Remarks by
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It's a pleasure to be back with you again this year to celebrate Greenlining's 14th annual Economic Summit. I also want to thank you very much for this distinguished leader award. I am very honored personally. But more important, I believe, is that this award reflects our mutual interest in ensuring fair access to financial services, fair treatment of bank customers, and a strong and dynamic banking system. As Greenlining has pointed out so many times over the years, these three goals are not mutually exclusive. Indeed, each is an express, agency-wide goal of the OCC, and I am firmly committed to all three.

This year we commemorate the 30th anniversary of the Community Reinvestment Act. Since my return to government service, I have been struck by a quite remarkable change in the tenor and context of the CRA debate, and that's what I want to talk about this evening. Even more important, I want to discuss the fruits of this change: the real, tangible accomplishments in revitalizing communities that have occurred in recent years, reflecting the contributions of many different players. And I will also discuss some of the challenges that remain.

When it was enacted in 1977, CRA was a short and simply worded law that embodied a seemingly simple concept to stop "redlining": banks that take deposits from a community should reinvest part of those funds back into that community, generally through enhanced credit. It also had a simple yet powerful enforcement mechanism: a grading system where bad CRA marks could impair a bank's ability to expand through branching or acquisitions.

From these simple beginnings, CRA evolved. It expanded beyond lending to many other forms of investment in the community, as well as to a wide range of activities that enhance the availability of financial services to low- and moderate-income residents. The tactics to enforce CRA also evolved, with community groups becoming much more sophisticated and aggressive in blocking bank expansion activities to obtain CRA concessions, and banks responding with equally sophisticated and aggressive tactics to achieve their expansion goals. Indeed, when I last served in government 15 years ago, the watchword I would have used to describe CRA was "conflict": CRA activities were increasing, but a disproportionate amount of time was spent fighting.

I am not here today to weigh in on that debate, which lingers to this day. Instead, I would like to take note of and celebrate the quite different atmosphere that I have detected in many quarters since my return to government in 2005. Instead of "conflict," the watchword I would use today to describe this changed context is "cooperation" – much more of it between banks and community groups, and much more facilitation and engagement by the OCC, which together have produced some very impressive and visible results. I can't pinpoint the moment that this change happened, or even explain exactly why it occurred. But somewhere along the way a number of banks and community groups decided that there was a lot more to be gained, both for their communities and their organizations, by seeking common ground rather than always fighting. Indeed, the very name of your group, "<u>Green</u>lining Coalition," is a conscious and telling departure from the <u>red</u>lining roots of CRA – a shift of focus to finding bridges between banks and community groups to generate investment in communities, while always reserving the right to fight when necessary.

Let me be quick to add that I am no Pollyanna about this. There are and will continue to be many points of friction and dispute between banks and community groups over CRA

issues. I am, however, a pragmatic sort of person, and the revitalization projects that I have seen in these last 20 months on the job, as I will describe in a moment, are the real world results of a kind of constructive cooperation that I just did not see 15 years ago.

Let me add that the OCC has played its own important role in this evolution. Indeed, even before the enactment of CRA, the OCC issued an important legal interpretation of the National Bank Act, in 1963, that authorized national banks to "make reasonable contributions to local community agencies and groups to further the physical, economic, and social development of their communities." That ruling was the starting gun for national bank community development investment, an activity that was reinforced by the Community Reinvestment Act itself in 1977; codified in statute in 1992, when such investments were authorized in amounts up to 10 percent of a bank's capital and surplus; and expanded in statute just last year, to the 15 percent level, for most types of investments. This authority, combined with active collaboration among banks, the OCC, and community-based organizations, has resulted in a significant number of new and vital community investments – all of which were promoted and rewarded by CRA.

Thus, on this 30th anniversary of CRA, it should not be the least bit surprising to learn, as the statistics show, that geographic areas and lending institutions covered by CRA regulations have a better track record of community investment than those that do not.

