

Oral Testimony before Community Reinvestment Act Regulation Hearing

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*Tanya Fiddler, Executive Director, Four Bands Community Fund;
Co-chair, Native CDFI Network*



Introduction

Mitakuyapi, Tuktel He Najin Oyate Wiyankapi Win Lakota emaciyapi na Tanya Fiddler English emaciyapi, k'sto. To all of you, my Lakota name is "She Stands Where the People Watch Her Woman" and my English name is Tanya Fiddler. I am an enrolled member of the Cheyenne River Sioux Tribe. I have served as the Executive Director of Four Bands Community Fund, a nationally recognized Native CDFI in Eagle Butte, South Dakota for the past 10 years. I also serve at the national level as founding co-chair of the Native CDFI Network and am pleased to be involved in the National Rural Assembly, a movement of people and organizations devoted to building a stronger, more vibrant rural America. The support of the Rural Assembly has made my presence here today possible.

Let me begin by saying Pilamaya ye, thank you, for the opportunity to appear before you on behalf of Four Bands Community Fund, the Native CDFI Network, and Native communities throughout the United States.

I testify at today's hearing as a passionate advocate for the effectiveness of Native CDFIs in connecting Native people to the financial services they so desperately need. Since its inception in 2002, the Native Initiatives program of the CDFI Fund has grown the Native CDFI field from nine certified CDFIs in 2001 to 55 certified Native CDFIs in 2010, and another 60 Native CDFIs preparing for certification. These institutions are critical partners for the agencies to engage in assessing bank services as part of CRA exams.

I also testify as a long-time resident of the Cheyenne River Sioux Reservation. The issues you are considering are not theoretical to me and the community I serve, these are matters of financial life and death. My community encompasses Dewey and Ziebach counties in South Dakota, two of the poorest counties in America. When we launched Four Bands in 2000 in response to the intractable poverty in our community, 80 percent of the reservation population was Native but less than one percent of the businesses were Native owned. While our products and services have clearly enhanced the skills of our Native clients over the past decade, there are still significant barriers to working with banks to revitalize our communities.

While these realities provide a clear rationale for why I sit here with you today, in another respect, I don't belong here. In many Native communities, we are worlds away from the kind of conversations going on at this hearing. The *Native American Lending Study*, the most comprehensive study of lending needs in Native communities, was conducted more than 10 years ago and does not even mention the Community Reinvestment Act. It identified an unmet capital need in Native communities of \$44 billion. It also underscored the fact that Native people aren't thinking about the quality of bank service so much as whether banks serve our communities at all! Eighty six percent of Native communities lack access to a single financial institution (with a broad definition that included a simple ATM) and 15 percent of our community members need to travel over 100 miles to access a financial institution.

Recommendations

This challenge leads me to the first of ten recommendations I will address in my testimony.

Recommendation 1: The agencies should develop specific strategies for ongoing engagement to ensure CRA effectively promotes financial services to serve Native communities

Given the unique challenges Native communities face, we urge the agencies to carefully review written testimony from Native communities. I know that leading national Native organizations, like the National Congress of American Indians and the Native CDFI Network, would be pleased to facilitate further engagement on CRA and its impacts in Native communities.

Recommendation 2: Enhance small business data to include the race and gender of the borrower, census tract data on community development lending and investing, and bank deposit and consumer lending on a census tract level.

On the question of revising small business and consumer lending data the simple answer from Indian Country is – “we need it, you need to collect it!” HMDA data has been used effectively to increase responsible lending by holding banks publicly accountable. We need comparable small business, community development and consumer lending data to bolster affordable bank lending and basic services.

Recommendation 3: Collect pricing information on lending products (small business and consumer loans)

This data will assist the agencies, Native leaders and community organizations in determining, if Native people and businesses are really receiving affordable loans.

Recommendation 4: Develop tools that can make data accessible to the public.

If the data is hidden or hard to access, it will not be possible for the public to hold banks accountable.

