MAINE AFFORDABLE HOUSING COALITION

February 16, 2021

Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW
Suite 3E-218
Washington, D.C. 20551

SUBJECT: Community Reinvestment Act Regulations
1723 (AF94) Reg BB - Community Reinvestment Act

To Whom It May Concern:

These comments are submitted on behalf of the Maine Affordable Housing Coalition (MAHC). MAHC is a diverse coalition of more than 135 private and public sector organizations, including developers, architects, engineers, builders, investors, Community Action agencies, public housing authorities, housing and service providers, advocates and others committed to ensuring that all Mainers are adequately and affordably housed. Many of our members are involved with the development and preservation of affordable housing through the federal low income housing tax credit (LIHTC) program, and we are keenly aware that LIHTC investment is highly incentivized by the Community Reinvestment Act (CRA).

Commercial banks, encouraged by CRA requirements, provide nearly all of the equity capital for the LIHTC program in Maine, so any change in CRA that inadvertently reduces that demand could have a devastating impact on affordable housing development. Weakened CRA incentives will make it more difficult to develop higher-impact, complex projects that address the highest needs of communities, such has homelessness, special needs populations, and other smaller projects developed by community-based organizations. Instead, it will favor larger, higher AMI, and simpler projects developed by large developers.

We support modifications to clarify and simplify the regulations, but those objectives should not outweigh the fundamental purpose of CRA, which is to make sure that insured depository institutions serve the communities in which they are located. Any rewrite of CRA regulations must be focused on continuing to ensure banks serve LMI communities.

RESPONSES TO SELECTED QUESTIONS

Question 2: *In considering how the CRA's history and purpose related 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 Board should not overlook CRA's history as civil rights legislation meant to address the impacts of racial discrimination in banking. The CRA is rooted in addressing systemic inequity, and it is important that the Board's proposal include a focus on increasing lending and investment in communities of color.

Undoing decades of lending discrimination and racist practices in the financial services industry is difficult work and will not happen unless there is more accountability on access to capital and services for communities of color. Regulators must track and assess how banks are meeting the financial needs of communities of colors as a central purpose of CRA.

__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?*

While we don't have a specific recommendation with respect to a threshold of activity, we do believe assessment areas based on the location of loan production offices would help expand the reach of CRA into rural and other areas of the country that have fewer bank resources. This will assist demand for investment in LIHTC properties that currently find it more difficult to attract such equity capital.

__Question 13__. *Is $750 million or $1 billion an appropriate asset threshold to distinguish between small and large retail banks? Or should this threshold be lower so that it is closer to the current small bank threshold of $326 million? Should the regulation contain an automatic mechanism for allowing that threshold to adjust with aggregate national inflation over time?*

We do not support an increase in the small bank threshold because we are concerned this will remove incentives for small banks to invest in the LIHTC program, especially undermining such activities in Maine and other rural states which do not have a large bank presence. There are 27 banks across VT, NH and ME which have deposits between $326M and $1B. Nineteen of these 27 banks have made CRA-qualified investments in LIHTC properties to create affordable housing. If the small bank threshold is substantially increased, these banks may no longer invest in affordable housing and it could be considerably more difficult to raise equity capital in our region. This would result in higher credit prices, making it more difficult to develop affordable housing with LIHTC and reducing the amount of housing for low and moderate income households in our communities.

__Question 42__. *Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?*

No, we are concerned that combining debt with equity will undermine bank incentives to make equity investments, especially since the volume of qualifying bank debt would be considerably greater than the volume of equity. In that situation, banks striving to meet their CRA obligations would find it easier to increase their debt activities rather than their investment activities; that is, a smaller percentage increase in debt volume with shorter duration and less complexity will yield the same CRA credit as a larger increase in investment volume, putting investments at a disadvantage. Separate buckets are vital.

Question 45. *Should the Board use local and national benchmarks in evaluating large bank community development financing performance to account for differences in community development needs and opportunities across assessment area and over time?*

Yes, we support using local and national measures in two different metrics. However, the *local metric* of investing should be the main focus of the local assessment area's CRA rating. Banks will have different concentrations of deposit-taking facilities between areas. The local deposit-taking metric is the most important, as that is the main focus of CRA and the community development test.

The fractions illustrated in the proposed regulations seem appropriate. We do not believe general commercial or bank lending products should be included in the numerator, only investments: equity investments, including equity equivalent activities.

CONCLUSION

In spite of generally shared criticisms of the current rules, the Community Reinvestment Act has fundamentally been a major success. It has increased the level of bank activity serving LMI communities and has been absolutely critical to the success of the LIHTC program. The future of affordable housing in this country depends on CRA continuing to incentivize LIHTC lending and investment and we urge you to be cautious that potential changes to CRA not undermine that activity.

Thank you for your attention to our comments.

Sincerely,

Greg Payne

Greg Payne
Director