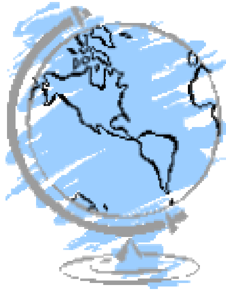

WOODSTOCK INSTITUTE

WOODSTOCK INSTITUTE INTERNATIONAL ALERT

INTERNATIONAL ALERT

Published by Woodstock Institute **August 2004** **Volume 1**

This Issue Contains

Information on eight Countries that have specific legislation or government policies on the provision of services to under-served populations by private sector banks.

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For more information on consumer banking regulation in other countries see the National Community Reinvestment Coalition at www.ncrc.org or Fair Finance Watch at www.fairfinance watch.org

A Global Survey of Community Reinvestment Laws: The Obligation of the Private Sector to Serve the Underserved in Several Countries

Introduction

Many countries have established public sector banks with the mission, among others, of serving the underserved. We are aware of eight countries that have specific legislation or government policies on the provision of services to underserved populations by private sector banks. There are likely to be other countries with mandates on the private sector that have escaped our attention. This report briefly describes the background of banking needs in each country and summarizes the history, and the current status, of each country's legislation.

From our U.S. experience, we know that community reinvestment legislation can significantly improve the provision of financial services and, hence, the economic health of lower-income consumers and communities. We also know that such legislation attracts powerful opponents in the financial services industry. This brief report is a first step to invite collaboration

among countries that have such provisions, to share opportunities and challenges and to inform other countries of the benefits of such legislation.

Woodstock Institute welcomes information about changes in the various laws and in their implementation in the countries listed, and information about similar policies in other countries. Please email any comments on this summary to tfeltner@woodstockinst.org.

Australia

Introduction

The Australian financial services sector has recently undergone a series of structural changes, effectively limiting the access to basic financial services for low-income and rural communities. Developments in the delivery of financial services, such as automated and internet-based banking, as well as a series of high profile bank mergers have led to the overall reduction in bank branches that serve these types of areas. Researchers studying the issue have found that the loss of access to a bank account or the inability to open a bank account is a primary barrier to economic progress in Australia, making a strong case for the continued study and regulation of financial service providers and their ability to maintain and improve access to these services in low-income and rural areas.

Investigations of Financial Exclusion

- In 1999, the Australian House of Representatives Standing Committee on Economics, Finance, and Public Administration released a report documenting the loss of banking services in low-income and rural areas. The report is the culmination of ongoing discussions with the banking industry to develop a series of recommendations on expanding access to financial services in these areas and developing alternative delivery mechanisms.
- In 2001, the Financial Services Consumer Policy Centre at the University of New South Wales Chifley Research Centre followed up the Committee's report with a comprehensive analysis on the state of social exclusion in Australia. The report found that financial exclusion was primarily caused by the high cost of service provision and the barriers to access for certain income and minority groups. The center recommended the creation of a Social Banking Charter that would spell out regulatory obligations to investigate financial exclusion, set up a branch closure protocol, promote alternative delivery of services, and issue standards for the provision of basic bank account.
- Taking these recommendations under consideration, the Australian Prudential Regulation Authority began requiring bank branch distribution data from all authorized deposit-taking institutions in 2002. The publicly available data updated annually and lists the type of branch, the services provided, and whether or not the branch serves a rural or metropolitan area.

Banking Industry Opposes Regulation

- The Australian Bankers' Association (ABA) committed to organize a Working Group to address each of the reports recommendations, particularly the issue of regional and rural service provision. The ABA noted that at least four of Australia's largest banks have placed a moratorium on bank branch closings in rural areas and stated that, with a few exceptions, nearly all Australians currently have access to a bank branch within 20 kilometers from their communities. Taking these factors into consideration, the ABA opposes any additional regulation or government imposed Social Charter, such as a US-styled Community Reinvestment Act.

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Brazil

Introduction

Currently, only one-third of Brazilians have access to a bank account. Identification procedures for opening an account are a major barrier. Almost 30 percent of municipalities, over 1,600, lack basic banking facilities, and another 1,400 have only one bank branch. Public policy to expand access to financial services relies heavily on large public banks. A World Bank report asserted that given their non-depositary status, the regulatory burden on microfinance institutions is too high, and that credit cooperatives suffer from high leverage and liquidity constraints. The same report adds that very expensive public financing often fails to reach target groups.

