

February 16, 2021

Ms. Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: Docket No. R-1723; RIN 7100-AF94

Dear Ms. Misback:

Thank you for the opportunity to comment on the Federal Reserve's Advance Notice of Proposed Rulemaking regarding Community Reinvestment Act modernization.

Community Investment Corporation (CIC) is a nonprofit lender and certified Community Development Financial Institution (CDFI) that finances the acquisition and rehab of affordable rental housing in the Chicago region. Over the past 35 years, CIC has provided \$1.55 billion to finance 63,800 housing units and provide homes for 159,000 low and moderate income people. CIC's work is made possible by the investments of 40 financial institutions that together have committed \$330 million to invest in Chicago's low- and moderate-income communities over the next five years.

We agree with the Board's objectives for CRA modernization, especially the focus on strengthening regulations to ensure a range of LMI banking needs are met, incentivizing investments in CDFIs, providing greater certainty, tailoring regulations to bank type and size, and providing a foundation for a consistent approach among regulators.

CIC has responded to a selection of questions put forth by the Board, which center around the following main topics:

- CRA and racial equity
 - Community Development Test and Qualifying Activities, specifically regarding unsubsidized affordable housing
 - Working with CDFIs
- **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?*

As stated in the ANPR, the Community Reinvestment Act (CRA) was enacted in 1977 to combat a pattern and a history of disinvestment in low income, urban, predominantly minority neighborhoods in which racially discriminatory practices such as redlining were specifically sanctioned and implemented by the federal government. CRA was part of a complementary set of Civil Rights Laws – including the Fair Housing Act, the Equal Credit Opportunity Act, and the Home Mortgage

Disclosure Act – that were intended to address these historical systemic inequities. Over the years, however, CRA has generally been regarded as specifically addressing poverty and low income communities, but not race. But as history has shown and recent events have again clearly demonstrated, for overall economic justice, both race and class must be addressed.

One question is whether income level is an adequate proxy for race. In our own case, CIC specializes in making loans for multifamily affordable rental housing. The vast majority of our loans are in low income communities of color. We estimate that 86% of the occupants in the buildings we finance are African American. Almost 50% of our borrowers identify as Minority. In Chicago, with respect to Naturally Occurring Affordable Housing, affordable rents, low income communities, and a large percentage of ownership and occupancy by people of color (notably African Americans) are very highly correlated. So, in fact, encouraging or enforcing the provision of credit to these low income communities simultaneously incentivizes the provision of credit and affordable rental housing to people of color.

CIC's business is multifamily lending, and we are not expert in the provision of credit to Minority homebuyers and small businesses. From all published reports, however, it is these areas that exhibit the greatest inequities that lead to huge intergenerational disparities in wealth among the races. Clearly, to understand and address these issues requires an explicitly race-based approach. As others have said, you cannot develop remedies if you do not first collect and understand the data. In the area of direct financial services to individuals, neither geography nor income is an adequate proxy for race. Instead, race needs to be looked at by itself to understand differential treatment across income levels.

We appreciate the Federal Reserve directly raising the question of how the Community Reinvestment Act should address both race and class, and we look forward to participating in the ongoing discussion of this issue so important to the future of our country.

- **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?*

Yes, we support the Board's suggestion that this change in evaluation would give banks more flexibility to provide the type of financing most appropriate to support their local communities. Both debt and equity are needed; one is not inherently more valuable than the other. Their use should be determined by the needs of a particular transaction, program, or community, and not by the considerations of a regulatory framework.

- **Question 43.** *For large retail banks, should the Board use the ratio of dollars of community development financing activities to deposits to measure its level of community development financing activity relative to its capacity to lend and invest within an assessment area?*

Yes, this proposal seems to be an appropriate starting point to measure a bank's commitment to community development activity.

- **Question 52.** *Should the Board include for CRA consideration subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing? How should unsubsidized affordable housing be defined?*

Yes, CRA credit should be given for all three types of affordable housing. As a multifamily lender, CIC works primarily with small, local owners of the unsubsidized, privately-owned rental housing stock, which comprises 75% of affordable housing throughout the country. Buildings financed by CIC are naturally affordable to LMI renters. In 2020, for example, 99% of all units in CIC-financed buildings were affordable at or below 80% of area median income.

CIC agrees with the framework recommended by the National Association of Affordable Housing Lenders (NAAHL) to define CRA's approach to unsubsidized affordable rental housing. NAAHL proposes that rental housing not subject to tenant income restrictions should receive favorable consideration as affordable housing if most of the property's rents are affordable at the time of initial financing, and the property meets one of the following three additional standards:

1. The property is located in an LMI neighborhood/census tract.
2. Most renters in the neighborhood are LMI, and most rents in the neighborhood are affordable.
3. The owner agrees to maintain affordability to LMI renters for the life of the financing.

