"As the effects of the financial crisis and the resulting economic downturn have spread, there has been increased focus on preserving the gains made in low- and moderate-income communities over recent decades. Accomplishing that objective requires preserving the institutions that helped build these communities. Without strong CDFIs, attracting investments and capital to rebuild and revitalize communities would be even more difficult. Economic recovery, like economic development, is a bottom-up as well as top-down process. Through their work at the community level, CDFIs, together with other community development organizations, can help build a sustainable recovery for all of us."

- Federal Reserve Chairman Ben Bernanke, June 17, 2009

Over the past thirty years, a whole industry has arisen that provides credit to low-income communities and individuals on more favorable terms than the private market alone could provide. Community Development Financial Institutions (CDFIs), community development credit unions, community development banks, loan funds, community development corporations (CDCs) and other socially-motivated investors finance affordable rental housing, economic development projects, community facilities like child care centers, and other projects that bring hope and jobs to low-income communities.

This effective system is supported by lending and investment dollars driven by Community Reinvestment Act (CRA) obligations imposed on banks and thrifts. CRA is a law enacted in 1977 that states that banks “have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.” The statute states that loans and investments under CRA must be "consistent with safe and sound operation of such institutions." This is a broad, conceptual law that is enforced by a detailed set of regulations last extensively revised in 1995 that requires banks to be examined under “Lending” “Service” and “Investment” tests by the appropriate federal banking agency.

As CRA has evolved over the years, it has given financial institutions an incentive to invest in public-private partnerships with local CDCs and CDFIs, and sometimes local governments. These partnerships then invest in economic development projects, affordable housing, and other amenities that improve neighborhoods. Tax incentives like the Low Income Housing Tax Credit and the New Markets Tax Credit only work with private sector investment. Government grant programs like the Treasury’s CDFI Fund and programs at the Department of Agriculture and Small Business Administration also support these activities.

Unfortunately, both CRA and the regulations enforcing it have not kept pace with changes in the financial markets. Thus, the community development industry faces both the challenges of the problems in the larger economy that have diminished investor interest in tax credits and the declining impact of the statute that has provided the impetus for private sector investments in low-and moderate-income communities. The federal banking agencies have recognized that the CRA regulations are due for an overhaul to
ensure that the underlying statute is as effective as possible. There be will a series of public hearings this summer to talk about the achievements and shortcomings of CRA to inform a thorough review and rewrite of the CRA regulations.

Enterprise applauds the banking agencies for taking this initiative. We support the following principles on the basis of our more than twenty-five year history of working with bank partners on investments in low-income communities:

1. The success of CRA over the past thirty years has been due to its formulation as a broad, affirmative obligation to communities, consistent with safe and sound banking practices. This balance should not be changed.

2. The "lending" "service" and "investment" tests for larger banks in the current regulations should be augmented with a rigorous but qualitative "community development" test. Lending and investments in affordable rental housing, economic development projects, community facilities like child care centers and charter schools, community loan funds, microfinance loan funds, and other community development activities in low-and moderate-income communities should qualify for this test. The dollar value of the activity should be considered as well as how far the institution has stretched to meet community development needs, consistent with safe and sound lending.

3. The "community development" test should reflect qualitative judgment of how much value community development investments and loans add to communities. The current system is overly focused on quantitative targets that don’t reward institutions for serving their communities well with lending and investment products that serve low-income neighborhoods. More training for bank examiners will be needed to make this work.

4. The concept of "assessment areas" under CRA needs to be reconsidered. Under the current system, banks have a strong incentive to lend and invest in the areas that receive a full-scope CRA exam, and much less of an incentive to do business elsewhere. This results in some areas being "credit deserts" because they are not part of any financial institution’s CRA footprint.

5. CRA should take into consideration the activities that bank holding companies undertake through subsidiaries and affiliates.

6. As large financial institutions become bank holding companies but have very small insured depositories, CRA obligations should be considered in light of the overall market of the institution. The regulations should allow for a nationwide assessment area to reflect the nationwide customer base of these institutions, as well as internet banks, credit card banks, investment banks, and some foreign banks.

7. Currently there is no real incentive for institutions to get an “outstanding” rating. The system would be more effective if there were a more powerful incentive for performance, consistent with other CRA policies.
8. Financial institutions should receive "extra credit" under CRA if housing or commercial developments in a low- or moderate-income area are energy efficient and built according to green building standards like the Enterprise Green Communities criteria.

9. The CRA statute works best as a broad, conceptual law implemented by detailed regulations. This allows for evolution and change in the markets. If the statute were too detailed and specific, it could not evolve with market change.