Recent Legislative Responses

- Four community reinvestment laws were enacted in 2003. The first granted the National Monetary Board the authority to regulate microfinance operations operated by financial institutions. These institutions include commercial banks, financial services firms, and credit cooperatives. The second piece required all financial institutions to set aside 2 percent of all demand deposits for microfinance operations. The third measure provides access to low-cost bank accounts, and the fourth expands the eligibility of credit cooperative membership.

- The 2 percent set aside measure is expected to generate R$1.1 billion, or US$330 million annually. These funds are targeted specifically to small business, though not necessarily businesses owned by low-income people. Terms and conditions include 2 percent interest per month, with a minimum principal of R$600, and a minimum term of 120 days. While five financial institutions have implemented this requirement, we are currently unaware of any regulatory enforcement procedures for banks that are not in compliance.

- The current president, Luiz Ińacio da Silva (Lula), has appointed supporters of microfinance and cooperative credit to key government positions, enabling the passage of this legislation. Many banking industry leaders criticize the law as credit allocation which they regard as unprofitable. They also regard subsidized interest rates as impractical in the long run.

- Banks must now offer simplified, low-cost bank accounts to low-income customers. Accounts do not carry maintenance fees unless the accountholder exceeds four deposits or withdrawals each month. Low-income status is determined by the account balance, not by annual income, so accountholders cannot deposit more than R$1,000 in any given month.

- Credit Cooperative membership has been extended to any municipality with less than 100,000 residents, or approximately 95 percent of the countries municipalities. (Most of the population, however, lives in large urban areas.) Asset requirements are set at R$6 million for credit cooperatives in metropolitan areas, and R$3 million in rural areas. Specially designated high need areas may have lower asset requirements. We are currently unaware of the regulatory structure regarding credit cooperatives.

- There is currently no enacted or pending legislation that requires the disclosure or monitoring of a bank's lending performance, making enforcement difficult.

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Lei N 10.375

Resolução 3.104

Resolução 3.106

Canada

Introduction

Canada is a relatively small country in terms of population, but it includes a number of large and diverse financial service providers. In recent years, many consumer groups have questioned whether or not these financial institutions have been responsive to the needs of low-income or underserved Canadian consumers. However, under Canadian law, the legislation that governs federally regulated financial institutions is subject to review every five years. This review provides legislators and community activists the opportunity to comment on provisions that limit the growth of the financial services sector or negatively impact underserved communities. In 1996, legislators and regulators found that dramatic changes within the financial services sector were underway. Many of these changes directly altered the type of basic financial products offered and the manner in which basic financial services were delivered.

- Canadian financial services legislation has taken a passive approach to expanding access, enacting voluntary measures, and depending on financial institutions to self-regulate their service operations. Most of these voluntary measures were enacted as part of a comprehensive financial modernization movement beginning in the mid-1990s.

- By law, the legislation governing Canada's federally regulated financial institutions must be reviewed every five years. By 1996, Canada's financial services sector was undergoing rapid change, much like the financial services sector in the United States. To address these changes and to propose an effective modernization framework during the next legislative review, a task force was commissioned to draft recommendations for the future of the financial services sector.

- The task force presented its findings and over 124 specific recommendations in a report issued by the Department of Finance in 1999. The major findings stated that new regulation should be designed to enhance competetiveness, empower consumers, strengthen the relationship between financial institutions and the communities they serve, and make the current regulatory framework flexible to promote safety, soundness, and innovation.

Enacted Community Reinvestment Measures

- Draft legislation was introduced in 2000 as Bill C-38 (titled An Act to Establish the Financial Consumer Agency of Canada, and to Amend Certain Acts in Relation to

Financial Institutions) based on the recommendations of the task force. This bill was not acted upon and was eventually derailed by the 2000 federal elections. The bill was reintroduced as Bill C-8 (titled An Act to Establish the Financial Consumer Agency of Canada, and to Amend Certain Acts in Relation to Financial Institutions) in 2001 with minor changes and was passed by the Canadian Parliament later that year. The enacted legislation contains a number of important, although voluntary community reinvestment measures.

- C-8 created the Financial Consumer Agency of Canada (FCAC) under the Ministry of Finance and funded by the Consolidated Revenue Fund paid into by all financial institutions (similar to the U.S. Office of the Comptroller of the Currency). This agency is responsible for reviewing an institution's voluntary consumer protection codes. These voluntary consumer protection codes are "non-regulatory" agreements that usually pertain to account term disputes and are not enforceable by FCAC. Financial institutions are also required to file a report describing their consumer complaints procedures. All of these disclosures would be made to the regulatory agency only, and would not be available for public review. Violations, as determined by the agency, would trigger fines of up to $100,000.

