

Proposal: 1723 (AF94) Reg BB - Community Reinvestment Act

Description:

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Subject: R-1723 Community Reinvestment Act

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Comments:

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To Whom it May Concern:

The Federal Reserve Board (Fed) must strengthen the rigor of CRA exams in order to promote recovery from the COVID-19 pandemic. The Fed has described approaches in its Advance Notice of Proposed Rulemaking (ANPR) on CRA that will make CRA exams more objective and transparent. Yet, questions remain about whether the Fed's approach will reduce the high rate of CRA inflation. If nearly every bank continues to pass their CRA exams, banks will not engage in strenuous efforts to help communities of color and low- and moderate-income (LMI) neighborhoods recover from the pandemic's devastation.

We submit these comments on behalf of the board, staff and members of the Massachusetts Affordable Housing Alliance (MAHA). MAHA educates and mobilizes to increase affordable homeownership opportunities, break down barriers facing first-time and first-generation homebuyers, and close the racial wealth and homeownership gaps.

Strengthening CRA is a critical component of a just recovery

Today, MAHA released our Homeownership Justice Vision. It is a broad 12 point plan to close the racial homeownership gap in Massachusetts and it features Community Reinvestment Act affordable mortgage lending as one of the centerpieces of our recovery from this pandemic. First-time and first-generation homebuyers will need a more robustly enforced CRA in order to avoid a return to "normal" and for us as a state to make progress in closing our large racial homeownership gap.

The Federal Reserve proposal must be strengthened to prevent grade inflation

Each January for the last thirty years, MAHA has produced a report on the Community Reinvestment Act ratings of all banks, credit unions and mortgage companies operating in Massachusetts (MA covers state-chartered credit unions and independent mortgage companies for CRA). Each year, the story is the same. Virtually no banks earn a less than Satisfactory grade and this past year, 22% of banks were awarded an Outstanding rating. In contrast, only one of the 59 currently-rated state-chartered credit unions in Massachusetts has an Outstanding rating, while only eight more (13.6%) have ratings of High

Satisfactory, a rating we realize is unavailable to federal regulators.

However, it is unclear if the Fed's ANPR proposals will address CRA ratings inflation. The Fed emphasizes improving the performance measures on CRA exams including those used on the lending test that compare a bank's percent of loans to LMI borrowers and communities to other lenders. However, the Fed proposes thresholds that appear to replicate the high ratings on CRA exams. The Fed does not describe in any detail the impact of its initial thresholds on CRA ratings and hints the thresholds replicate the current CRA ratings distribution.

Moreover, the Fed is proposing to reduce the number of ratings on a state level and on subtests from five to four. This proposal would result in fewer distinctions in performance whereas a new CRA exam system must reveal more distinctions in performance in order to motivate banks to be more responsive to COVID-19 recovery needs. Five ratings must be retained on the state level and on subtests.

The Federal Reserve proposal should be strengthened to increase lending to people of color. The Fed recognizes the importance of addressing racial inequities. It asks the public whether underserved areas should be designated based on high levels of poverty or low levels of retail lending. We support NCRC's designation of underserved census tracts based on low levels of lending which would effectively target neighborhoods redlined because of the HOLC classifications.

We also 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. In addition, CRA exams can include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas (geographical areas on CRA exams). 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.

Assessment areas must support and reflect a commitment to local lending, investments and services.

We support the Fed's proposals to expand assessment areas on CRA exams. In addition to areas around branches, assessment areas must also include areas outside of branches with a certain amount of bank lending or deposit-taking. We do not support the idea of a national assessment area for internet banks that the Fed discusses. Instead, we believe that data analysis can designate areas where high numbers of retail loans or deposits are located.

CRA modernization must maintain its focus on lower-income communities and communities of color. Unlike the Office of the Comptroller (OCC), the Fed generally does not stray away from the focus on LMI communities in its ANPR proposals. However, we do not support expanding financial education to any income since LMI consumers and people of color are most likely to be unbanked or underbanked as revealed by surveys conducted by the Federal Deposit Insurance Corporation (FDIC). The Fed can designate additional subgroups in the population such as people of color, people with disabilities or older adults for whom CRA credit for financial education or other community development activity can be earned instead of opening it up to everyone regardless of need. Likewise, the Fed should further develop its procedures for awarding CRA credit for financing affordable housing that is not subsidized so that such financing actually serves LMI tenants.

Conclusion

We appreciate the direction the Fed has embarked in its ANPR but caution that it must not end up with a set of proposals that replicate existing CRA ratings inflation as this will not help our communities devastated by COVID-19. We believe that this proposal serves as an important starting point for an interagency rulemaking that will strengthen CRA and take a critical step towards more financially resilient communities and an equitable recovery.