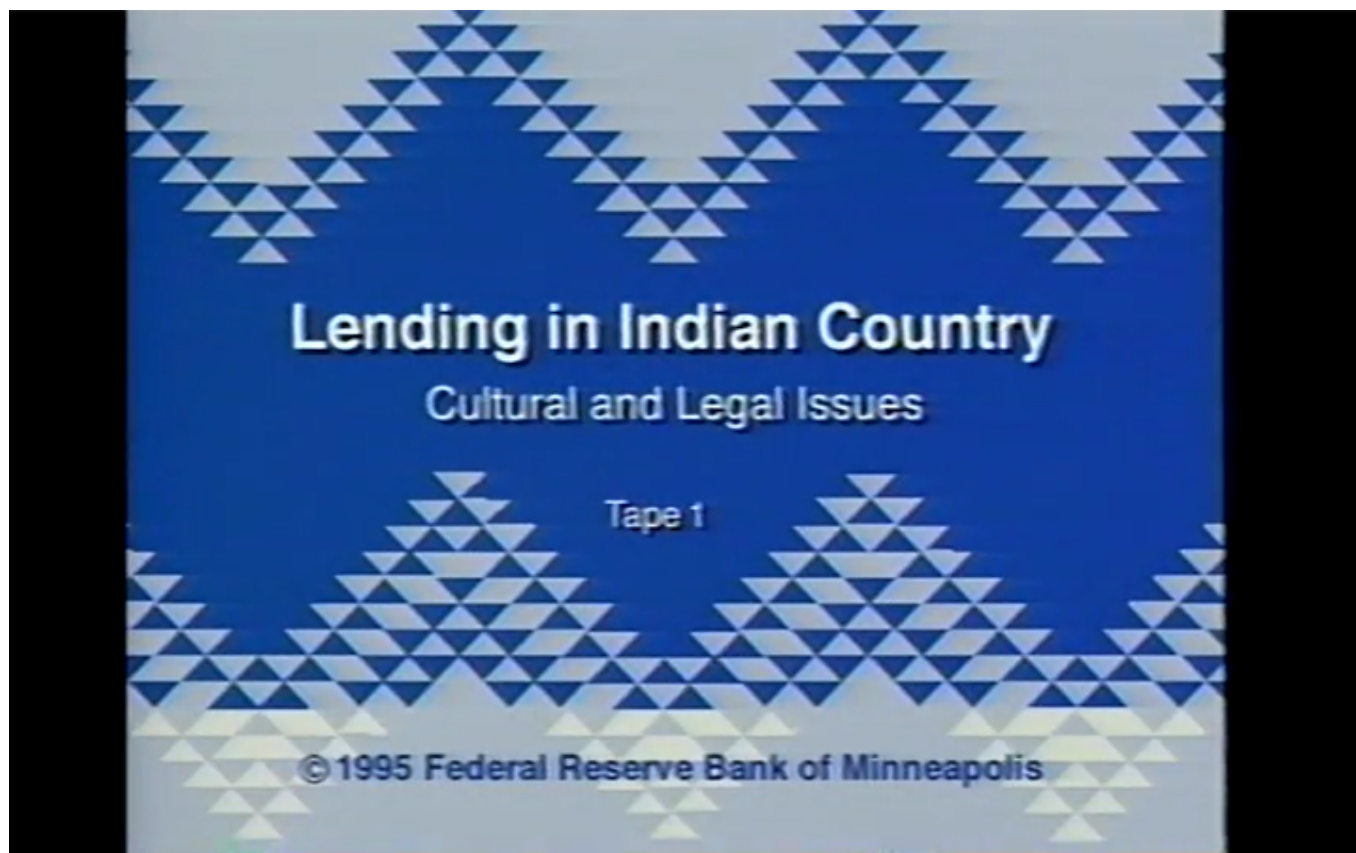


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The Federal Reserve and Native American Communities: A Brief History

A bank merger proposal near a Native American community in Montana in 1991 was a key impetus spurring greater interaction between the Fed and Indian Country.



Title screen from the Lending in Indian Country video series produced by the Federal Reserve Bank of Minneapolis in 1995

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Significant interactions between the Federal Reserve and Native American communities began in the 1990s, spurred by the Federal Reserve's responsibilities under the Community Reinvestment Act (CRA).

