans continued to leave cities for new suburban “bedroom” communities, there was a growing disparity between where banks raised their deposits and where they invested, particularly in housing and mortgage finance. While laws like the Fair Housing Act of 1968 prohibited discrimination, Congress sought to incent banks to invest in the communities where their branches were located. A high CRA rating was intended to provide that incentive. The first release of data under the Home Mortgage Disclosure Act in 1977 made clear that more tools were needed to address the disparities in lending to low- and moderate-income communities.

Over 40 years later, the landscape of banking and investment in the United States has changed in major ways, but the CRA has remained essentially unchanged. Interstate banking, mortgage securitization, internet and mobile banking and the resurgence of America’s cities are just a few of the major changes we have seen in the past four decades.

Given these fundamental changes, the Treasury Department undertook a six-month initiative to “comprehensively assess how the CRA could be improved” through solicitation of input from stakeholders, including banks, regulators and consumer and affordable housing advocates. Many have assumed that Treasury would seek to gut the CRA, but in fact, Secretary Steven Mnuchin came at the issue from a very different perspective. As a former Goldman Sachs mortgage trader, he understood how many banks pay a premium for CRA-eligible loans at the end of each year. When he took over One West, he was certain he could do a better job of meeting the bank’s CRA requirements, but ultimately found himself having to buy CRA loans as well. His conclusion was that it should not be so difficult to do the right thing– especially when that’s your intention from the beginning. His direction to Treasury staff was to find out how to modernize CRA and make it more effective, not less so. While not everyone will be happy with every policy Treasury recommends, I expect that most CRA supporters will be surprised by how much they agree with the report’s findings.

Treasury’s review has focused on four major areas:

1. Improvement in how banks’ CRA investments are measured to improve their benefit to communities;
2. Harmonization of CRA supervision given the oversight by multiple regulators;
3. Changes in the way CRA geographic assessment areas are defined because of the changing nature of technology and other factors; and
4. Improvement in the regulatory review and rating assessment process, which would consider the frequency of examinations, the ability of institutions to remediate ratings, and the transparency of how the overall CRA assessment rating is determined.

Since September of last year, Treasury officials have held over 100 meetings with individual stakeholders, including financial institutions, trade associations, consumer and community advocates, think tanks and academics, among others.

To understand why the Community Reinvestment Act remains so important, one need only look at the numbers of minority homeownership in the 50 years since the passage of the Fair Housing Act. Overall, minority homeownership plummeted during the Great Recession, falling from 52% in 2004 to 46% in 2016. The homeownership rate for African-Americans is lower today than it was when the Fair Housing Act was passed in 1968. That is a national tragedy. African-American households saw a seven-point decline in homeownership, from nearly 50% in 2004 to below 42% in 2016. During the same period, the white homeownership rate declined by 4.1 percentage points, while the "other" households (includes Asian, Hawaiian, Pacific Islander, American Indian and Alaska Native households) rate declined by 3.5 percentage points, and the Hispanic homeownership rate by 1.7 percentage points.

Last month, I sat down with the Treasury team to discuss several areas they are examining, and to review their current thinking on CRA reform. My impression coming from that meeting and other conversations is that the Treasury report is unlikely to recommend any legislative changes to CRA, focusing instead on how to modernize the regulations, guidance and procedures so it better reflects changes in banking that have occurred in the past 40 years, but particularly since the advent of interstate and internet banking. It is also likely they will advocate for greater flexibility for banks to address performance issues that result in downgrades over the course of their assessment period, so they are incented to make changes quickly and are not unduly penalized for non-material violations that fall in the purview of other regulators.

One of the most important areas that Treasury will address is how investments are counted in and out of designated Assessment Areas. With the rise of interstate banking and bank consolidation, as well as the merging of investment banking and commercial banking in so many large banks, defining what constitutes a bank's Assessment Area and how to count investments outside those boundaries is a key area of interest and one that potentially has the greatest impact for America's cities.

Assessment Area definition and application present unique challenges today because banks have alternate channels for accepting deposits, like mobile and online banking, that did not exist in 1977; customers with deposits are much more mobile today, and rural areas have experienced a disproportionate number of bank branch closures not envisioned in 1977. These factors have contributed to a condition known as CRA hotspots, where CRA investment incentives are concentrated in a few states, like Utah, South Dakota and Delaware, while other states, where banks are less likely to be chartered, have become CRA deserts. If LIHTC investments in your city are pricing at more than $1.10 per credit, chances are that you are in a CRA hotspot. If they priced well below $1.00, you may be in a CRA desert – and if you don't know what LIHTC is, then you are definitely in a CRA desert!

Treasury's report, and ultimately, the regulatory actions of the independent regulators that enforce CRA – the FDIC, OCC and Federal Reserve Board—will have to address how CRA investments are measured in a way that doesn't dilute the original intent of the law, while addressing changes in the banking industry over the past 40 years.

For those of us who care deeply about maintaining and improving the CRA's effectiveness, we will need to:

- Closely examine the final CRA report and thoughtfully consider how the issues it raises impact our communities;

- Advocate for or against changes in CRA with the independent regulators that will actually be called upon to draft and execute changes to the regulations; and
- Raise awareness among elected officials and the general public about why CRA still matters.

Having worked with the CRA team at Treasury, both in and out of government, I believe there is a unique opportunity to improve this important tool to make access to credit and investment more fair while maintaining the safety and soundness of our financial institutions.

Most banks have long ago learned to appreciate the value of CRA; though they are often frustrated by the how it is applied. We want CRA compliance to be fair, timely and accurate, and so do they. I am optimistic that this process will result in a strengthening of the effectiveness of CRA through sensible improvements.