NATIONAL COMMUNITY REINVESTMENT COALITION

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Statement for the Record
From John Taylor, President and CEO
To Senate Committee on Banking, Housing, and Urban Affairs
Hearing on Regulatory Burdens to Obtaining Mortgage Credit
April 21, 2015

Chairman Shelby, Ranking Member Brown, and distinguished Members of the Committee:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to provide this written statement for the record of the April 16, 2015 hearing on *Regulatory Burdens to Obtaining Mortgage Credit*. In this statement, we will share with the Committee many of the comments we have shared with federal agencies involved in housing finance.

NCRC is a nonprofit, nonpartisan association of more than 600 organizations dedicated to the mission of building and protecting wealth in America's underserved communities. For more than 20 years, we have advocated to ensure vibrant communities for America's working families by actively promoting access to basic banking services and products, homeownership and the development of affordable rental housing, local business growth, and workforce training. Our members include community reinvestment organizations, community development corporations, community development financial institutions, local and state government agencies, faith-based institutions, community organizing and civil rights groups, minority- and women-owned business associations, and social service providers from across the nation.

Quite frankly, NCRC is concerned that several of the proposals before the Committee propose rollbacks to many of the important systemic safeguards and consumer protections enacted by the Dodd-Frank Wall Street Reform and Consumer Protection Act and regulations implemented by the Consumer Financial Protection Bureau (CFPB). The reforms under Dodd-Frank are critical to avoid another financial crisis that ripped apart American communities, resulting in millions of lost jobs and a period of prolonged economic recession.

Access to Mortgage Credit: Key to Economic Opportunity and Building Wealth

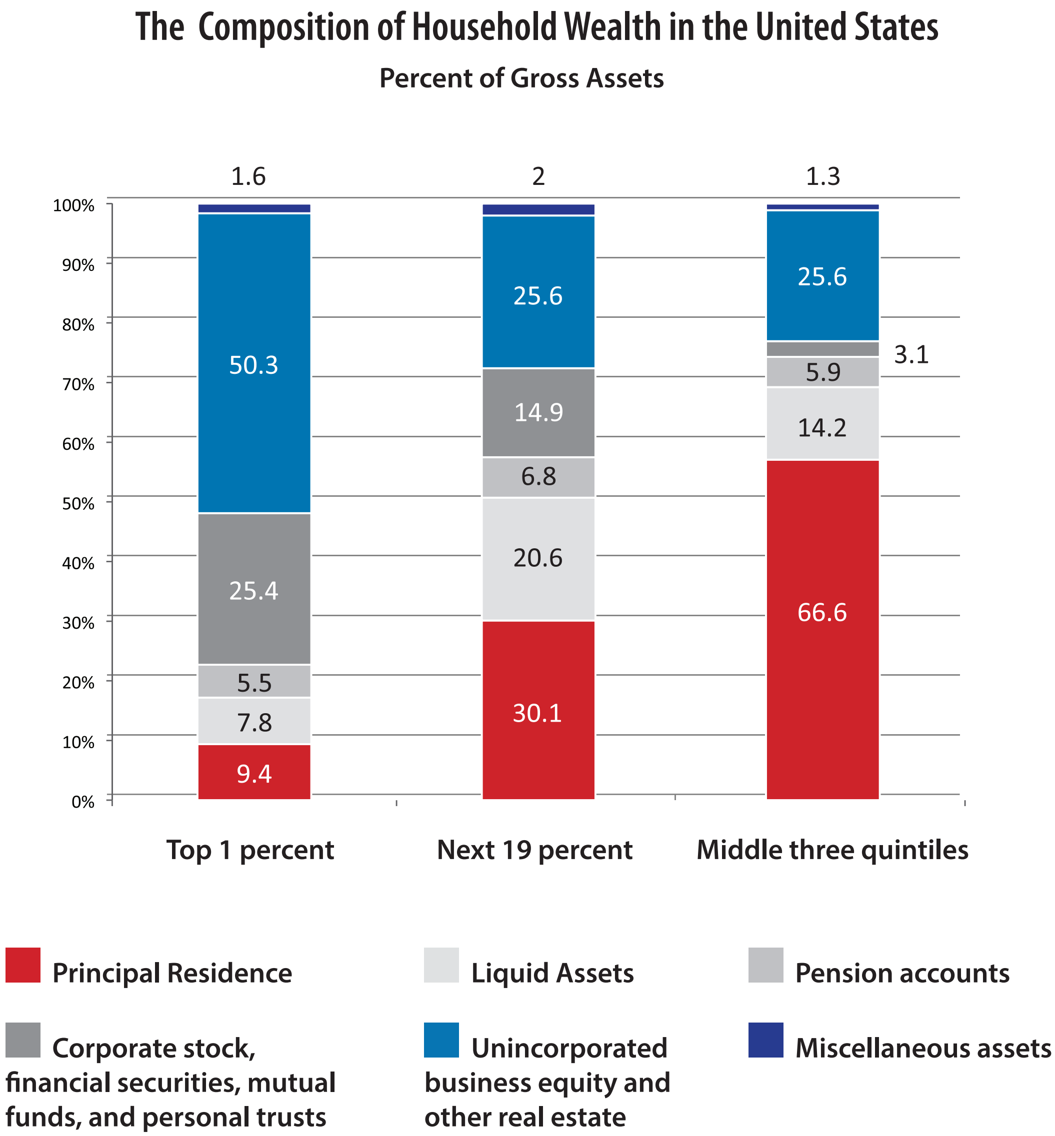
The Great Recession is over, but that doesn't mean the average American is prospering. While the economy is adding jobs every month, many communities still suffer from economic insecurity. The economic situation of most families and communities has been negatively affected by the loss of homeownership and declines in home values and tight credit markets – in both home and small business lending – that continue to plague the nation.

