Neighborhood Housing Services of Chicago, Inc.

February 13, 2021

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

RE: Advance Notice of Proposed Rulemaking, Regulation BB: Community Reinvestment Act (Docket No. R-1723, RIN 7100-AF94)

To Whom It May Concern:

Neighborhood Housing Services of Chicago (NHS) is submitting this letter to provide comments and feedback on the Advance Notice of Proposed Rulemaking (ANPR), published by the Federal Reserve Board of Governors, regarding modernizing the rules and regulatory framework of the Community Reinvestment Act (CRA). We were glad to see the Federal Reserve pose thoughtful questions and ask for substantive feedback from stakeholders. NHS would like to comment on the consideration of race in CRA exams, regulating non-bank lenders and credit unions, creating assessment areas to reflect online banking activity, excluding a bank's investments in mortgage-backed securities from CRA credit, and parts of the proposed exam structure.

Question 2. In considering how the CRA's history and purpose relate to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?

The CRA was originally imagined as an anti-redlining tool. However, the statute was written race-neutral, focusing instead on equity in lending based on income level. In hindsight, we now know that income is not an adequate proxy for race. Race is at the core of the issues we see in the CRA and banking today. Communities of color continue to be underserved by the banking industry, and middle-class people of color encounter barriers unrelated to income when trying to obtain a loan. Nationally, Black mortgage applicants are denied twice as often as White applicants. According to a recent Redfin analysis of 2019 Chicago denial rates, Black applicants were denied three times as often as White applicants. A recent study from the Urban Institute showed that even when national denial rates are adjusted to account for borrower financial profile, Black applicants are still denied more often than White applicants.

If the CRA is to function as the anti-redlining tool that it was originally intended to be, it needs to address race directly. There are legal challenges associated with this shift in focus, but we encourage regulators to engage with the right advocates and experts to better understand how to overcome those barriers. The National Community Reinvestment Coalition offered potential solutions for this, which we also support. These include using racial demographics when rating an institution's CRA performance, affirmatively considering race when delineating assessment areas, or giving special CRA credit consideration for lending activity to minority borrowers and communities. We also encourage a statutory change to the CRA to include race. The Federal Reserve should work with other regulators, legislators, advocates, and the Biden-Harris administration to help the CRA fulfill its original purpose and drive real change towards racial equity in credit access.

Question 1: Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?

Non-bank lenders and credit unions should be regulated under the CRA. A growing number of borrowers use non-bank lenders and mortgage companies instead of traditional banks for their credit needs. As these lenders do not take deposits, they are not FDIC-insured and therefore do not fall under CRA review. For example, in Chicago, four of the top five home purchase mortgage lenders in 2018 were non-bank mortgage companies. Nationally, non-bank lenders issued 53% of mortgages among 2017 HMDA filers. As the landscape of the lending industry changes, the CRA must adapt.

Additionally, mortgage-backed securities (MBS) investments should not be eligible for CRA credit, except where banks purchase loans or MBS from certified CDFIs. Under current rules, banks can fulfill their CRA requirements by purchasing loans grouped in MBS on the secondary market. Banks often buy these MBS for the purposes of a CRA exam, then later sell them to another bank for another CRA exam. This practice does not generate new investments in low- and moderate-income (LMI) communities or fuel community development, so it does not fulfill the spirit of the CRA. Equitable community development requires that banks engage directly with communities to serve their unique needs on a regular basis. To receive CRA credit, a bank should be required to demonstrate retail lending activity to LMI communities, either directly or by purchasing loans originated by certified CDFIs that serve LMI borrowers in their community.

Question 8. Should delineation of new deposit- or lending-based assessment areas apply only to internet banks that do not have physical locations or should it also apply more broadly to other

large banks with substantial activity beyond their branch-based assessment areas? Is there a certain threshold of such activity that should trigger additional assessment areas?

Currently, bank branch locations and lending volume are used to delineate a bank's assessment areas. With the rise of online banking, this method leaves out significant areas where the bank may be actively taking deposits but not providing access to credit at acceptable levels. Geographic deposit data should be used to create additional assessment areas to ensure that all depositor communities have equal access to capital. Likewise, non-depository lending institutions should be subject to the CRA and have their assessment areas drawn based on online activity. This new method of determining assessment areas will require financial institutions to have geographic deposit data readily available for regulators when setting their CRA exam assessment areas.

Question 17. Is it preferable to retain the current approach of evaluating consumer lending levels without the use of standardized community and market benchmarks, or to use credit bureau data or other sources to create benchmarks for consumer lending?

As many other community development advocates have pointed out in the past, the current CRA rules suffer from grade inflation. The reality is that banks are not meeting community development needs across the board. When nobody is meeting community needs effectively, comparing a bank's performance to its peers using a market benchmark can actually perpetuate racial disparities instead of promoting improved performance, thereby weakening the CRA. Instead, we need to strengthen the CRA to hold banks accountable to our communities. The Federal Reserve should eliminate this market benchmark from the evaluation criteria in favor of standardized minimum benchmarks.

Question 16. Should the presumption of "satisfactory" approach combine low and moderate-income categories when calculating the retail lending distribution metrics in order to reduce overall complexity, or should they be reviewed separately to emphasize performance within each category?

At certain screening stages of the exam process, low- and moderate-income households and all mortgage lending would be collapsed into single categories under the ANPR. We disagree with this approach. These metrics should be disaggregated across the entire CRA exam process to add more detail and texture to the data. Also, disaggregating these metrics would avoid creating an incentive for banks to focus on more straightforward borrowers and lending to bolster their numbers. That incentive would be detrimental to borrowers and lending products that are more complex and require more work from the lender – such as low-income borrowers or small-dollar rehab lending – but are essential to equitable community development.

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The Federal Reserve's ANPR is a step in the right direction, but we must do more to modernize and strengthen the CRA. In order to fulfill the original spirit of the statute, a strong CRA must consider race in evaluating a bank's service to the community. Income is not an effective proxy for race, and it never can be. To drive change and create true racial equity in lending and credit access, we urge the Federal Reserve to work with fellow regulators and stakeholders to include considerations of racial equity in CRA exams. NHS appreciates the opportunity to provide feedback on the Federal Reserve's ANPR, and we look forward to seeing stakeholders and regulators come together to create a strong CRA that serves communities well.

Sincerely,

Anthony Simpkins
President & Chief Executive Officer
Neighborhood Housing Services of Chicago