- All federally regulated financial institutions are now required to give public notice of branch closings. While the FCAC would not have the authority to prescribe branch distribution requirements, three months' notice is now required for all branch closings. Branch closings in underserved areas require six months' notice.

- Under C-8, the FCAC was also granted the authority to set up an independent intermediary organization to handle consumer banking complaint issues. Instead of creating a new organization, the Canadian Banking Ombudsmen, which had handled banking disputes since 1996, was merged with the consumer complaint office under development by the banking industry. Now called the Ombudsman for Banking Services and Investments, the office makes recommendations on about 200 cases involving deposit-taking institutions each year.

- C-8 was criticized by the Canadian Community Reinvestment Coalition for not enacting mandatory requirements for low-cost bank accounts, providing subsidies for bank branches in underserved communities, or providing an independent consumer complaint board to resolve disputes. Most importantly, the new regulations did not require the disclosure of mortgage lending data.

- The Minister of Finance and the financial institutions also produced a Memorandum of Understanding in 2001, describing the availability of low cost bank accounts. Eight of Canada's 16 largest banks signed this initial agreement, agreeing to offer low-fee accounts with no minimum balance or deposit. In 2003, all of the original banks renewed their agreement to provide low-cost accounts. The government is committed to monitor these targets, but believes that it should encourage a self-regulatory approach and not set national standards.

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India

Introduction

Rural India has historically lacked the financial services commonly available in urban areas, making the problem of indebtedness and seasonal cash-flow shortages associated with agriculture one of the most pervasive features of rural Indian life. These areas have suffered from an inadequate supply of formal sector credit, imperfect and fragmented rural credit markets, inequitable distribution of credit based on caste, class, region or gender, and the high cost of informal sector loans. From 1969 to 1990, the government of India attempted to alleviate some of these issues by nationalizing India's banking system.

Government Regulation 1969-1990

- The Bank Company Acquisition Act of 1969 effectively nationalized India's banking system and imposed a strong social mandate on 14 of India's largest commercial banks.

> The Banking system touches the lives of millions and has to be inspired by a larger social purpose and has to subserve national priorities and objectives such as rapid growth of agriculture, small industries and exports, raising of employment levels, encouragement of new entrepreneurs, and development of backward areas. For this purpose, it is necessary for the government to take direct responsibility for the extension and diversification of banking services and for the working of a substantial part of the banking system.

- Under the authority of the 1949 Banking Regulation Act, banks wishing to expand or establish new branches had to receive approval from the Indian Central Bank. In 1977, the Central Bank stipulated that no new branch applications would be approved for banks in developed areas unless four branches were constructed in undeveloped areas. Branch data from this period shows that the four to one rule was strictly enforced.

- Access to credit in rural areas also increased during the nationalization of India's financial sector. The proportion of credit dispersed in India's rural areas tripled in the 1970's and continued to increase in 1980.

Deregulation 1990 to Present

- The Indian banking system was liberalized in 1990 and the four to one rule governing bank branch expansion and other credit provisions were eliminated. As a result, 1990 marked the high point in rural deposits, credit provision, rural bank branch offices, and rural credit-deposit ratios, all of which have declined significantly since deregulation.

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Nigeria

Introduction

Access to affordable and effective financial products remain out of reach to most Nigerians, despite the active role the Central Bank played in promoting rural branches and cooperative banks. Since the Central Bank's nationalization in 1969, conflicting bank policies have tried to promote new types of banking services, while at the same time placing stringent restrictions on others. For traditional checking and savings accounts, minimum account balances remained so high that individuals were unable to access basic transaction accounts. Combined with the nation-wide tendency to prefer cash for day-to-day transactions and the rapid inflation of the 1980's, many Nigerians did not view banks as an effective player in their commercial activities. In addition, Nigerian and foreign owned banks were limited in their ability to provide affordable financial services. As the Central Bank gradually deregulated the banking industry beginning in 1986, the few commercial banks in rural areas began to close as banks no longer supported unprofitable branches, even as the total number of commercial banks in the country doubled. While deregulation made commercial accounts inaccessible to most Nigerians, the Nigerian Central Bank began to pursue other financial services delivery methods, such as mutual savings and loan association.