The recession revealed deeper problems in the foundation of the American economy. Inequality is growing and economic mobility has declined. The wealth gap between high income and middle- and lower-income people is at an all time high, and the racial wealth gap has grown. A 2014 Harvard Business School study characterized the struggles of working and middle-class Americans and small businesses as "unsustainable."[1]

The interplay between federal policies affecting home lending, business lending and financial institutions may seem abstract or inconsequential to some. But the growing wealth gap has everything to do with how, where, and to whom financial institutions extend capital and credit, and government law and regulation impacts that significantly.

Stabilizing communities and protecting and repairing the rungs on the ladder of opportunity starts with understanding what drives wealth creation in American communities and how most people build savings and wealth. As evidenced by the chart below, for most Americans, this doesn't happen through the stock market, it happens through buying a home or investing in a business or real estate.

[1] Michael E. Porter and Jan W. Rivkin, "An Economy Doing Half Its Job," Harvard Business School, 2014, available at [1] http://www.hbs.edu/competitiveness/Documents/an-economy-doing-half-its-job.pdf



Source: Wolff (2012)

Ensuring broad access to mortgage credit for the low- and moderate-income and other traditionally underserved communities is especially effective for most Americans because they fulfill another essential need while building wealth. A home also puts a roof over one's head. A business can provide necessary income. In both cases, sustainable ownership has historically had demonstrably positive effects on the community at large, including higher levels of civic participation, job creation and neighborhood stability, and evidence suggests this continues post-financial crisis.[2]

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[2] Ibid.

The nationwide foreclosure crisis that led to a financial crisis and the Great Recession demonstrated that protections must be in place to guard against financial fraud and abuse, or else wealth creation will be stripped by unscrupulous actors and not captured by homeowners, small businesses, and communities. As such, the protections created by the Dodd-Frank law and the work of the CFPB, the Fair Housing Act, and the Community Reinvestment Act remain extremely critical.

The following are a number of recommendations that we offer to the Committee to assist in overcoming obstacles to obtaining mortgage credit in underserved communities around the country.

Ensuring that the Secondary Mortgage Market Creates Opportunities for Access to Affordable Credit

The current structure of the housing finance system helps create broader access to conventional financing than would otherwise exist in a fully private market. Prior to the advent of the government-sponsored enterprises (GSEs), the 30-year fixed rate mortgage did not exist. Typical terms were less than 10 years, and often required deposits of 50 percent or more. Such requirements put homeownership out of reach of most Americans.

