Remarks of John M. Reich, Director
Office of Thrift Supervision
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Good afternoon. It is my pleasure to be among people who are dedicated not only to the letter of the Community Reinvestment Act but to the spirit of the Act, as well. This conference is special, following so closely on the heels of the 30th Anniversary of CRA. So, in addition to all the invaluable information and technical expertise you've gained during the past three days, it seems appropriate to gather to commemorate a statute that has facilitated investment and expanded access to financial services in communities all across America.

As a former community banker I am keenly aware of the important role the thrift and banking industry plays in strengthening communities by providing critical financial services and promoting economic development. I have seen it first hand. As a regulator, I am firmly committed to carrying out our role in examining for compliance with CRA. It is an important part of our mission at the OTS.

This afternoon, I'd like to share some thoughts concerning:

- The current state of the mortgage markets and proposals to strengthen and improve conditions;
- Ways in which CRA expands access to financial services and facilitates investment; and
- How banks and thrifts can use CRA initiatives in partnership with entities like the Community Development Financial Institution Fund to leverage their resources to further support the communities they serve.

First let me make a few observations about the state of the industry.

Recent economic news points to a very challenging environment for 2008 with up-ticks in inflationary pressure and a decline in consumer confidence to a level not seen since March 2003. Just last week, the S&P 500 index was down nearly 80 points year-to-date; oil was at record highs (over $100) and gold was approximately $950 an ounce.

During recent years we have seen breakdowns in sound underwriting; risk management; effective disclosures to both borrowers and investors; and the expansion of once niche products to a broader range of consumers including those for whom the products were poorly suited. These and other factors contributed to difficult challenges that are currently rocking the mortgage markets. In January 2008 the rate of foreclosures on subprime mortgages was almost 9 percent, compared to 3.81 percent in January 2007. The subprime delinquency rate skyrocketed to 21.31 percent in January 2008 from 13.8 the previous year. While that reflects a troubling increase, we should not forget the flip side of that number – 78.69 percent of subprime borrowers are paying their mortgages on time. Future policy decisions should not disadvantage legitimate subprime lending.

We have witnessed disruptions in the broader credit markets and the securities industry. Reverberations were also felt in the global economy as international investors sought high yields in the lucrative US mortgage market.

While the markets pose significant challenges for us, I also believe a proper balance is critical between prudent lending and constraints on credit to qualified borrowers. We must remember that subprime and Alt-A lending created homeownership opportunities for those who could not otherwise have bought a home – particularly minorities, immigrants and first-time homebuyers. We must not address the challenges by letting the pendulum swing so far that it prevents good borrowers from getting into homes of their own.

True, there are changes we must consider making, for many in the industry overreached, and in an effort to keep mortgage money flowing in an overpriced market, lowered underwriting standards and delved into unsuitable and risky mortgage products.

We have learned at least 3 lessons from the mortgage experiences of the past few years:

- Quality, prudent underwriting is essential.
- Transparency is key – both for borrowers and investors.
- A level playing field between regulated institutions and unregulated or lightly-regulated mortgage participants is needed to fill gaps in the oversight of mortgage lending.

The cost of ignoring these principles is high and, as might be predicted in such an environment, financial markets are pulling back, possibly overreacting, and the availability of credit has tightened, especially for borrowers with less than perfect credit.

Low-and moderate-income consumers are being hit particularly hard by the retrenchment of the market. The changes we must consider to address the current challenges in the mortgage and financial markets should not be allowed to reverse the significant progress made to provide credit access to low-and moderate-income individuals consistent with safety and soundness principles and consumer protection laws.

Some necessary change has already begun. Last year, in order to address and prevent practices that are either unfair or deceptive, the OTS issued an advanced notice of proposed rulemaking (ANPR) to solicit comments on what areas, products or practices we should cover. We are working on a rule in this important area and anticipate moving forward with a proposal for comment this spring. Similarly, The Federal Reserve Board proposed changes late last year to Regulation Z (Truth in Lending) to protect consumers from unfair or deceptive home mortgage lending and advertising practices. The rule, which would be adopted under the Home Ownership and Equity Protection Act (HOEPA), would also require certain mortgage disclosures to be provided earlier in the transaction.

All of these initiatives, emanating from regulators and policymakers, are designed to strengthen the mortgage markets to help consumers. Before these initiatives become final, they will be discussed, analyzed and refined.

As a part of this important process to identify and implement solutions, OTS is currently working with representatives of Treasury, our fellow regulators, FHA, Congressional leaders and staff members, and with investor and industry groups on a proposal to assist homeowners who are facing foreclosure and cannot refinance into more affordable mortgages due to depreciation in the value of their homes.

As you well know, home values across the country exploded between 2002 and 2006 and have declined by about 10 percent nationally since. In some regions or neighborhoods prices have depreciated much more than the national average and some experts forecast an additional 15% to 20% decline to correct the excessive rise. There is also a real danger that prices could fall substantially further if there are widespread defaults and foreclosures.

For that reason, the OTS proposal addresses negative equity, which is one of the biggest obstacles to refinancing troubled borrowers. The proposal would help troubled homeowners whose mortgages are held in securitizations stay in their homes without costing taxpayers any money. Rather than forgive the difference between the loan amount and the appraised value of the house, the lender would receive a negative equity certificate, which could trade publicly. When the borrower eventually sells the home, the certificate would be paid out of the proceeds. The borrower would receive sale proceeds that exceed the value of the certificate. The proposal provides an incentive for investors (who would suffer a loss if they foreclosed today) to participate in the upside when the housing market recovers.