I'd like to touch now on some examples that demonstrate this. They show how successful relationships between banks and their communities facilitate community development, promote sustainable homeownership, and encourage the growth of vibrant neighborhood economies.

The first example relates to the long-standing use of the Low-Income Housing Tax Credit, and the more recently enacted New Markets Tax Credit, to promote community

development. Projects financed with these tax credits, which have amounted to over $100 billion over the past two decades, have made a visible impact. I have seen evidence of this success during my recent travels around America as Comptroller, including the revitalization of distressed neighborhoods not far from my office in Washington, D.C.

One of these Washington neighborhoods got a boost in its slow but accelerating comeback in 1995, when a bank-owned community development corporation bought and renovated neglected apartments, building a new community center in the process. Later, the bank CDC partnered with two community-based organizations to create affordable condominiums in the same development, and it completely replaced a nearby abandoned apartment complex with affordable new town homes.

The resulting tax credit-funded renovations have made their mark on this neighborhood, which has become a desirable place to live again. As luck would have it, Washington's new baseball stadium is being built nearby, and development is shifting toward that part of the city now. But it was this partnership, and not luck, that provided the spark and the financing that helped fuel this renaissance.

That story is impressive, but hardly unique. Late last year I visited Pittsburgh, where the East Liberty neighborhood is being revitalized. One galvanizing project, which began in 2002, transformed a warehouse into a successful grocery store that attracted new shoppers to the area. Other nearby projects followed in rapid succession, including a $34 million commercial development promoted and financed by a bank-affiliated CDC. By the end of last year, development in this area had created more than 400 jobs, and at least $200 million in additional projects are planned or underway.

In city after city, such efforts are rejuvenating neighborhoods. Last spring, I toured Chicago's Lawndale neighborhood. Lawndale is the home of Sears' first catalog plant and a

radio station whose call letters, "WLS," stand for "World's Largest Store," which is what Sears was way back when. After the riots of the 1960s and Sears' departure in the 1970s, the area gradually began to revive. Since 1988, with the help of tax-advantaged development and public-private partnerships, the neighborhood has attracted many low- and moderate-income buyers to its newly constructed, affordable townhomes.

And earlier today I had an opportunity to visit the areas served by TELACU, The East Los Angeles Community Union, one of Greenlining's member organizations. TELACU has an impressive 39-year history of community service in an area of East Los Angeles abandoned by major companies. To remedy the blighted conditions and restore the spirit of unemployed residents, TELACU crafted a revitalization strategy that promoted reinvestment in housing and commercial markets, and re-established a positive neighborhood image. Its wholly owned Community Commerce Bank has loaned more than $3 billion in its service areas. And in cooperation with its contributing national banks, TELACU formed TELACU Community Capital, which has approved over $2 million each year in small business loans since 1999, and has been designated a certified Community Development Financial Institution by the Department of the Treasury.

The Los Angeles Neighborhood Housing Services is another example of the many other nonprofit organizations working hard to revitalize Los Angeles. With support from their bank partners, LA NHS has reinvested more than $63 million in Los Angeles neighborhoods by providing loans to improve housing conditions, create homeownership opportunities, and prevent predatory lending in targeted neighborhoods such as Crenshaw and San Pedro. Over the past 22 years, LA NHS has counseled more than 22,000 families in homeownership, and, remarkably, *has experienced no foreclosures* in the 20-year history of

its own Revolving Loan Fund Portfolio – all the while maintaining a delinquency rate of less than 3 percent.

With these opportunities and successes, however, come new challenges. Creating affordable housing is one thing; sustaining it is another. Who hasn't heard or read about the troubling developments in the mortgage industry and the growing number of defaulted loans and foreclosures, particularly of subprime borrowers? While the problem has taken on new significance as housing appreciation has slowed, the OCC has been taking concrete steps to address these issues for some time.