There are a variety of ways forward in reforming the housing finance system, but any that are undertaken must result in a secondary mortgage market that provides clear access to affordable credit for all creditworthy borrowers. Legislative action may not be wise or feasible at the moment, however unwinding Fannie Mae and Freddie Mac from conservatorship and allowing them to recapitalize would do a great deal to boost the housing market. FHFA and the Treasury Department should begin this process soon to create greater stability and accessibility to the mortgage market.

Affordable Housing Goals & The Enterprises' Affirmative Obligation

A number of the recent moves by the Federal Housing Finance Agency (FHFA) have been encouraging: on mortgages with loan-to-value ratios between 95 and 97 percent; on revising and clarifying the Representation and Warranty Framework; and, importantly, on capitalizing the Housing Trust Fund and the Capital Magnet Fund. However, these actions alone are not enough.

The GSEs are also subject to affordable housing goals that have supported lending to creditworthy working-class borrowers for decades. Fannie Mae and Freddie Mac have made it possible for millions of creditworthy borrowers to become successful homeowners. Unfortunately, under FHFA's supervision, the GSEs' role in facilitating affordable housing has been minimal. The Enterprise Housing Goals are at their lowest levels since numeric benchmarks were first established. Unless the Enterprises renew their historic commitment, long contemplated by Congress, "to lead the industry" by setting a low-income home purchase target that the GSEs will have to "stretch" to meet then, quite simply, the table will be set for many of the nation's low- and moderate-income and underserved communities. The housing market will move further out-of-reach for millions more creditworthy borrowers.

FHFA has proposed three alternatives for the 2015-2017 Enterprise Housing Goals. We believe that the proposed benchmark standard is consistent with statutory mandates and

Congressional intent and is the most legally defensible of the three alternatives FHFA has proposed. We also recommend a target goal of 28 percent, based on the GSE's past performance under comparable economic conditions and a similar market environment. These recommendations will better ensure that Fannie Mae and Freddie Mac are fulfilling their statutory obligation to foster a healthy mortgage market for low- and moderate-income families.

Lower Guarantee Fees
We are very concerned that the increases in the guarantee fees by Fannie Mae and Freddie Mac since 2009 are contributing to the affordability challenges facing many borrowers. The guarantee fees currently charged by the Enterprises well exceed what is necessary to support the extraordinary credit quality of the GSEs current book of business. In particular, the strong credit quality ensured by the CFPB's Ability to Repay rule makes high guarantee fees less necessary. FHFA should encourage the Enterprises to lower their guarantee fees to reflect the reality of the GSEs position in conservatorship and to increase affordability of mortgage credit.

Alternative Credit Scoring Models
There are a number of issues around the current FICO credit score that is limiting access for creditworthy borrowers: the GSE's increasing FICO score requirements, the use of old versions of FICO, and the overall limits of FICO modeling. Multiple studies have shown that a disproportionate share of low- and moderate-income individuals are left out of traditional credit scoring models and traditional trade credit lines, yet are fully capable of handling credit and monthly debt obligations responsibly. FHFA is currently reviewing alternative credit scoring models and we urge the agency to expedite that review.

Encourage Housing Counseling
Housing counseling has consistently been proven as a successful tool in helping borrowers achieve and maintain homeownership, lowering the likelihood of delinquency and default. At the moment, housing counseling remains optional for most home purchase programs, including loans backed by the FHA or the GSEs. By requiring housing counseling before receipt of an FHA loan, the FHA could further reduce its already low default rates. Additionally, FHFA could require or encourage the GSEs to make HUD-certified counseling mandatory, at least on low down payment loans, such as the new 97 percent loan-to-value product. Low default rates would make for a safer investment in the secondary market and a stronger and safer housing market overall.

Enforcement and Improvements in the Community Reinvestment Act (CRA)
Since it was passed in 1977, the Community Reinvestment Act (CRA) has helped infuse trillions of dollars in community reinvestment dollars into minority and lower income neighborhoods. The CRA is critical to driving bank investment in underserved areas around the country. It has generated well over $6 trillion in private investment for low- and moderate-income communities.

We need a strong CRA now more than ever. The portion of home purchase loans in low- and moderate-income neighborhoods has stalled at 13 percent.[3] In addition, the Federal Deposit

[3] 2013 HMDA data, Federal Reserve Report

Insurance Corporation's *National Survey of Unbanked and Underbanked* revealed that 7.7 percent of households remain unbanked, and 20 percent of households are underbanked.[4] On a number of fronts, we are concerned about the enforcement of CRA's core provisions and the lack of comprehensive and innovative thinking about many aspects of the Act. CRA examinations should focus more keenly on whether or not banks are achieving results in the communities they serve.