Our proposal is a work-in-progress, but if you are interested, you can find a more detailed description on the OTS website at www.ots.treas.gov.

Many other actions are in the works to try to help borrowers and to mitigate the downturn in the economy caused by mortgage market distress. The OTS proposal is not a panacea— there is no single answer—but I believe it can be an effective component of the solution along with the administration's HOPE NOW proposal and other proposals, both public and private.

This leads me to observe that the banking agencies have utilized CRA, along with other tools, as an incentive to calm the mortgage markets and help reduce the number of avoidable foreclosures. For example, the agencies have issued guidance indicating that institutions subject to CRA can receive favorable consideration for foreclosure prevention programs or for programs that help transition borrowers from a high cost mortgage loan to a lower cost loan. The agencies have also issued illustrations to help institutions more clearly present the features of certain mortgages so that consumers can make informed choices.

In the last 30 years, the CRA has changed the way banks and thrifts serve low-and moderate-income communities and consumers by creating a continuing and affirmative obligation for financial institutions to meet credit needs in their communities. Successes were largely achieved by people like you who have worked hard to harness the power of CRA within your communities and organizations. Collectively, your institutions' CRA lending, services, and investments have (1) enabled families of all income levels to buy or rent safe, decent, affordable housing; (2) helped facilitate the expansion of financial education programs in every state of the union, (3) assisted individuals with goals of entrepreneurship and being small business owners, and (4) helped improve critical community facilities located in low-to moderate-income communities.

A branch presence in low- and moderate-income communities is an effective financial services delivery system and an alternative to higher-cost financial services products offered by non-depository institutions. An important reason why OTS made our CRA regulations consistent with those of the other banking agencies is the ability to use the "Service" test performance criteria to determine how well thrifts are providing retail and community development services in their market areas. Institutions are evaluated under the Service test, based in part, on their record of serving their customers through their branches. Thrift institutions are doing a good job of maintaining and expanding branch networks in low-and moderate-income communities and OTS will continue to emphasize the importance of these services.

Another important factor in serving low and moderate income individuals is the implementation of strategies to serve unbanked and under-banked populations and providing alternatives to fringe financial providers. Over the past three days, we have heard discussions about collaborations targeted at the unbanked and under-banked. One such collaboration is the “Bank on San Francisco” initiative, which has a goal of bringing 10,000 unbanked people into mainstream banking. A similar initiative titled “Bank on California” is being launched in five cities and is modeled after the San Francisco program. The long-term success of these and other collaborations as well as retention of newly opened accounts may depend on the locations and convenience of bank branches that serve low- to moderate-income individuals and communities.

CRA’s focus on community development has led to substantial accomplishments in the creation of affordable housing and expansion of community services for low- and moderate-income individuals. It has also led to activities that promote economic development, and activities that revitalize and stabilize low- and moderate-income geographies. The thrift industry has been a funding partner to an array of affordable housing developers and intermediaries. Just one example is Gallup Federal Savings Bank of Gallup New Mexico, which recently participated in a major housing initiative on the Navaho Nation Indian Reservation to develop 123 single family housing units on 83 acres of fee simple land. Gallup committed to lend funds to the developer, Evans Southwest Inc, to build a model home and they committed to participate as a first mortgage lender for homes located on the fee simple property.

By making equity investments and contributions to loan pools, thrifts have also helped fund the development of affordable rental properties that serve the housing needs of individuals, families, seniors, battered women, and the homeless. The demand for affordable rental housing is likely to increase significantly in the future due to the current housing situation. Under the CRA, lenders that finance affordable multi-family housing projects will receive double consideration.

What lies ahead? New and reinvigorated alliances between banks and thrifts and the public and private sectors are vital to sustain CRA lending, investments and services.

For example, partnerships between banks and thrifts, and Community Development Financial Institutions (CDFIs), which include direct funding and participation in lending, must continue to provide low-income affordable housing and other facilities. Under the CDFI Program, a financial institution can apply for financing capital to support its lending, investing, financial services and technical assistance to underserved populations and low-income communities.

Since its creation in 1994, the Fund has awarded $544 million to CDFIs through its CDFI Program and has allocated $16 billion in tax credit authority through the New Markets Tax Credit Program. The ability to leverage such resources is extremely valuable – and at OTS we will seek opportunities to encourage savings associations to participate whenever possible.

Financial institution partnerships with public non-profits are critical to help prevent foreclosures and to preserve communities. I serve on the Board of NeighborWorks® America, which is one such organization that works with local communities to establish effective partnerships with the public and private sectors in foreclosure prevention, default counseling and homeowner education. Recently, $130 million was awarded to 32 State Housing Finance Agencies, 16 HUD-approved Housing Counseling Intermediaries and 82 community-based NeighborWorks organizations, to provide counseling to families and individuals facing the threat of foreclosure. In total, more than 700 local counseling agencies and local NeighborWorks organizations have been listed as partners and participants in this effort. It is estimated that 350,000 to 400,000 families facing the threat of foreclosure will be directly assisted with this funding — and many more will be helped by the training of foreclosure counselors, provided through the National Foreclosure Mitigation Counseling program.

In conclusion let me say again that we must not allow the current challenges facing the mortgage market, families and communities to unintentionally reverse the hard won gains to expand credit access to low-and moderate-income borrowers. I am confident the institutions that OTS supervises are dedicated to meeting all the credit needs in their communities. They have an exemplary record of providing credit, investments, and services in their markets, including low-and moderate-income areas. After all, for community banks, their very existence depends upon serving all segments of their communities well.