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BankThink Scrapping CRA is no solution

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A recent op-ed by Cato Institute policy analyst Diego Zuluaga suggested that lawmakers should eliminate the Community Reinvestment Act, claiming this law is inefficient and other safeguards are already in place to push back against discriminatory lending. The belief that the CRA should be scrapped is misguided and tone-deaf — unlawful discrimination in mortgage lending remains a real challenge for far too many Americans, as this year's Center for Investigative Reporting documented in a groundbreaking yearlong study. Further, the homeownership rate for blacks is at a 50-year historic low.

The Community Reinvestment Act of 1977 was created in response to redlining, a practice in which banks refused to lend to low- to moderate-income neighborhoods, including communities of color. The CRA has played an integral role in expanding investment and access to credit for communities with a history of underservice by banks. Research has demonstrated a substantial increase in safe mortgage lending linked to the implementation of the CRA, especially

among low-income borrowers, resulting in no measurable rise in the likelihood of default.

Regrettably, we have to remind Zuluaga that the Financial Crisis Inquiry Commission found Wall Street's appetite for excessive profits and lax enforcement of existing regulation to be the primary cause of the housing crash of 2008.

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Zuluaga suggested anti-discrimination laws such as the Equal Credit Opportunity Act and the Home Mortgage Disclosure Act could better tackle the unfair or abusive treatment of financially marginalized communities. CRA was designed to aid these important laws in rooting out illegal discrimination that persisted after their enactment. Congress explicitly designed CRA as an additional tool in the toolbox to strengthen credit access in LMI neighborhoods. Moreover, the Trump administration and Congress have gone to great lengths to attempt to weaken ECOA and HMDA.

Earlier this year, federal lawmakers and the president passed and signed into law S 2155 to significantly weaken consumer protections under the 2010 Dodd-Frank law. Specifically, the law included a provision that would exempt 85% of mortgage lenders from reporting certain lending data under HMDA.

By eliminating key data on lending patterns, this would undoubtedly make it far more difficult to combat racial discrimination and improve access to credit. Moreover, the current administration has sought to weaken ECOA's disparate impact regulations, making it easier for creditors to discriminate against consumers on the basis of race and other protected characteristics.

If the CRA is dismantled, African-American and Latino families would suffer most as they are not sharing equally in the nation's economic recovery. A new forecast by the National Community Reinvestment Coalition projected that if the Trump administration relaxed CRA requirements, such a change could reduce lending in lower-income communities by up to $105 billion in the next five years. The NCRC has also reported that since 1996, banks have increased their small-business and community-development lending by an additional $2 trillion to meet their CRA requirements.

In the name of efficiency, Zuluaga suggested banks could sell their CRA loans to lenders who could better serve financially marginalized communities as a way to discharge their statutory obligations. This proposal couldn't be further from the truth. Banks must serve the areas in which they do business. They should not be permitted to cherry pick some communities over others while enjoying the benefits of a banking charter, deposit insurance and other public support. We must not reinstitute the same discriminatory and shameful practices which led to the CRA's passage in the first place.

Any serious discussion of how best to update CRA for the 21st century must first focus on strengthening the impact of CRA for underserved neighborhoods, including communities of color. The Office of the Comptroller of the Currency should strengthen the CRA by aligning any future changes to its regulation with the Federal Reserve Board and the Federal Deposit Insurance Corp. and not compromising low- and moderate-income communities' needs.

Specifically, the OCC should not propose a reform known as "one ratio," which would relegate CRA's legislative intent with an overly simplified mathematical formula. Under the one-ratio metric, a bank's CRA activities (loans, investments and other services) would be divided by its size or assets. This approach would permit banks to water down current procedures that consider criteria such as geographic availability, borrower profiles, different classifications of lending like mortgages, small businesses and more.

The one ratio would gut CRA's ability to target investments in communities that have a long history of bank divestment.

Moving forward, the communities most harmed by bank divestiture must be centered on any proposal to change the CRA. The fundamental goal of any reform must be to ensure that working families, including families of color, have access to the credit they deserve. The OCC must partner with civil rights organizations in reform to ensure that CRA's fair-lending goals are achieved. Now is the time for forward progress. We cannot retreat on the promise of opportunity for all.