Recommendation 5: Use the data to hold banks accountable

Let's be clear though, we don't just want you to collect the data, we want you to use it to evaluate bank performance. A large body of research concludes that minorities received more high-cost and risky lending than was justified based on their creditworthiness. If CRA considers lending and service to minorities, racial disparities in lending will be reduced. After revisions to the CRA exam procedures in the mid 1990s, the reduced focus on evaluating bank practices for the presence of discrimination in lending was a huge step backwards. CRA exams resulted in the referral of some banks to the Justice Department for discrimination against Native borrowers as recently as the mid-1990s. Discrimination did not stop in the mid-1990s, the agencies simply stopped looking for it. Native citizens need the support of the agencies to ensure we receive equitable access to financial services.

Recommendation 6: Engage community based organizations

From our perspective in Indian Country, it is essential that the agencies find more effective methods for facilitating engagement between banks and community based organizations. In the experience of my CDFI alone, we have one bank whose lawyers refuse to allow the bank to offer Individual Development Accounts because they are unclear that these are CRA eligible activities. The real world effect of this confusion is that our clients are forced to travel an additional 20 miles to access banking services. Banks in my community are also not held accountable to offer products that meet the needs of our consumers. A complete absence of competition means interest rates of above 20 percent are not uncommon for some loan products.

CRA examiners should be required to meet with key community based organizations, particularly those – like Native CDFIs – that work alongside banks. Tribal communities are also unique in that tribal departments often serve roles parallel to non-Native non-profit institutions. When assessing banks

whose service area includes Indian lands, examiners should meet with tribal representatives to more fully (and accurately) assess bank activities.

Recommendation 7: Recognize innovative practices

The Native CDFI field has also identified best practices in bank collaborations with Native communities. Banks that work hard to meet the needs of underserved Native communities must be recognized. One important outcome of bank collaboration with Native institutions is the encouragement of product innovation to serve the needs of the community. These partnerships can (and have) encourage product innovation and the development of lending and services that promote wealth building for Native citizens. Whether it is alternatives to pay day loan products or alternatives to refund anticipation loans, these innovations must be recognized and highlighted for replication in other communities.

Recommendation 8: Impose meaningful consequences for non-compliance with CRA requirements

We join many other advocates in recommending that the agencies impose meaningful penalties on banks who fail to receive satisfactory grades on their CRA exams. One bank in South Dakota, located in the midst of the Lake Traverse Reservation of the Sisseton-Wahpeton Oyate, has received “needs to improve” as its grade on all five CRA exams since 1996 with no clear consequences for this ongoing non-compliance.

Recommendation 9: Add a specific community development test for large banks and remove exemptions for small and intermediate small banks

The few Native communities that do have bank branches on their reservation, are afflicted by one of two challenges: (1) served by small or intermediate small banks whose CRA exams are not sufficiently robust; or (2) served by branches of large banks that can offset underinvestment in Native communities with lending activities elsewhere. We therefore see it as critical for the agencies to both remove exemptions from data reporting and other tests for small banks (as was done, for example, in the Dodd-Frank Financial Reform Bill) and add a community development component to the CRA exam for large banks. We need an exam methodology that incentivizes the investment in community infrastructure to serve remote, rural, and especially, reservation communities. The current structure of the large bank

exams allows a lack of community focused lending to be offset by home or business lending in other communities (often urban communities).

Recommendation 10: Include long-term unemployment as a criteria for assessing “distressed communities”

Our colleagues at the National Congress of American Indians have identified the critical need for the agencies to begin to consider the impact of long-term unemployment on the metrics used to define distressed communities. In June 2010, the Bureau of Labor Statistics (BLS) reported the unemployment rate for South Dakota at 4.5 percent, less than half the national rate. This figure completely obscures the impact of long-term unemployment and unattached workers, particularly those who live in the state’s reservations. The weakness of the data in defining economic distress is seen when comparing BLS data with that reported by the Bureau of Indian Affairs (BIA). The BIA reports that two-thirds or more of the eligible working population on South Dakota’s reservations are unemployed, underemployed, or have given up looking for work. This is a reality that we in Indian Country have faced for decades, but it will be increasingly common in other communities and must be reflected in the agencies’ definition of distressed communities.

Conclusion

Let me reiterate my thanks for the opportunity to share the needs of Native communities with you this morning. I look forward to our discussion and urge you to make this the first of many conversations about the needs of Native communities with respect to the Community Reinvestment Act.