The Community Reinvestment Act (CRA) requires federal bank supervisors to monitor and evaluate how banks serve the credit needs of the entire communities from which they receive deposits, including both low-income and moderate-income neighborhoods. It is distinct from the Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA) in that it addresses inequalities in the distribution of credit among geographic areas rather than discrimination against particular protected groups.

However, commentators have noted that, for a number of reasons, CRA issues often become inescapably intertwined with addressing racial disparities in lending. The CRA regulations state that federal regulators will consider evidence of lending discrimination in assigning a CRA rating.

The CRA applies to all institutions whose deposits are covered by federal deposit insurance. The basic premise of the CRA is that banks and savings institutions, although privately capitalized, have an underlying obligation to serve their local communities. This obligation is generally considered to have been assumed in exchange for government backing, for example, federal deposit insurance that banks need to survive. One limitation of the CRA is that most mortgage loans, and many other types of lending, are now originated by non-bank lenders which do not receive deposits.

The CRA requires regulatory agencies to publicly disclose certain findings and conclusions regarding lending institutions, including whether an institution is meeting community needs. In addition, regulators are permitted to impose sanctions on lenders with weak records.

In general, the CRA has not been aggressively enforced by regulatory agencies. However, banks have a strong incentive to maintain a positive CRA rating because federal bank regulatory agencies may deny merger or expansion applications from institutions with low ratings. Advocates have the ability to formally comment and intervene during a lender’s expansion application proceedings. Thus, some advocates have been able to use it effectively to address unfair and discriminatory lending practices.

However, advocates and community groups lack standing to sue to enjoin bank or thrift expansions on CRA grounds. In general, there is no private right of action under the CRA. Thus, the Act may not be directly relevant to individual litigation. However, as part of an overall advocacy plan, it can be an effective tool for change.

Footnotes


108 12 C.F.R. § 228.28.


Banks have criticized the CRA on this basis; however, it would seem that a more effective solution would not be to abolish the CRA but to broaden it to other lenders.


112 For example, a review of CRA examinations found that only eleven banks out of 1500 received a failing grade on the service test portion. Kelly Cochran, Robert Faris & Michael Stegman, Brookings Inst., Policy Brief No. 96, Creating a Scorecard for the CRA Service Test (Mar. 2002).


115 Inner City Press v. Bd. of Governors, 130 F.3d 1088 (D.C. Cir. 1997); Lee v. Bd. of Governors, 118 F.3d 905 (2d Cir. 1997).


117 One credit discrimination litigant was unsuccessful in his attempt to use negative CRA findings in his individual lawsuit. Stuart v. First Sec. Bank, 15 P.3d 1198 (Mont. 2000) (a negative CRA report by the FRB and subsequent “Notice of Adverse Action Taken” were not sufficient to create a genuine issue of material fact as to whether the real reason for a loan denial was racial bias).

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