conservation law foundation

For a thriving New England

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February 15, 2021

Submitted electronically via federalregister.gov

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

SUBJECT: Community Reinvestment Act Regulations
<u>1723 (AF94) Reg BB - Community Reinvestment Act</u>

Dear Governors:

Conservation Law Foundation (CLF) appreciates the opportunity to submit these comments on the Advanced Notice of Proposed Rulemaking (ANPR) issued by the Federal Reserve System regarding the Community Reinvestment Act (CRA) regulations, Docket Number R-1723 and RIN Number 7100-AF94. We strongly support the Federal Reserve Board's goal of strengthening regulations to better meet the CRA's core purpose to address inequities in credit access for low and moderate-Income (LMI) communities and ensure an inclusive financial services industry. We also support the Federal Reserve System's goal to provide a foundation for the agencies to converge on a consistent approach for a modernized CRA that has broad support among stakeholders.

<u>In the wake of the COVID-19 pandemic, we have a unique opportunity to build back better. Doing so will require comprehensive and systemic solutions, including enforceable rules that address deeply rooted inequities in access to credit and financial services. The Community Reinvestment Act is a powerful tool to combat economic inequality, advance racial and environmental justice, and build healthier and more resilient communities.</u>

CLF is a non-profit, member-supported, regional environmental organization that protects New England's environment for the benefit of all people and future generations. We use the law, science, and markets to create solutions that preserve and restore our natural resources, build healthy and resilient communities, and sustain a vibrant economy. CLF supports and has seen firsthand how CRA investments in affordable housing, small businesses, environmental clean-up, and infrastructure located in LMI neighborhoods have begun to right the wrongs that sprung from discriminatory action by banks.

Historic disinvestment stemming from redlining and other discriminatory practices has led to continuing economic and health challenges in neighborhoods across New England. CLF's Healthy Neighborhoods Study (HNS), a longitudinal Participatory Action Research project in partnership with the Massachusetts Institute of Technology (MIT) and nine local communities in metro Boston, found that up to 95 percent of properties in study neighborhoods were graded categorically as bad credit risks by the Homeowners Loan Corporation, effectively cutting off access to capital. Today, people of color make up two-thirds of residents in these neighborhoods, which continue to experience disproportionately high rates of poverty, unemployment, toxic exposure, and poor health.

In response to these and other challenges, our Healthy Neighborhoods Equity Fund (HNEF), created in partnership with the Massachusetts Housing Investment Corporation, has supported the development of more than 500 units of mixed-income housing and nearly 140,000 square feet of commercial space in LMI neighborhoods. These investments were made possible through the participation of community-conscious banks, for whom CRA credit is a key consideration. Of particular relevance to the ANPR, every investment made through HNEF is screened using an impact scorecard (HNEF HealthScore) that integrates over a hundred qualitative and quantitative measures related to social and environmental determinants of health. This scorecard includes both neighborhood and development-level metrics, allowing us to better understand the full range of expected community, economic, environmental and health impacts of a proposed real estate development.

We have organized our comments into five sections that address specific questions in the ANPR.

I) ***<u>Impact Scoring</u>***

Question 47. Should the Board use impact scores for qualitative considerations in the Community Development Financing Subtest? What supplementary metrics would help examiners evaluate the impact and responsiveness of community development financing activities?

- Yes, the Board should use impact scores for qualitative considerations in the Community Development Financing Subtest. We suggest the following supplementary metrics to help examiners evaluate the impact and responsiveness of community development financing:
    - Degree of responsiveness to local residents' needs and priorities;
    - Consistency with local, state, and regional housing and economic development plans;
    - Participation in innovative financing solutions, including equity investments;
    - Participation in complex and high-impact transactions, including Low Income Housing Tax Credit (LIHTC), New Markets Tax Credit (NMTC), and loans or investments with Community Development Financial Institutions; and
    - Support for community development activities that improve energy efficiency, increase climate resiliency, and contribute to a healthy environment.

II) Responsiveness to Affordable Housing Needs

Question 54. Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs?