For many Nigerians, access to even a small amount of credit can make a considerable difference in their ability to earn a self-reliant income. Throughout the process of financial deregulation and modernization, the government and Central Bank of Nigeria have developed a number of financial services provisions to target these small scale industries and local operators to encourage self-sufficiency and promote main-stream financial transactions.

- Until 1998, the Nigerian Central Bank limited the ability of foreign and domestic commercial banks to open checking or savings accounts for individual depositors. Commercial accounts were required to maintain balances of N50,000, or about US$370, limiting their customer base.

- In 1988, the Nigerian banking system consisted of the Nigerian Central Bank, 42 commercial banks and 24 merchant banks, with a total of 1,000 branches. Most of these branches were located in major urban areas, limiting rural and low-income areas' access to the private market financial mainstream.

Initial Government Responses to Lack of Banking Services

- Community development finance issues in Nigeria primarily stem from policy decisions made by the Nigerian Central Bank.

- The Rural Banking Scheme was developed by the Central Bank in 1977 with the goal of achieving one bank branch in each of Nigeria's 774 Local Government Areas. This goal was met in 1991. Each of these branches serves about 127,000 people.

- The People's Bank was established in 1989 to provide access to credit for low-income families, farmers, and craftsmen. This community development finance initiative was relatively unsuccessful and was criticized as being too dependent on government subsidies. The initiative was unable to

recover many of its loans and was facing severe decapitalization when it was replaced by the Community Banks Program in 1990.

The Invention of Community Banks

- Community banks were designed around the informal mutual savings and loan associations operating in rural areas. Organized by the government sponsored National Board of Community Banks (NBCB), these financial institutions are meant to be self-sustaining and managed by communities to provide credit and deposit banking facilities. The NBCB is responsible for chartering and examining the Community banks for sound operation.

- Community banks have been successful in providing financial services to those people most likely to be left out of the financial mainstream. These banks use the strong local networks present in many rural areas of Nigeria and community bank boards are generally drawn from respected leaders within the community.

- However, community banks have a number of shortcomings. The instability in the commercial banking system, in which many community banks place their funds, has had a chilling effect on community banks capacity to lend. In order to maintain sound operations they have only been able to make short-term investments, limiting the wealth creation potential of their members. In addition, community banks have had limited success in urban areas, where the general sense of community ownership is not as strong.

Small Business Lending-The Small and Medium Industries Equity Investment Scheme

- Urban areas, however, have benefited from the Small and Medium Industries Equity Investment Scheme (SMIEIS). This voluntary scheme developed by the Banker's Committee at the request of Nigerian President Obasanjo, was designed to replace many of the unsuccessful government small business development programs.

- Beginning in 2001, all Nigerian banks are required to set aside 10 percent of their before-tax profits and invest these funds in small and medium enterprises. Qualified businesses must have less than N200 million in assets and between 10 and 300 employees. Investments have a term limit of three years.

- Between 2001 and 2003, the SMIEIS set aside N13.07 billion (US$98.3 million), of which only N2.87 billion (US$21.6 million) has been invested in qualified projects. Nearly all of these projects were in the service sector, and nearly all of them located in urban areas. Given the overall lack of interest in the SMIEIS, banks have been slow to respond to demands for increased investments and simply set aside the required amount on their balance sheets without pursuing qualified investments in good faith. The Central Bank has taken a leading role in encouraging future SMIEIS participation.

- Going forward, both the Nigerian Central Bank and the Banker's Committee have suggested mechanisms for improving the investment rate of the SMIEIS program. However, limiting the percentage of investments going to the service sector and requiring investments in certain NGO's has not proved effective.

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South Africa

Introduction

- The formal dismantling of apartheid in 1994 left a sophisticated banking system operating for the benefit of the white minority within an otherwise third world economy. The new Government of National Unity inherited a housing finance system that was inherently fragmented and unstable. Nationwide, the housing sector lacked the experience or capacity to provide adequate housing to the entire country on equitable terms, and inefficient building codes, insufficient land, and an overall lack of end user finance limited the sectors ability to remedy this situation on its own. In addition, the growing threat of AIDS has made long-term housing and community development lending risky and potentially unprofitable.