When considering unsubsidized housing, concerns are often raised regarding whether the long-term affordability of these units can be ensured. While rising prices and gentrification are valid concerns in many high cost markets, studies have shown that most affordable rental units are lost to deterioration and disinvestment rather than to gentrification. A 2019 University of Minnesota study found that low-income residents are invariably exposed to neighborhood decline more than gentrification. (American Neighborhood Change in the 21st Century, Institute on Metropolitan Opportunity, University of Minnesota Law School, 2019.) City Observatory has noted that the persistence and spread of concentrated poverty – not gentrification – is our country's biggest urban challenge and that, over time, low income communities are most likely to become lower income, lose population, and become more racially concentrated (Cortright, Joe and Dillon Mahmoudi. Lost in Place, City Observatory, 2014.) Low- and moderate-income communities need more investment to preserve their affordable housing stock.

- **Question 53.** *What data and calculations should the Board use to determine rental affordability? How should the Board determine affordability for single-family developments by for-profit entities?*

For unsubsidized multifamily housing, rental affordability should be determined at the time financing is committed, based on initial rent level and local AMI data. Rents that are affordable to households at or below 80% AMI should be considered to be affordable. Private owner-operators

should not be required to collect ongoing income data on their tenants to qualify as affordable housing.

- **Question 54.** *Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?*

Yes, providing illustrative examples of particularly responsive activities would be helpful. Potential activities for consideration include:

- Preservation activities for affordable, unsubsidized rental housing
 - Financing for energy efficiency upgrades
 - Small balance multifamily housing loans
 - Investing in loan consortia or loan pools to address otherwise unmet credit needs
 - Loans or investments that carefully expand the credit box by offering financing for higher than normal loan-to-value ratios to address otherwise unmet credit needs
 - Loans or investments that overcome systemically undervalued appraisals by extending credit based primarily on cash flow and/or ability to pay
- **Question 55.** *Should the Board change how it currently provides pro rata consideration for unsubsidized and subsidized affordable housing? Should standards be different for subsidized versus unsubsidized affordable housing?*

Unsubsidized housing should receive full CRA credit if the property's median rent is affordable. We support NAAHL's recommendation that pro-rata credit should be available if 20-50% of units are affordable.

- **Question 67.** *Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?*

As a local CDFI, CIC relies on the long-term investments of local, regional, and national banks in order to make its financing products available. We strongly support the proposal to grant CRA consideration for community development activities with certified CDFIs. However, we believe that CDFI investments should not be made at the expenses of serving a local assessment area. Emphasis should be placed on partnering with CDFIs within a bank's assessment area.

- **Question 71.** *Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?*

Yes, an illustrative list of eligible activities would be very helpful. Input should come from the information gathered during the course of examinations as well as stakeholder input and be updated on a regular and/or continuous basis.

- **Question 72.** *Should a pre-approval process for community development activities focus on specific proposed transactions, or on more general categories of eligible activities? If more specific, what information should be provided about the transactions?*

Yes, in addition to the general list of eligible activities referred to in Question 71, it would also be helpful to offer a pre-approval process for specific proposed transactions. To be effective, a specific pre-approval would need to be done on a timely basis and would likely need to provide a general approval of an approach rather than specific financing of a transaction.

- **Question 81.** *Should large bank ratings be simplified by eliminating the distinction between “high” and “low” satisfactory ratings in favor of a single “satisfactory” rating for all banks?*

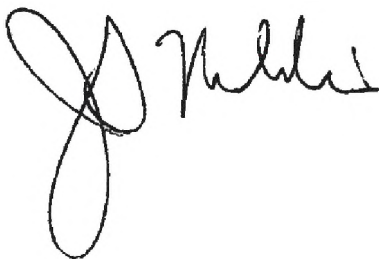
No. We have heard representatives from many banks state that retaining a distinction between high and low satisfactory provides a needed performance incentive.

- **Question 88.** *Should consideration for an outstanding rating prompted by an investment or other activity in MDIs, women-owned financial institutions, and low-income credit unions be contingent upon the bank at least falling within the “satisfactory” range of performance?*

Yes. While investments in these institutions, as well as CDFIs are worthy investments, they should not be sufficient to pull an otherwise less than satisfactory rating up to an outstanding rating.

For over 40 years, CRA has been the most important tool to ensure that all communities have access to necessary credit and investments. Again, CIC applauds the Board of Governors of the Federal Reserve for leading this important discussion and for soliciting feedback on the proposed CRA changes.

Sincerely,



John G. Markowski
President
Community Investment Corporation