- Yes, the Board should consider giving additional credit for the following types of activities:
    - Housing that advances a local vision, plan, or priorities for development;
    - Housing that includes community partnerships and/or programming for residents, such as with a hospital or community health center;
    - Housing that provides deeper affordability (below 40 percent AMI);
    - Service-enriched housing and housing for vulnerable populations;
    - Housing for people with disabilities;
    - Homeownership and asset-building opportunities for LMI households;
    - Housing rehabilitation to improve energy efficiency and health;
    - Housing that incorporates energy efficient design such as Passive House;
    - Housing that incorporates climate resilient design and disaster preparedness;
    - Housing that incorporates water conservation measures;
    - Housing that incorporates renewable energy;
    - Housing located within ½ mile of transit (Transit-Oriented Development);

- Housing located within ½ mile of a grocery store and/or farmer's market; and
- Housing located within ½ mile of a public park or green space.

Furthermore, banks should not be given full credit for purchasing qualifying mortgage-backed securities, especially those MBS purchases made just prior to their CRA examinations. <u>These transactions often have little to no benefit for LMI communities and may displace or discourage more locally-focused community development activities.</u>

III) ***<u>Climate Resilience and Essential Community Infrastructure</u>***

Question 61. What standards should the Board consider to define "essential community needs" and "essential community infrastructure," and should these standards be the same across all targeted geographies?

- "Essential community needs" should be defined by the local community. This may take the form of a community vision, plan, or other document created by a government entity, community-based organization, civic group, or public/private partnership.

- "Essential community infrastructure" should include, but not be limited to, the following. <u>However, CRA credit should only be provided to the extent that this infrastructure is located in LMI neighborhoods and/or primarily serving LMI people</u>:
  - Parks, playgrounds, community gardens, recreational facilities, conservation land, and other natural areas that are permanently protected and open to the public;
  - Green infrastructure designed to protect human health and increase climate resilience, including wetlands restoration and protection, urban tree planting, and other projects that mitigate the effects of extreme heat and flooding, especially in densely populated urban areas;
  - Pedestrian and bicycle infrastructure and other Complete Streets projects that contribute to improved safety and walkability;
  - Safe drinking water facilities, including replacement of lead pipes;
  - Neighborhood-scale clean energy facilities, including microgrids and energy storage;
  - Public transit, including Electric Vehicle (EV) fleets that reduce air pollution and improve air quality in LMI communities;

- Broadband infrastructure, especially in rural and underserved areas; and
- Health services, including Federally Qualified Health Centers, hospitals, and other facilities that primarily serve LMI people and communities.

Question 62. Should the Board include disaster preparedness and climate resilience as qualifying activities in certain targeted geographies?

- Disaster preparedness and climate resilience should be considered qualifying activities in all geographies, so long as these activities minimize hardscape and are responsive to local needs and conditions.

IV) CDFIs and Underserved Areas

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

- Yes, banks should receive CRA credit on the community development test for loans, investments, or services provided in conjunction with a CDFI operating anywhere in the country. This is particularly important for incentivizing greater bank participation in underserved areas, including rural areas and smaller cities and towns.

V) Transparency and Community Engagement

Question 72. Should a pre-approval process for community development activities focus on specific proposed transactions, or on more general categories of eligible activities?

- A clear and predictable pre-approval process is critical to bank participation in new and innovative community development activities. The pre-approval process should provide general guidance on the types of transactions and activities that would be considered. Pre-approval processes and guidance materials should be readily available to community members and organizations as well as banks.

Question 73. In fulfilling the requirement to share CRA strategic plans with the public to ensure transparency, should banks be required to publish them on the regulatory agency's website, their own website, or both?

- Yes, banks should be required to publish CRA strategic plans on the regulatory agency's website and their own website. In addition, banks should be required to post information about their strategic planning process and provide opportunities for public comment on their website throughout the process, not just at the end.

Question 74. How should banks demonstrate that they have had meaningful engagement with their community in developing their plan, and once the plan is completed?

- To demonstrate that banks have had meaningful engagement with their community in developing their plan, banks should:
    - Translate outreach materials and planning documents as needed in order to reach non-English speaking households within the bank's Assessment Area;
    - Document outreach efforts and publish feedback from community members on the bank's website and as appendices to the CRA strategic plan; and
    - Describe how the bank's CRA strategic plan has evolved in response to community input and participation.

Now is the moment to modernize and strengthen CRA. The changes proposed by the Federal Reserve Board have great potential to drive more impactful lending and investment, increase transparency and responsiveness, and meet the needs of low and moderate-income communities.

Thank you for the opportunity to comment.

Sincerely,

Bradley M. Campbell, President