CRA Examination Grade Inflation

Overall, we believe there is grade inflation in CRA bank examinations. For example, from 2012 to 2014, 99 percent of banks examined by the Federal Reserve received a passing grade, with only five receiving a "Needs to Improve" and one receiving a "Substantial Noncompliance". Yet, continued tight lending standards and decreasing loan-to-deposit ratios at the biggest banks indicate that many creditworthy borrowers are being denied access to credit. We think current examination results reflect a need to overhaul examiner training, a limited view of CRA performance context, a lack of meaningful assessment area reform, and insufficient consideration of community input in the examination process.

CRA Performance Context

When conducting evaluations, bank examiners are to consider the "performance context" of the lending institutions. In other words, examiners are advised to consider factors such as the business opportunities available to a lending institution and the size and financial condition of the lending institution. Currently, banks are allowed to write their own performance context, ostensibly with a review from examiners. Performance context should always be written by a community development professional employed by a regulatory agency that has an understanding of the community where the bank operates.

CRA Assessment Area Reform

The geographical locations covered by CRA exams consist of metropolitan areas or counties that contain bank branches. When Congress enacted CRA in 1977, banks received deposits and made loans through branches. While some banks still issue loans predominantly through branches, others make the majority of their loans through brokers and other non-branch channels. Though the CRA regulation stipulates that assessment areas include geographical areas containing bank branches, the regulation also states that assessment areas include other geographical areas in which the bank has originated or purchased a substantial portion of its loans.[5] Despite this regulatory clause, the federal agencies usually adopt a narrow definition of assessment areas for banks that issue most of their loans through non-branch channels.

Expanding assessment area coverage would have a positive impact on low- and moderate-

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[4] FDIC, National Survey of Unbanked and Underbanked, available at https://www.fdic.gov/news/news/press/2014/pr14091.html

[5] See Section 345.41 of the FDIC's CRA regulation available via http://www.fdic.gov/regulations/community/community/index.html

income borrowers as well as minorities. Harvard's Joint Housing Center finds that banks issue higher levels of loans to low- and moderate-income borrowers and communities inside their assessment areas than outside assessment areas.[6] It stands to reason that banks will issue more loans to traditionally underserved borrowers and communities in areas where they are examined. Thus, expanding CRA's examination scope will promote housing and economic development in modest income communities and there will be a much clearer picture of how banks are actually performing.

Bank Branches & Alternative Delivery Methods

The disproportionately high number of branch closures in low- and moderate-income communities suggests that many banks need to reevaluate their closure plans to ensure that they are adequately meeting the financial needs of underserved communities. The provision of online and mobile services alone is insufficient. To warrant CRA credit, it must be clear that those services are accessible to low- and moderate-income individuals and geographies, are actually adopted, preferred and that they complement other methods for communities to engage financial institutions. These services are not, and should not be, a replacement for full service branches. Negative marks should be given on the CRA service test for banks that pull out of low-and moderate-income neighborhoods through branch closures, particularly when no viable alternative service delivery method exists.

By adopting practices that engage the community and examine community impact, such as conducting community impact assessments before filing notice of a branch closure and inviting community stakeholders to participate in a discussion of how the bank will otherwise meet its obligation to provide access to credit and capital, banks can demonstrate their commitment to ensuring that the financial needs of all communities are met.

Conclusion

In conclusion, we thank the Committee for providing the National Community Reinvestment Coalition, and the 600 community-based, member organizations that we represent, the opportunity to share out thoughts on the regulatory actions that might most facilitate access to mortgage credit for low- and moderate-income creditworthy borrowers and underserved communities. We reiterate our concern about several of the proposals being considered by the Committee that seek to rollback provisions of Dodd-Frank and restrict the ability of the CFPB to implement rules that are designed to protect consumers. Instead, we urge the Members of the Committee to consider the recommendations we have offered.

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[6] The Joint Center for Housing Studies at Harvard University, *The 25th Anniversary of the Community Reinvestment Act: Access to Capitol in an Evolving Financial Services System,* March 2002.