Financial Institutions May Soon be Required to Report Business Loans by Race, Ethnicity and Gender

The Greenlining Institute has been spearheading an effort to eliminate a 1973 anti-redlining Federal Reserve regulation that has inadvertently been used to cover up discrimination in small business lending.

On July 17, 2008, Greenlining testified before the House Financial Services Committee urging that every financial institution with a billion dollars or more in assets be required to provide data by race, ethnicity and gender for all small business loans by 2011. This requirement would be similar to the requirements since 1989 relating to the reporting of home loans and the requirement Congress mandated for SBA-guaranteed small business loans.

Congressman Barney Frank and the leadership of the subcommittee pledged at the hearing that they were optimistic that legislation would be introduced and passed in 2009 to accomplish this long sought after goal.

Former Federal Reserve Chairman Greenspan opposed transparency and modifications of Reg B. However, the present Chairman, Ben Bernanke, has taken a position and will accept the revisions of Reg B as proposed by Chairman Barney Frank and Greenlining.

Major banks have so far refused to take a position. Although, to its credit, Wells Fargo has for many years set specific minority and women-owned small business lending targets that it has easily reached.

Minority business members of Greenlining have completed informal studies submitted to Congress demonstrating that up to 80% of minority small businesses believe that white-owned and minority-owned businesses are treated differently. The Federal Reserve and the banking industry have refused to do any such studies and have not rebutted the accuracy of the Greenlining member studies which are now part of the Congressional record.

<u>Greenlining History and Reg B</u>

In March of 1994 at Greenlining's first annual Minority Economic Conference attended by 800 minority community leaders, the issue of overturning Reg B to ensure transparency was raised by many members. The two keynote speakers, now Speaker Nancy Pelosi and U.S. Senator Barbara Boxer supported Greenlining. Greenlining then ran a full-page ad in the <u>NY Times</u> to influence the public debate. It was entitled "Who's Afraid of Alan Greenspan?" The Chairman of the House Financial Services Committee at the time was Henry Gonzalez and he was quoted in the ad as strongly supporting Greenlining. However, Newt Gingrich, as part of the Republican take-over of Congress in 1995, strongly opposed modifying Reg B. Despite a dozen Greenlining meetings with Federal Reserve Chairman Alan Greenspan from 1994 to 2004, he remained opposed to providing transparency through revisions of Reg B.

Greenlining is optimistic, whether Obama or McCain prevails, that Congress will enact major revisions of Reg B. (Please see attached Greenlining's last article in the <u>American Banker</u> dated July 18, 2008).

Regulation B, also known as the Equal Credit Opportunity Act, was passed by the Federal Reserve in 1974. It is codified in Title 15 of the United States Code §§1691 et seq. It ostensibly made it "…unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex or marital status, or age (provided the applicant has the capacity to contract); because all or part of the applicant's income derives from any public assistance program...." (15 USC §1691(a))

American Banker Viewpoint: Let Banks Gather Data on Minority Business Loans

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By Jorge Corralejo and Robert Gnaizda

Thirty-five years ago, when redlining was rampant, the Federal Reserve Board put in place a sweeping anti-discrimination regulation (Reg B) that prevented banks from identifying small-business borrowers by race, ethnicity, and gender.

As this piece was going to press Thursday, Congress was scheduled to re-examine this regulation in light of a scholarly Government Accountability Office study. This is an era in which most banks are making major efforts to eliminate redlining and instead greenline inner cities with multibillion-dollar Community Reinvestment Act commitments, such as the recent $1.5 trillion one by Bank of America Corp.

Fed Chairman Ben Bernanke has always been a strong proponent of increased transparency and gathering as much data as possible before making decisions. The GAO study, which, in effect, recommends mandatory reporting of small-business loans by race, ethnicity, and gender, is fully consistent with his philosophy and will add to the Fed's statistical arsenal critical data on lending to the 45% of small businesses that are minority- or women-owned.

Most minority business associations no longer believe that the major problem with large banks is deliberate discrimination or redlining. Instead, they believe that most banks, through lack of understanding of the unique opportunities presented by 13 million women- and minority-owned businesses, are not targeting or marketing effectively to these engines of economic growth. Minority- and women-owned businesses are growing three times faster than those owned by white males.

To solve this marketing problem, many minority business associations have urged Congress to enact mandatory data gathering of small-business loans by race, ethnicity, and gender. To minimize costs to financial institutions, we have recommended that the requirements not go into effect until 2011, but that banks be allowed to gather the data on a voluntary basis by next year.

This type of data is already required for loans guaranteed by the Small Business Administration and, of course, for all home mortgages through the Home Mortgage Disclosure Act.

To avoid the complexities and possible burdens of HMDA gathering, we have urged the Fed chairman to create a task force representing a diversity of interests to determine the scope of the data gathering with a focus on simplicity and minimizing costs.

This task force should include the banking regulators, small-business lenders, and minority and women business associations. It should be able, within 90 days or in time for the new administration, to produce a cooperative data matrix that could help stimulate the economy and expand the number and size of small businesses.

Though most large banks are unwilling at this point to speak in favor of mandatory data gathering, many recognize the value of what Wells Fargo & Co. achieved on a voluntary basis. For years it has set and achieved multibillion-dollar lending goals targeted specifically to women- and minority-owned businesses. This in part is why Wells made over $157 billion of business loans last year and became the leader in small-business lending in many places it serves, such as California.

Some critics of the GAO approach claim there is no data demonstrating that financial institutions are not fully serving our nation's 13 million small minority- and women-owned businesses. However, given the absence of any data to support their position and the fact that no financial institutions can provide any comprehensive data, the critics should welcome the opportunity to prove their point.

Most importantly, allowing financial institutions to gather data by race and gender will allow them to target and market effectively to the fastest-growing segment of the small-business community.

Many leaders have called for more economic stimuli. As recent U.S. history has demonstrated, small businesses are the largest engine of growth and employment, particularly for those without advanced college degrees. (Two-thirds of all jobs are created by small businesses.) It is quite possible that mandatory data gathering will be as great a stimulus for small-business lending as HMDA data has been for minority homeownership.

Mr. Corralejo is the chairman of the Latino Business Chamber of Greater Los Angeles and a director of the Greenlining Institute. Mr. Gnaizda is the institute's general counsel. B of A and Wells have made financial contributions to the institute's economic development work.