- These conditions and other uncertainties in the South African economy during the 1990s exacerbated many long standing housing and community reinvestment trends. Redlining in township areas, home to residents who are overwhelmingly poor and Black, became apparent. Financial institutions refused to lend in areas where due process had broken down and poor law enforcement made repossession of real estate expensive or unlikely. Most financial services, particularly access to mortgage capital and insurance remain out of reach for most black South Africans. Recent estimates put the number of South African unbanked at over 13 million out of a population of 44.9 million or about 29 percent.

First Government Steps at Providing Housing Credit

- In 1994, the new government of South Africa, the South African business sector, and representatives from local communities agreed to a new set of housing principles known as the National Housing Accord. Following these meetings, a series of recommendations known as the Housing White Paper was drafted, setting the framework for future housing policy. Based on this document, the National Housing Code Act was drafted as a blueprint for all future national housing activities. This Act passed in 1997 as Act No. 107(1997). The National Housing Code replaced all previously adopted housing initiatives and addressed the country's fragmented housing policy and lack of end-user finance for low-income South Africans.

- In order to expand the access to credit for low-income South Africans in accordance with the National Housing Code, the South African Association of Mortgage Lenders, and the Ministry of Housing entered into a Memorandum of Understanding in 1994.

This agreement recognized the need for new investment in credit-starved areas, while at the same time recognizing the need to reduce the substantial risk to South African mortgage lenders.

- The New Deal, issued in 1998, aligned the agreements laid out in the Record of Understanding and the changes in the housing market brought about by the National Housing Code. The New Deal expressed the joint responsibility of the government to stabilize housing market and the banking industry to begin providing capital in areas that had been previously denied.

Disclosure Law

- The government passed the Home Loan and Mortgage Disclosure Act (HLMDA) of 2000 in order to document the ability of financial institutions to serve their communities. This Act stated that all citizens have equal protection from discrimination and that all levels of government are responsible for ensuring that discrimination does not exist in the provision of credit in the housing market.

- The HLMDA clearly states that institutions are only required to disclose real estate-secured mortgage information and are not required to ration credit or make loans in an unsafe or unsound manner.

- The Act also creates the Office of Disclosure consisting of ten members experienced in banking, housing finance, community economics, and civil rights to oversee the execution of the act. The Office is charged with receiving and analyzing home loan data, making this data publicly available, and receiving and investigating public comments. Using this information, the office assists other regulatory agencies in enforcing compliance with antidiscrimination legislation and provides annual compliance reports on all financial institutions to the Minister of Housing.

- The HLMDA is similar to HMDA in the United States. Data disclosed include:

  - Count and amount of closed home loans
  - Category of borrower
  - Geographic area
  - Count and amount of declined home loan applications
  - Reason for application rejection

Debate About Community Reinvestment Legislation

- CRA-style legislation is currently under consideration. In 2002, the Community Reinvestment (Housing) Bill was introduced in Parliament to hold financial institutions accountable for any discriminatory practices indicated by their HLMDA disclosures and contribute to the availability of credit to low-income borrowers and low-income areas. Such legislation would define the responsebilities of mortgage lenders, set lending goals, and provide opportunities to remedy shortcomings in these goals. However, the bill was strongly opposed by the Banking Council, the trade association representing the South African financial services industry.

- The Banking Council argues that CRA-style legislation is impractical in South Africa because so few residents own their homes and the breakdown in due process in many rural areas limits banks' ability to repossess collateral. In addition, because of lenient underwriting as a result of the goals established by the Record of Understanding, nearly 33,000 properties were repossessed by 2001, with many more losing up to 20 percent of their value, placing many low-income borrowers in a negative equity situation.

- Representatives from banking, pension fund, insurance, and investment organizations committed to a voluntary Financial Sector Charter in 2002. This charter set benchmarks for the provision of affordable banking services to Black South Africans. These

goals include access to transaction products, savings products, long- and short-term insurance, and investments but do not set specific goals for serving low-income individuals or communities.

- Many alternatives to US-styled CRA legislation have been proposed.
    - Set affordable housing goals for secondary market (similar to the housing goals set up under the FHEFSSA)
    - Pursue rental and cooperative housing that many experts argue is more suitable to South African housing and finance situations.

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United Kingdom

Introduction

Roughly 2.5-3.5 million Britons do not have a traditional bank account. A government study suggests that banks are not refusing services to disadvantaged communities outright; instead banks simply do not offer the unbanked appropriate services to fit their needs. There is also a problem of insurance redlining, particularly in the case of council housing (publicly-owned housing) residents. Many residents do not have the appropriate financial literacy to purchase homeowner's or life insurance or simply can not afford the premiums.