Since then, several Reserve Banks have expanded their engagement with Native American communities through community development and economic education activities, including through the creation of the Center for Indian Country Development at the Minneapolis Fed in 2015. These activities have been shaped and motivated by key economic characteristics of Native American communities, including large gaps in access to credit, the unique legal status of Indian Country, and the substantial economic development opportunities.¹

Native American Communities as Historically Underserved by Financial Institutions

A bank merger proposal near a Native American community in Montana was a key impetus spurring greater interaction between the Fed and Indian Country.

In December 1991, the Fed's Board of Governors denied the proposed merger of two bank holding companies on the basis that one of the banks involved was not meeting the needs of the people in the nearby Northern Cheyenne Reservation. This was a rare merger denial on CRA grounds in an era of rapid consolidation of the banking industry.² The bank at issue, the First Interstate Bank of Colstrip, was one of several banks owned by the First Interstate BancSystem. It was located in the first town north of the Northern Cheyenne Reservation, about 20 miles away, but had excluded that reservation from its delineation of the area it served. Native Action, a non-profit organization based on the Northern Cheyenne Reservation, protested that the bank had unreasonably excluded its community from its service area. A review by the Board of Governors found merit in this assertion and additional observations made by Native Action, including that the bank had made no effort to ascertain the Native community's needs and had not offered them services.

The Colstrip case was emblematic of a broader pattern in which "many tribal communities are underserved by financial institutions, a situation that limits their access to the credit and capital vital to their growth and development."³ Several factors have acted as barriers to credit access.

- One important legal issue involves land held in trust. For such land, lenders cannot execute a standard mortgage, as they cannot acquire the underlying land. Rather, they have to pursue other lending tools. Workarounds include securing a loan by a leasehold interest or by some other type of property or revenue stream, though lending institutions may have to invest in learning how they can underwrite loans differently while also maintaining profitability.
- Another legal issue pertains to the laws governing other types of collateral, such as farm equipment or autos. Commercial laws governing contracts of this kind are established by Native governments as sovereign entities. Lenders have professed that they are unfamiliar with those laws, and in many cases those laws have been relatively underdeveloped compared with commercial codes developed by state governments. Fed Governor Mark Olson spoke in 2002 of his own "personal experience, as a former banker in Minnesota, with the complexities of lending in Indian country."⁴
- Discrimination has also been a factor behind the underserving of Native American communities. For example, in the 1990s, the Justice Department brought cases against two banks in Nebraska and South Dakota for discriminating against Native American borrowers.⁵
- Cultural differences may also act as a barrier. For example, Native American tribes, which have tended to be major employers in their communities, may seek loans for reasons less focused on profitability compared with other borrowers to which lenders may be accustomed. A tribe may pursue a project that satisfies the tribe's economic or social goals, even if it does not have as high a profit margin as other borrowers might seek. Native stakeholders seeking loans have found that lenders can be hesitant even if repayment is appropriately ensured.⁶

These barriers to credit access formed the predicate for the Federal Reserve's expansion of its engagement with Indian Country. The timing of this engagement partly reflects a change in federal policy in the 1970s. In addition to the passage of the CRA, a combination of executive orders and the Indian Self-Determination and Educational Assistance Act gave firmer footing to federal support for tribal sovereignty. In particular, tribes acquired the ability under federal law to contract for and run federally funded programs and services, rather than the federal government administering those programs for them.

The Historical Development of Federal Reserve Activities

The community development function at the Federal Reserve was created in the 1980s, and its initial focus was to facilitate compliance with the CRA. This function began promoting lending opportunities in Indian Country in a substantial way in the 1990s; particularly, the Colstrip CRA decision in 1991 increased the salience of community development issues at the Fed.