You might not know that, however, if you read some of the reports this week about the Supreme Court decision upholding federal preemption of state laws that restrict the mortgage lending activities of national banks and their operating subsidiaries. Some critics have alleged that preemption has made national banks and their operating subsidiaries a safe haven for predatory subprime lending, because, they argue, there is no consumer protection regulation of national banks by the OCC. They have also argued that preemption has somehow prevented states from taking effective action to address predatory lending. These arguments are just plain wrong, and I'd like to take this opportunity to tell you why.

First, the mortgage lending activities of national banks are in fact subject to extensive regulation, a significant part of which is expressly designed to prevent predatory lending. The OCC was the first federal banking agency to issue comprehensive anti-predatory lending guidance and regulations specifically applicable to the institutions we supervise – national banks and their operating subsidies. In 2000, the agency began issuing a series of advisory letters designed to prevent national banks and their subsidiaries from engaging in lending practices that were unfair or deceptive. And in that same year, the OCC also became the first

federal banking agency to undertake an enforcement action against unfair and deceptive practices under Section 5 of the Federal Trade Commission Act.

By 2002, we instructed our examiners to address the risks of these products more aggressively. And in 2005, as I discussed in my last speech to the Greenlining Coalition, we initiated the interagency process that resulted in the nontraditional mortgage guidance for federally regulated institutions that was issued last fall.

Most recently, we and the other federal banking regulators issued proposed guidance to address the marketing and underwriting of subprime mortgages by federally regulated institutions. That guidance is out for comment until May 7th , and I urge you to take the time to write us with your views. We will need them as we try to strike that very difficult balance of restricting abusive credit practices, while maintaining access to credit for creditworthy borrowers.

Second, hard data show that national banks have not become any sort of safe haven for predatory lending – even though preemption for direct national bank mortgage activities has been well accepted for many years. The plain fact is that national banks have a relatively small share of the subprime mortgage market. Last year, they originated less than 10 percent of all subprime mortgages, and the delinquency rate for such loans has run at about half the industry average. Nor are national banks or their subsidiaries identified with the truly predatory lending practices that have contaminated aspects of legitimate subprime lending. We believe there is a reason for these results: our regulation and supervision of subprime mortgage lending of national banks and their operating subsidiaries, while not perfect, has been effective.

This leads me to my third point: if predatory lending practices and the spike in subprime lending defaults are not concentrated in national banks and their operating subsidiaries, then where are they? Some are in other entities that are subject to federal oversight, but the lion's share is in nonbank entities regulated exclusively by the states. Whatever one says about national bank preemption, it certainly has no effect on the ability of states to enforce state laws against state-chartered entities over which they have exclusive jurisdiction, and it certainly doesn't handcuff state efforts to prevent those state-regulated lenders from making loans that borrowers have no reasonable prospect of repaying. States can and should act here, and the OCC strongly supports the recent efforts by many states, urged on by the Conference of State Bank Supervisors, to extend the principles of federal mortgage guidance to such entities.

In short, national bank preemption is truly a red herring when it comes to mortgage lending, because unsound underwriting standards and abusive lending practices have no place in the national banking system. It is the OCC's position that all segments of the mortgage lending industry – banks and nonbanks alike – should abide by these principles. Sound underwriting that realistically evaluates a prospective borrower's ability to repay an obligation, and timely information that enables borrowers to understand the terms, costs, and risks associated with a loan are not just matters of fairness – they're good business. I believe that all lenders and regulators should share these common goals: that borrowers be treated fairly and responsibly, and that credit remain available to the creditworthy.

Of course, where delinquencies do occur, the OCC strongly urges national banks to work closely with troubled borrowers to help resolve their problems. Many homeowners facing mortgage difficulties are unaware of, or afraid to use, the options and resources

available to them. If foreclosure is to be avoided, these borrowers must obtain good advice from people who can provide sound counsel before it is too late. The OCC believes that it is in the best interest of both lenders and borrowers to work together to bring a loan current and to avoid foreclosure whenever possible. Let me assure you that national banks will not face regulatory penalties for engaging in responsible loan workout and recovery activity.