Government Action

- In order to improve access to financial services and expand access to credit, the incoming Labor Party government established the Social Exclusion Unit (SEU) in 1997. The SEU was organized into a number of Policy Action Teams, with financial exclusion assigned to Policy Action Team 14. PAT14 drafted a number of recommendations for expanding access to credit, long-term and home content insurance, and banking facilities. These recommendations were taken under consideration by the Financial Services Authority and HM Treasury.

- The Policy Action Team provided similar responses for nearly every area of financial exclusion. The team clearly stated that any statutory or regulatory action taken should increase competition and consumer choice. Recommendations were careful to minimize public sector intervention and avoid the appearance of credit rationing.

- The task force stressed the need for banks to voluntarily expand their low-cost bank account program. They also recommended using the post office system as an accessible location for banking services. No legislation addressing any of these suggestions has been introduced. The task force also recommended that banks voluntarily disclose the geographic distribution of their checking and savings account to highlight any possible discrimination.

- The task force suggested setting up an "insurance with rent" scheme targeted to council housing residents. This type of scheme would utilize collective rates for the entire building to lower costs and allow residents to pay rent and insurance at the same time, reducing transaction costs. No legislation addressing any of these suggestions has been introduced.

- PAT14 suggested that credit unions serve as alternative credit providers in cases where banks are not adequately serving the market. By merging community and employers based fields of membership and streamlining capital requirements, the task force believes that credit unions could effectively serve as micro loan providers for low-income and small business. No legislation addressing any of these suggestions has been introduced.

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United States

Introduction

Early in the 1970s, community groups and later research institutes began to report the phenomenon of redlining; banks and insurance companies refusing to operate in racially minority and low-income neighborhoods. As a result of community activist pressure, in 1975 Congress passed the Home Mortgage Disclosure Act (HMDA), followed in 1977 with the Community Reinvestment Act (CRA). CRA, which provides that regulated financial institutions have a continuing and affirmative responsibility to try to meet the credit needs of the communities in their service areas (now assessment areas) *including low- and moderate-income communities,* was only weakly enforced in the 1980s.

Better enforcement of the law in the 1990s was the result of amendments to HMDA in 1989 the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) which added new data disclosures, the advent of the Clinton presidency in 1992, and new CRA regulations in 1996 which emphasized CRA outcomes over processes. More recently, however, the administration of President Bush has massively reduced emphasis on regulation in general. Bush appointments to bank regulatory agencies are actively hostile to the CRA. In addition, new mortgage and consumer lenders, often operating in low-income and minority communities, have engaged in predatory lending--extending loans with excessive interest rates and fees, and damaging terms and conditions that have resulted in very high levels of default of home mortgage loans, home foreclosures, and deepening spirals of debt for many consumers. Moreover, an increasing percent of assets in the financial services sector are in institutions not covered by CRA legislation, especially independent mortgage companies and the subsidiaries of bank holding companies that are not subsidiaries of regulated banks.

Major research studies from such institutions as the Federal Reserve Board and the Joint Center for Housing Studies at Harvard University have shown that the CRA in the 1990s significantly increased home mortgage lending in lower-income and minority communities and that the bulk of both CRA related home mortgage lending and small business lending is profitable for the lending institutions.

Details of Federal Legislation

- The Home Mortgage Disclosure Act (HMDA) requires financial institutions to submit data containing the race, income, gender, and approval status of the applicants for home mortgage loans, along with the income and minority composition of the community in which the loan is made. Since 1996, banks have been required to submit similar, though less comprehensive, information on their small business lending. These data are publicly available. Starting January, 2004, regulated financial institutions will also have to provide the annual percentage interest rates on all high interest home mortgage loans, loans with interest rates at or above 3 percent of U.S. Treasury Notes with corresponding terms. This new requirement is intended to help combat predatory mortgage lending.

- The Community Reinvestment Act of 1977, building on the disclosure requirements of HMDA, states that banks have a continuing and affirmative obligation to help meet the credit needs of their communities. Using the data to analyze lending patterns in a bank's primary services areas, or assessment areas, the bank's federal regulator provides a

periodic report of the bank's lending activity. In addition to lending, banks are evaluated on their grants and investment activity, and the provision of bank services including the presence of branches in low- and moderate-communities. Banks are assigned a grade of Outstanding, Satisfactory, Needs to Improve, or Substantial Non-Compliance based on their lending, investments, and service evaluations. In cases where a bank receives a score of Needs to Improve or Substantial Non-Compliance, federal regulators may deny the banks' applications to expand its operations or merge with another bank. Some of the information and conclusions from these examinations are published in the bank's Public Evaluation or PE.