Reserve Banks fostered a flow of information about lending opportunities through workshops, newsletters, and training curricula. In July 1996, for example, the Minneapolis Fed released a video set titled *Lending in Indian Country*, which gave lenders an introduction to cultural differences with Native American communities and reviewed important legal issues shaping lending opportunities, including land, title, and collateral issues; tribal powers and tribal courts; sovereign immunity; and practicable remedies. By using its powers to convene, the Fed has brought together Native American communities, lenders, and other specialists to focus on lending opportunities in Indian Country at many conferences,

trainings, and workshops. For example, In 2002, the Federal Reserve Banks of Minneapolis, Chicago, Kansas City, and San Francisco and the Federal Reserve Board sponsored a conference on sovereign lending issues, designed to promote increased access to credit by forging partnerships and identifying investment opportunities.⁷ Also, a 2012 workshop series, "Growing Economies in Indian Country: Taking Stock of Progress and Partnership," highlighted best practices on topics including the successful establishment of financial institutions on reservations and the establishment of Indian Business Alliances that provide support to entrepreneurs and small businesses.⁸



This 90-minute video from 1995 is the first in a series of five videos on "Lending in Indian Country" created by the Minneapolis Fed.

The Minneapolis Fed has also sought to address some of the underlying legal issues that can act as a barrier to lending, including underdeveloped commercial laws. In 1998, the Federal Reserve Bank of Minneapolis partnered with the National Conference of Commissioners on Uniform State Laws and tribal government representatives to develop a model commercial code.⁹ Since then, many tribes have adopted the model code, beginning with the Crow Tribe in 2006. These adoptions have highlighted the importance of follow-up activities to help the model code become effective in supporting lending, including training to understand, enforce, and trust the law, as well as initiatives to implement the code including the creation of lien filing systems.

More Recent Activities

Over time, the Fed's community development efforts with Native American communities have continued

to facilitate compliance with the CRA while also placing increased emphasis on applied research and identifying and sharing best practices. For example, through the Kansas City Fed's Investment Connections initiative, banks and organizations that work in Indian Country have made connections on CRA-eligible projects.¹⁰ In addition, Kansas City Fed community development staff have supported state-wide Community Development Financial Institutions (CDFI) working groups in Oklahoma and New Mexico, which both have significant Native CDFI representation.

The Minneapolis Fed established the [Center for Indian Country Development](#) in 2015, with the mission of advancing "the economic self-determination and prosperity of Native nations and Indigenous communities through actionable data and research that make substantial contributions to public policy."¹¹ The Center has launched projects in several strategic focus areas, including efforts to close the data gap to inform the implementation of effective policies in Native American communities, increase the accessibility of financing and commercial credit, and optimize tribal taxation authority to raise predictable revenue for public investment.¹²

Outside of community development, economic education has been an additional area of activity. In the 1990s, the Kansas City and Minneapolis Feds developed materials for a course on personal finance and a case study of community development issues, to be used by Native educational stakeholders.¹³ In 2020, the St. Louis Fed established [Native Economic and Financial Education Empowerment](#) (NEFEE), an economic and financial education program specifically for Native Americans, with a focus on ensuring that educational materials are appropriate and well-designed for use in Native educational settings. NEFEE partners with tribal nations and Native communities across the United States to strengthen access to economic and personal finance education, including providing resources to address the unbanked populations within Indian Country. The Atlanta Fed's economic education team also collaborates with NEFEE to support engagements with tribal nations and Native schools.

Recently, the Federal Reserve and other federal regulators have revisited the CRA. As one part of that review, they have considered how the CRA's implementation could be more effective in addressing the substantial needs for community development and better access to credit in Indian Country. Statistically, 45 percent of the American Indian and Alaska Native population lives in census tracts that are low- or moderate-income, distressed, or underserved, and therefore the kind of areas that the CRA was intended to benefit. In addition, 25 percent of American Indian and Alaska Native people were underbanked as of 2021.¹⁴ As of 2022, the proposed rulemaking includes provisions related to activities specifically targeted to and conducted in "Native Land Areas."¹⁵ The proposal would also give banks greater incentives for community development activities in Native Land Areas by providing enhanced clarity and specificity about what activities qualify for CRA credit.

