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To: Board of Governors of the Federal Reserve System

Re: Docket Number R-1723 and RIN Number 7100-AF94 – ANPR Comments for CRA Reform

Tuesday, February 16, 2021

Dear Federal Reserve Board members,

The Federal Reserve Board (Fed) must strengthen CRA exams in order to promote recovery from the COVID-19 pandemic and improve upon the original goals of CRA for encouraging financial inclusion and investment within disadvantaged communities. The Fed has described approaches in its Advance Notice of Proposed Rulemaking (ANPR) on CRA that will make CRA exams more objective. Yet, questions remain about whether the Fed's approach will make grading tougher and promote inlcusiveness. If nearly every bank continues to pass their CRA exams, many banks may not engage in serious efforts to help communities of color and low- and moderate-income (LMI) neighborhoods recover from the pandemic. CRA must be strengthened in order to combat discrimination and disinvestment.

As the largest, community action agency in Maine, Penquis CAP has served rural Mainers for over 50 years in helping alleviate and eliminate the causes and conditions of poverty. Penquis does this through transportation services, child development services, and enrichment services to families, senior citizens and those with disabilities. In regards to CRA-related activity, Penquis develops and manages affordable rental housing and improves and replaces affordable homes for ownership. Also, MaineStream Finance is Penquis' 20-year old Treasury-certified CDFI, providing financial services, primarily loans, and counseling to homeowners and small business owners.

We are members of both Opportunity Finance Network (OFN) and the National Community Reinvestment Coalition (NCRC) and agree with the vast majority of points in their companion comment letters to the Federal Reserve Board. In particular, we want to highlight the following that address underinvestment to underserved populations, BIPOC communities, and low income families in rural areas.

- **Levels of Poverty or Levels of Lending:** The Fed asks whether underserved areas should be designated based on high levels of poverty or low levels of retail lending. We agree will NCRC's position to advocate an approach based on low levels of lending, which would effectively target redlined neighborhoods and communities of color.

- **Focus on communities of color and collecting race and ethnicity data (Q2 and Q40):** CRA is a civil rights law created to address the redlining of low-wealth and minority communities. A more explicit focus on increasing CRA activity in communities of color is both appropriate and imperative. The inclusion of race in the CRA evaluation should not be relegated to "extra credit" or optional as the current proposal largely has it structured.

We ask the Fed to consider explicitly including race on CRA exams. The agencies have hesitated to do so, but we believe that the CRA statute allows this since the law emphasizes banks meeting credit needs in all communities, but particularly underserved ones. CRA exams could include performance measures assessing lending, investing, branching and services to people of color and communities of color. The Fed could also provide CRA consideration for lending and investing in majority minority census tracts outside of assessment areas just as the Fed is considering for Indian reservations and other underserved areas, particularly rural areas, such as those we serve.

We agree CRA consideration should be given for retail lending activities conducted within Indian Country [*sic*] regardless of whether those activities are located in the bank's assessment areas. Addressing the centuries of disinvestment and discrimination in Native communities requires focused efforts to drive capital into these communities. CRA has been an underutilized tool and we encourage the Board to redouble efforts to support lending and investment in Native communities, including Maine's four Native Tribes.

- **Expanding and adapting assessment areas (Q2, Q45, Q67, etc.):** As an organization serving rural Maine, we support the Fed's proposals to expand assessment areas, which are geographical areas on CRA exams. In addition to areas around branches, assessment areas must also include areas outside of branches with significant amounts of bank lending or deposit taking.

  We applaud the Fed proposal to eliminate distinctions between full-scope and limited-scope assessment areas. Full-scope assessment areas, which are usually the largest cities, count more on current CRA exams than limited-scope areas that generally are smaller cities and rural counties. Often, communities of color, Native American reservations and other underserved communities, such as our rural communities in Maine, continue to receive less CRA-related loans and investments because they are in limited-scope areas.