On the contrary, we have been very proactive in communicating our views on this issue and on "best practices" for foreclosure prevention. We have also advised national banks that participation in foreclosure avoidance programs targeted to low- and moderate-income borrowers in their assessment areas will qualify for CRA credit.

Indeed, this week, the OCC reemphasized these points by joining the other bank regulatory agencies in releasing a statement on working with mortgage borrowers. The statement encourages all of the financial institutions that we regulate to consider prudent workout arrangements that increase the potential for financially stressed borrowers to keep their homes. The statement also recognizes that institutions may work in conjunction with reputable organizations to assist borrowers avoid foreclosure through credit counseling.

Some banks have found that using nonprofit intermediaries to contact homebuyers in trouble smoothes the problem-solving process. I saw how this works when I met with the Pittsburgh Community Reinvestment Group a few months ago. This group, along with many just like it, provides assistance that ranges from renegotiating existing loans to aiding the transition for those who are forced to give up their homes.

This is also the approach taken in the national foreclosure prevention campaign spearheaded by NeighborWorks America's Center for Foreclosure Solutions. I believe that these efforts, which include a national toll-free telephone hotline, local partnerships, and

financial assistance, will be increasingly helpful in the months ahead as we tackle the growing need for effective foreclosure prevention and assistance across the nation – and they will also help financially stressed borrowers avoid predatory foreclosure rescue scams.

Some of you may have seen last week that two national banks, Citibank and Bank of America, committed, in partnership with a non-profit housing group, Neighborhood Assistance Corporation of America, to lend $1 billion to refinance homeowners with unaffordable loans. Specifically, these banks will earmark funds from their larger existing programs to refinance subprime and other borrowers out of unaffordable loans, where the borrowers meet the programs' special underwriting criteria. Eligible loans include adjustable rate products that are about to reset with much higher monthly interest payments.

A billion dollars is real money, and Neighborhood Assistance Corporation of America anticipates using the program to help 7,000 to 10,000 borrowers refinance into more stable mortgage products. It's also a remarkable commitment considering that national banks, as I've said, have not played a major role in the current subprime problem.

So why would these banks provide such funding? Well, in part, it's good business over the long haul to make carefully underwritten loans to subprime borrowers and other borrowers with non-traditional credit profiles. But let's also remember that this is the very type of activity that the Community Reinvestment Act fosters and rewards.

And herein lies a certain irony. Some national banks, at least in part due to CRA, are ponying up real money to address a problem not really of their making, while a number of very large financial firms that have been much more heavily involved in adjustable rate subprime lending have made no similar commitments. I know Greenlining has urged a number of nonbanks to make voluntary CRA-like commitments, with some success. Maybe that's a thought worth thinking on a much larger scale.

In closing, let me say that all of the accomplishments I've mentioned tonight – developing and financing affordable housing, educating potential buyers about their financing options, and refinancing subprime borrowers – are the result of successful community reinvestment partnerships that are flourishing all across our nation. Working together, we've achieved an impressive track record, and I expect the pace of public welfare investments to accelerate in the years ahead.

The OCC stands ready to help banks in their efforts to grow community financing partnerships through such activities as the creation of their own community development corporations and the formation of financing collaboratives. Susan Howard, our Community Affairs Officer based here in Los Angeles, is with us this evening. She and our other Community Affairs Officers located throughout the country are available to provide assistance to banks that want to undertake these activities or other public welfare investments. These committed OCC employees help ensure that a bank's investments not only meet our rules, but also sustain effective community investment partnerships.

We take great pride in the role that the OCC has played since 1963 in recognizing, promoting, and expanding the public welfare investment authority for national banks. But of course, there's always more to learn and do. Community development is a never-ending challenge – for community-based advocates, for national banks, and for us at the OCC.

Once again, thank you very much for this great honor. We look forward to working with you as you support community development – for the next 30 years of CRA.

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