Conclusion

Minneapolis Fed President Neel Kashkari stated in 2023, "The Fed's work in partnership with Native nations and Indigenous communities is foundational to our mission of pursuing an economy that works for all of us. Across the System, our initiatives are shedding light on economic development opportunities in Indian Country, engaging Native voices in policy solutions, addressing harmful data gaps, and empowering Native communities with the information they need to chart their own economic futures. I'm

excited to see the impact of our deepening work in this area." The evolution of this engagement has been a microcosm of the broader evolution in the Fed's community development function, with an initial focus on facilitating compliance with the CRA as banks engaged with many communities in a serious manner for the first time and more recently a broadening of activities to include applied research and sharing information on what works in community development. Along with efforts in economic education and in modernizing the CRA, these activities have been designed to help ensure that Native American communities share in progress toward the Fed's economic objectives.

Endnotes

- ¹ The term Indian Country under federal law encompasses several types of communities, including land within an Indian reservation and several other types of land and communities; US Department of Justice. "[677. Indian Country Defined.](#)" *Justice Manual: Criminal Resource Manual*. Last updated May 2001.
 - ² Board of Governors of the Federal Reserve System. *Federal Reserve Bulletin, December 1991*: 1007-1010.
 - ³ Board of Governors of the Federal Reserve System. *Annual Report 2002*: 88-89.
 - ⁴ Mark W. Olson. "[Remarks at the System's Sovereign Lending Conference: Banking Opportunities in Indian Country,](#)" November 18, 2002.
 - ⁵ US Department of Justice. "[Nebraska Bank to Pay \\$275,000 For Allegedly Discriminating Against American Indians, Under Justice Department Settlement.](#)" Press release, May 7, 1997; US Department of Justice. Housing and Civil Enforcement Cases Documents, [Civil Action Number 93-5115](#).
 - ⁶ Patrick Borunda. "[Misconceptions Mask Opportunities in Indian Country.](#)" Federal Reserve Bank of San Francisco, 1996.
 - ⁷ Federal Reserve Bank of Minneapolis. "[Fed Sponsors Indian Lending Conference.](#)" News release, October 24, 2002.
 - ⁸ "[Growing Economies in Indian Country: A National Summit.](#)" Board of Governors of the Federal Reserve System, May 1, 2012.
 - ⁹ Maylinn E. Smith. "[Model Code Addresses Economic Development in Indian Country.](#)" Federal Reserve Bank of Minneapolis, July 1, 1998.
 - ¹⁰ Lael Brainard. "[Financial Inclusion and Economic Challenges in the Shadow of the Pandemic: A Conversation with Tribal Leaders.](#)" Speech at Fed Listens: Roundtable with Oklahoma Tribal Leaders, Oklahoma City, Oklahoma, October 13, 2021.
 - ¹¹ Center for Indian Country Development. "[About Us.](#)" Federal Reserve Bank of Minneapolis, n.d.
 - ¹² Matthew Gregg, Casey Lozar, & Ryan Nunn. "[An Urgent Priority: Accurate and timely Indian Country Data.](#)" Federal Reserve Bank of Minneapolis, May 10, 2022; Jacqui Baldwin-LeClair, Andy Huff, Casey Lozar, and Caryn Mohr. "[Tribal-state Tax Compacts Rise as a Tool for Tax Clarity in Indian Country.](#)" Federal Reserve Bank of Minneapolis, September 26, 2022; Patrice H. Kunesh, ed. *Tribal Leaders Handbook on Homeownership*. Federal Reserve Bank of Minneapolis and Enterprise Community Partners, 2018.
 - ¹³ Board of Governors of the Federal Reserve System. *Annual Report 1998*: 216.
 - ¹⁴ Federal Deposit Insurance Corporation. *2021 FDIC National Survey of Unbanked and Underbanked Households*, October 2022.
 - ¹⁵ The proposal includes a definition of Native Land Areas that includes the following geographic areas: "Indian country, land held in trust by the United States for Native Americans, state American Indian reservations, Alaska Native villages, Hawaiian Home Lands, Alaska Native Village Statistical Areas, Oklahoma Tribal Statistical Areas, Tribal Designated Statistical Areas, American Indian Joint-Use Areas, and state-designated Tribal Statistical Areas." Lael Brainard. "[Strengthening the CRA: A Conversation with Representatives of Native Communities.](#)" Speech at National Native Coalition Virtual Series on the Community Reinvestment Act Notice of Proposed Rulemaking, July 19, 2022.
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