SOLOMON HESS Capital Management | CRA*news*

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The 22nd annual CRA & Fair Lending Colloquium hosted by Wolters Kluwer took place on November 4 - 7 in Hollywood, FL. Over 600 bank practitioners, regulators and advocates gathered at this event to discuss relevant topics in CRA and Fair Lending over a three-day period. This special edition of CRA*news* provides a recap of the CRA learnings gleaned from the Colloquium and Colloquium discussions.

Keynote Speaker Paul Hancock on 50 Years of the Fair Housing Act: Remain Vigilant

This year's keynote speaker was Fair Housing expert, former U.S. Department of Justice civil rights attorney and current K&L Gates LLP Partner Paul F. Hancock (left). Hancock shared the history of the legislation and his views for the future.

Paul Hancock officially opened the Colloquium by giving a keynote address that took the audience through the genesis of the historic act and its evolution and enforcement through the different presidential administrations. He noted that there can be surprises in how an administration could act and cited the example of the increase in redlining cases during the Bush administration. He also cited how an administration could make enforcement retroactive as did the Obama administration. For these reasons, his message to attendees was to remain vigilant in their posts on fair housing compliance. ■

OCC on the ANPR: Fact vs. Fiction

The Office of the Comptroller of the Currency ("OCC") issued an Advance Notice of Rulemaking ("ANPR") for the Community Reinvestment Act ("CRA") on August 28, 2018. At a panel discussing the modernization of CRA, OCC Senior Deputy Comptroller for Compliance and Community Affairs Grovetta Gardineer took the opportunity to address misrepresentations of the ANPR that she had heard over Colloquium discussions.

Fiction 1: The ANPR is a proposal. The OCC has repeatedly stated that the ANPR is a list of 31 questions to solicit comment from CRA stakeholders to obtain public input on how to revise the CRA regulations. A contingent of CRA practitioners and industry stakeholders have raised apprehension and interpreted the series of questions to contain the OCC's proposal for moving forward. Gardineer reiterated that there is no such proposal embedded in the ANPR.

Fiction 2: OCC is working alone to modernize the CRA. Because the OCC took the unusual step of not issuing the ANPR as an interagency product, there was much concern that the OCC is not involving the Federal Reserve Board ("FRB") or the Federal Deposit Insurance Corporation ("FDIC") *continued on page* 2

The CRA Needs a Tune-Up Only

Krista Shonk, Vice President, Regulatory Compliance Policy of the American Bankers Association moderated a panel on CRA Modernization. On the panel were Buzz Roberts, President and CEO of the National Association of Affordable Housing Lenders, John Taylor, President and Founder of the National Community Reinvestment Coalition, Nia Rock, Senior Vice President, CRA Compliance Officer of Customers Bank, and Grovetta Gardineer.

Over the course of the discussion, it became evident that the panelists agreed that what is needed in this update to the CRA is a tune-up and *continued on page* 2

Deadline to submit comments to ANPR is November 19

All three agency regulators encourage CRA stakeholders to submit comments to the OCC's ANPR regardless of whether the OCC is one's supervisory agency. While the ANPR is spearheaded by the OCC, all three agency regulators are committed to reviewing all the comments. Comments can be made at www.regulations.gov. Comments are publicly available and can be viewed at the same website.

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OCC on ANPR *(from page 1)* in its efforts and will not consider working on the proposed ruling as an interagency effort. Grovetta first clarified that the ANPR was the result of many hours of working sessions involving all 3 agencies and conversations with over 100 stakeholders, industry experts, and community groups. "Just because the OCC issued the ANPR alone does not mean it does not include input from the other agencies," said Gardineer emphatically. She continued to say that the reason the OCC chose to issue the ANPR as a single agency product is to keep the momentum going on CRA modernization. The OCC did not want to re-start the clock to get interagency support given the timing of new leadership at both the FDIC and the FRB. Representatives of both the FDIC and the FRB mentioned that they are reviewing all the comments and encouraged their banks to comment. Gadineer said that, at this stage, it is the hope and expectation of the OCC that the proposed rulemaking product, when it comes out, will be an interagency effort.

Fiction 3: The goal of the OCC is to "gut" CRA. Some industry stakeholders have raised questions about the motivations of the OCC in spearheading this effort and suggest that the OCC's goal is to substantially weaken the law. Gardineer explicitly said that "nothing is farther from the truth" and said that the goal of this modernization effort is not a statutory fix but an effort to bring the CRA regulatory framework more in sync with the modern times, given the changes in technology. She continued to say that the goal of these efforts is to find ways to better align incentives for banks to do more in the communities that need it the most. ■

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Regulator Roundup

The regulators were given an opportunity to provide an update on priorities of their respective agency.

OCC: Grovetta Gardineer provided the update for the OCC. She said that while the ANPR is in motion, the agency continues to tweak the current framework and referenced Bulletins 2018-23 and 2018-17. She also said that significant progress has been made in clearing the backlog of performance evaluations.

FDIC: Director Mark Pearce and Senior Deputy Director Sylvia Plunkett spoke for the FDIC. Pearce said that conditions are going well currently but the FDIC is concerned about a potential economic downturn and how this may affect its banks. Pearce referenced the FDIC's National Survey of Unbanked and Underbanked Households and its results which show that branches are still important to consumers. He reiterated that the FDIC will read and review the comments received from the ANPR and that whatever changes will be made will not diminish the CRA.

FRB: Director Eric Belsky and Associate Director, Division of Consumer and Community Affairs, Carol Evans spoke for the FRB. Belsky reiterated the FRB's commitment to the goals of CRA and the FRB's role in fulfilling the statutory mandate. He pointed to Governor Lael Brainard's speech on October 15 at the Federal Reserve Bank of Kansas City for a list of FRB priorities with regards to CRA modernization. He said that the FRB intends to do outreach of its own in the form of regional round tables to receive public input. All comments from the ANPR will be read and reviewed. ■

CRA Tune-Up *(from page 1)* not a major overhaul. Panelists agreed that the goal of the CRA statute — to encourage banks to help meet the needs of borrowers in all segments of their communities, including low– and moderate-income neighborhoods — must be preserved through this reform process. Panelists agreed on major areas of reform but disagreed on what measures to implement to address those areas. The major areas of reform include: 1) the need for greater clarity, transparency and consistency in the entire CRA framework, from knowing what qualifies for community development to how to evaluate a bank in a consistent and transparent manner, 2) recognition of the impact of Internet banking on assessment areas and how those areas may be changed, and 3) greater timeliness of CRA exam process. ■

About Solomon Hess Capital Management

Above, Solomon Hess team at the Colloquium. Featured are Mike Fallon, Senior Portfolio Manager, and Michelle Lai, Investor Relations.

Solomon Hess Capital Management ("Solomon Hess") is an asset manager specializing in fixed income. Its mission is to provide investors with community and economic development -focused funds that generate competitive risk-adjusted returns and positive quantifiable community impact. Founded in 2004 and located in Falls Church, VA, Solomon Hess has over $800 million of assets under management. Solomon Hess is Fund Manager to the SBA Loan Fund and investors include banking institutions of all sizes that are seeking Community Development Investment or Lending test credit within the CRA rules via exposure to SBA 7(a) loans and related assets. ■