- CRA has faced numerous political challenges since its enactment from elected officials who are favorable to, and receive election campaign funds from, the financial services industry. Most important, bank regulators have refused to recognize contemporary modes of banking in determining what constitutes a bank for CRA regulatory purposes. In consequence, much of the banking activity of credit card companies, insurance companies, and internet banks is not CRA regulated. While regulators have greatly expanded the scope of CRA public evaluations, however, they have rarely blocked a bank expansion or merger on CRA grounds. Ninety-seven percent of examined banks receive a satisfactory rating or outstanding CRA rating.

- Bank regulators have interpreted the CRA as lacking explicit powers for the examination of banks' record to minorities and in minority communities. Community groups have challenged this interpretation on numerous occasions arguing that the strong relationship between income and race in the United States and patterns of massive housing segregation by race, justify the examination of a bank's record of services to minority households and populations. Currently, discrimination on the basis of race is only briefly cited in CRA public evaluations and only in the context of the Fair Lending Act. This act protects individual minority borrowers from discrimination but does not require a bank to provide banking services to minority communities.

References

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Woodstock Institute. www.woodstockinst.org.

Conclusion

Community reinvestment legislation and government strategy, both in the United States and in other countries, are concerned with the direct or indirect provision of low-cost and accessible financial services, access to mortgage, small business and consumer credit, and the financial services disclosure requirements by private financial institutions. The central tenant of community reinvestment mandates is that financial services are central to the well-being of disadvantaged populations and communities and that private financial institutions have some responsibility to provide these services in return for their privileged status. Just as banks are permitted to accept deposits throughout a community, governments have tried to mandate or persuade banking industry to provide a basic level of services in return. However, the banking climate and the definition of what constitutes a

basic level of service vary widely from country to country.

International comparisons of community reinvestment legislation and government strategies suggest three substantive areas of consideration: community mandates on the banking industry during and after the nationalization of private institutions, the deregulation and privatization of the banking industry and the resulting mandatory community provisions loosely based on the US-style CRA, and the voluntary social charters in situations where the banking industry has managed to avoid a mandate. Parallel, but not always related to these general currents of community reinvestment activity is the widespread consideration and adaptation of the community-based credit cooperative as a means to deliver services and provide credit to underserved populations or communities.

The success or failure of community reinvestment legislation and government strategies rests on the ability of the regulatory unit of government to measure and enforce mandates or encourage participation in voluntary strategies. Bank branch expansion initiatives in Nigeria and India have proven successful in mandating financial service provision in areas that have been traditionally underserved. However, other types of mandates in which there is not a strong regulatory component have not lived up to initial expectations. This is currently the case in Nigeria where the requirements to set aside private capital for small business loans are observed but the enforcement of actual investment in underserved small businesses has been lacking. Disclosure requirements also present a new set of challenges. Nearly all financial institutions have shown relative hostility to a new layer of regulation. They have also shown a lack of consensus over what data should be collected and how it should be released to the public. South Africa has been successful in passing a home mortgage disclosure law based on the U.S. Home Mortgage Disclosure Act, and Australia now requires banks to disclose the distribution of bank branches. However, disclosure requirements for mortgages in Canada and bank accounts in the United Kingdom have been unable to attract broad-based support necessary for passage and implementation. Mandatory disclosure of home mortgage and small business loans in the U.S. is vital to the implementation of the Community Reinvestment Act.

Community reinvestment legislation is sometimes criticized for constituting interference in the market. The counter to that criticism is that financial services markets are not working for many low-income people and communities, and that the industry itself constantly promotes regulation that increases the competitive advantage of established companies. Moreover, in a market economy, access to capital and credit on fair and equal terms is essential for full participation in that market.

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Woodstock Institute, a Chicago nonprofit incorporated in 1973, works locally and nationally to promote sound community reinvestment and economic development in lower-income and minority communities. It collaborates with community organizations, financial institutions, foundations, government agencies, and others to promote its goals.

The Institute engages in applied research, policy analysis, technical assistance, public education, and program design and evaluation. Its areas of expertise include: CRA and fair lending policies, financial and insurance services, small business lending, community development financial institutions, and economic development strategies.

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