The Daily Dish

# CRA Nonsense

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**Eakinomics: CRA Nonsense**

Avid readers of Eakinomics know that CRA stands for Congressional Review Act. Its avid Canuck followers associate CRA with the Canada Revenue Agency. But in some circles CRA is most closely associated with the Community Reinvestment Act, a 1977 U.S. law intended to combat "redlining," the situation in which banks underserve low- or middle-income (LMI) communities. The CRA applies to deposit-taking lenders (e.g., savings banks, commercial banks, and credit unions) that receive deposits at various branches and then are required by the CRA to "re-invest" at least a portion of them in those same communities in the form of mortgages, loans, and other products.

But there is movement to expand the CRA. As AAF's Thomas Wade points out in his latest research, "State legislators in Illinois, Massachusetts, and New York have taken steps to expand the range of financial services actors subject to the Community Reinvestment Act, and other states are taking note." In particular, one such kind of non-depository institution is a mortgage bank, i.e. a specialized entity that underwrites, funds, and services home loans. Notably, they do not hold customer deposits. Mortgage banks have become a CRA target because they are smaller, more nimble, less regulated, and quite successful. The most significant mortgage bank is Quicken Loans, originator of the most mortgages nationally in 2020.

Expanding the CRA to include mortgage banks is a terrible idea, for at least four reasons. First, the CRA was never intended to cover non-deposit taking entities. Without deposits, there is nothing to "re-invest" to begin with. Further, as Wade points out "while deposit-taking institutions are generally subject to enhanced scrutiny and regulatory oversight, this is not without some associated benefits. Deposit-taking institutions have access to FDIC deposit insurance, the Fed's discount window, and advances from the Federal Home Loan Banks. Non-deposit taking institutions do not share these advantages, so why subject a telecom company or mortgage bank to the same regulatory burdens?"

Second, the CRA is predicated on physical locations and geography. Since its inception, the CRA has not significantly changed at all and does not account for online banking – or even?interstate banking. It makes no sense to apply it to a mortgage bank such as Quicken.

Third, the CRA has enough problems already; it doesn't need more. "Banks have long complained about? the CRA assessment, which is notoriously poorly defined, costly, time consuming, and produces results difficult to tie back to concrete examples. These regulatory costs are borne by banks regardless of size – adding to the financial burden on new or small banks needing to overhaul their systems or collect and report on extensive data – decreasing the viability of new entrants to the banking and mortgage space."

Finally, when the three main CRA regulators – the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency – tried to modernize the CRA in 2019, they could not come to a consensus reform. If there is not a policy consensus, it is dangerous for states to act and create a balkanized CRA landscape.

The CRA desperately needs to be brought into the 21st century, just not by state regulators in a piecemeal fashion.