  We agree with OFN and support the Federal Reserve's proposal to allow automatic CRA credit for qualified activities in conjunction with certified CDFIs located anywhere in the country, even outside of the bank's assessment area (Q67). However, the current placement in the evaluation framework is not necessarily sufficient to motivate investment. Activities undertaken in conjunction with a CDFI should count as part of the Community Development Test – not just receive qualitative consideration for moving from satisfactory presumption to outstanding rating.

  Using local and national benchmarks will provide important context for examiners to determine if a bank is engaging in adequate amount of financing while also taking into account local conditions that may impact community development like capacity constraints (Q45). We agree with OFN in supporting using different national benchmarks for metropolitan areas and one for rural areas since rural areas have average community development ratios that are lower than for urban ones.

We do not support the idea of a national assessment area for internet banks that the Fed discusses (Q2). Instead, we believe that data analysis can designate areas where high numbers of retail loans or deposits are located.

- **Small bank exemptions (Q5 and Q13):** The ANPR considers whether small banks should be required to serve whole counties in their assessment areas due to branch or ATM locations, or whether they can "carve out" by census tract. We do not support allowing small banks to exclude parts of counties where it does not have a physical presence and where it has *de minimus* lending or there is substantial competition. This could have a negative impact on larger rural counties where a bank might not have a physical presence but still conducts substantial business in the community. Market share should be considered when determining a bank's assessment areas – banks with significant market share that are taking deposits or making loans throughout a county should have CRA obligations throughout that county.

  Penquis and MaineStream Finance agree with OFN's opposition to the ANPR's proposal to increase the threshold for small banks from those under $326 million in assets to either $750 million or $1 billion. The increase in small bank threshold could exempt many more banks from a community development test, which could impact community development investment in CDFIs and rural areas. Rural areas are more likely to be served by small banks, as is the case in rural Maine, and already receive less community development investment than urban areas. As OFN member HOPE Enterprise Corporation notes, the Fed's justification making some of these changes is lack of capacity for community development in rural areas – yet the proposed solution is to reduce community development requirements in these communities. The Fed should be moving to strengthen, not exempt, banks' meaningful investments in rural communities, particularly communities of color and persistent poverty communities.

- **Develop clear criteria on providing CRA credit for unsubsidized housing:** The Fed should further develop its procedures for awarding CRA credit for financing affordable housing that is unsubsidized so that such financing actually truly serves LMI residents.

- **Partnerships with CDFIs (Q39, etc.):** Investments and loans to CDFIs, regardless of where the CDFI is located, would receive positive CRA consideration. MaineStream Finance and Penquis agree with OFN this proposal is moving in a positive direction but are concerned that its placement in the evaluation framework is insufficient to encourage meaningful investments.

As NCRC and OFN have noted (Q39), current CRA exams rarely discuss whether banks are purchasing loans from CDFIs that are particularly responsive to local needs. Examiners should review purchased loans separately from loan originations on CRA exams to determine the concentration of bank activity in loan purchases. This method of examination would allow banks to offer greater detail on their loan purchases. Activities that provide liquidity to CDFIs or other mission lenders could be considered particularly responsive or impactful and receive additional consideration.

- **Joint CRA Enforcement:** CRA must continue to be enforced through a joint regulatory framework with the OCC, FDIC, and Federal Reserve working together. Any reforms must be consistent across federal agencies.

Finally, we applaud the Fed proposal to eliminate distinctions in the rigor of examination among assessment areas that have resulted in banks neglecting smaller cities, rural counties and Native American reservations. We operate in some of the most rural and poorest counties of Maine that have been divested by the larger regional and national banks in terms of physical locations and branches. So allowing broader assessment areas based on other bank activity should allow us to re-engage with these larger banks.

We appreciate the direction the Fed has embarked upon but caution that it must not end up with proposals that replicate existing CRA ratings inflation, as this will not help our communities devastated by COVID-19 nor help communities that historically underinvested, pre-COVID-19.

Sincerely,

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