UNIVERSITY NEIGHBORHOOD HOUSING PROGRAM

Working to Create, Preserve, and Improve Affordable Housing and Bring Needed Resources to the Northwest Bronx

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February 16, 2021

Federal Reserve Board
Via email: regs.comments@federalreserve.gov

Re: Comments on Federal Reserve CRA ANPR: Docket Number R-1723 and RIN Number 7100-AF94

To Whom It May Concern,

University Neighborhood Housing Program (UNHP) writes this letter in response to the Federal Reserve Board ("Board")'s Advanced Notice of Proposed Rulemaking (ANPR) proposal to reform the Community Reinvestment Act ("CRA") rules. We appreciate the Board's interest in strengthening the CRA so that banks can better meet the credit needs of low-income communities and communities of color in New York City and throughout the state and country.

The mission of UNHP is to create, preserve, and improve affordable housing and bring needed resources to the Northwest Bronx. UNHP achieves its mission by providing technical assistance to community leaders, neighborhood groups and affordable housing managers, by organizing around and researching the issues that impact housing affordability and attracting resources to the community through the Northwest Bronx Resource Center (NWBRC).

Since its passage in 1977, the Community Reinvestment Act played a major role in the community organizing work that stopped the abandonment of apartment buildings in the Bronx and started the rebuilding of many communities with substantial renovation of vacant buildings and new construction on vacant land. CRA has been and continues to be a factor in the success of our organization.

Our work in the Bronx over the past thirty-eight years makes us keenly aware of just how important financial institutions are to the well-being of the communities we serve. In particular, we interact with banks in the Bronx the following ways:

- NWBRC provides access to financial education, and advises clients on the use of responsible banking products. Our Banking Guide helps clients understand the range of different products available to them, and which most closely fit their needs.

- NWBRC is also engaged in advocacy around preserving bank branches in the NW Bronx and fighting for both well-designed products for low-income families and proactive outreach about those products to households and businesses in need of credit.
- UNHP's research and data team produces the Building Indicator Project (BIP), which identifies NYC multifamily properties in physical and/or financial distress. In its current form, BIP has aggregated more than a decade of data for all 60,000+ rental buildings in NYC, tracking more than 120 data-points for each building. Importantly, BIP identifies the senior lender on relevant multifamily properties, and works with financial institutions to help identify distress in mortgages in their portfolios.
- UNHP's research and data team works with community based organizations and financial institutions to help them understand how lending practices can impact the affordability and habitability of multifamily rental buildings. We also provide capacity in showing how financial institutions can serve as stakeholders in rental housing to push for repairs in distressed properties, to prevent predatory behavior or harassment on the part of owners, or to ensure that issues raised by tenants are heard and dealt with.

We appreciate that the Board refused to join the Office of the Comptroller of the Currency ("OCC") in finalizing their CRA rules. The OCC ignored public comments and rushed through a harmful rule which will lead to less reinvestment, and to reinvestment that is less responsive to community needs, should it survive. We commend the board for putting forth a more thoughtful, data driven process that identifies important objectives, such as more effectively meeting the needs of LMI communities and addressing inequities in credit, promoting community engagement, and recognizing that CRA and fair lending responsibilities are mutually reinforcing.

Together with a wide coalition of partners across New York City and nationally, we believe that CRA reform must incorporate the following key principles

1. **Quality, Quantity, and Impact are important components of CRA.**
    - The CRA should never have been color-blind and must have an affirmative obligation to serve people and communities of color with responsive, impactful activities.
    - Banks must be evaluated on the quantity and quality of CRA activities: retail lending, community development finance, branches, banking products, and services.
    - Downgrade for displacement and harm: There must be downgrades for harmful behavior, including products, practices, and patterns of lending that lead to harassment, displacement, high costs, and harm.
2. **Community Input and Community Needs must be at the heart of the CRA.**
    - Community input must be woven into the CRA process at all levels, including the performance context and needs assessment; evaluation of bank performance; and additional areas where CRA is taken into account, such as branch closures, mergers and acquisitions, and other applications.
3. **Assessment areas must Maintain place-based Local Obligations.**
    - Maintain assessment areas where banks have branches/ATMs, and expand to other areas where banks also do considerable business, such as lending and taking deposits

- Any assessment area reform must increase the size of the pie: maintain or increase quality reinvestment where it is needed within large cities like New York City, while also directing capital to under-banked regions.

Within those priorities, we wanted to focus on a few particular areas that stand out given our work on multifamily and retail finance in the Bronx:

The quality and impact of retail and small business products are predicated upon proactive engagement with low- and moderate-income communities of color in the Bronx.

As stated above, emphasis on quality and impact of CRA activities is crucial to any reforms to CRA rules. One way that we see financial institutions fall short on quality and impact is through the lack of proactive outreach to the communities which we serve. Too often, large financial institutions either do not have the correct products for low-income individuals or *truly* small businesses (i.e. self-employed food vendors or childcare workers). When these products are available, banks are too often not engaged in outreach and proactive communication with potential customers for whom these products are relevant. The latter situation is particularly frustrating, because often these institutions will use the fact that these products are underused as proof that they are not needed, when in fact they are simply not known about.

Financial institutions have a responsibility to address historic disinvestment and redlining not only by having products on offer, but also by ensuring that communities who have been long-excluded from the formal credit system understand how those offerings are beneficial. This is time and labor intensive, and requires building community ties, which is too often left to smaller, mission-driven financial institutions and non-profits.

Large banks have the capacity to do proactive outreach and build ties with these potential customers, but often the work necessary is understood to be not worth it, especially because the effect of high-impact, low-dollar volume activities on potential CRA ratings are low. Importantly, CRA downgrades have in the past significantly improved how proactive banks are with outreach to low-income communities in the Bronx.

This means that CRA rules need to be adjusted to reward the work done to reach out to low-income communities and the self-employed, who may very well be in need of credit solutions but who don’t know where to turn. Additionally, when banks fail to tailor their products to these communities *or* fail to make the relevance of those products known to communities, that should figure into a final CRA rating.

For loans to unsubsidized, affordable rental housing to be truly considered reinvestment, financial institutions must (a) safeguard against displacement and (b) ensure the safety & security of tenants, as well as the habitability of the building.

New York City is a city of renters; nearly two-thirds of New Yorkers rent their homes. Multifamily lending in New York City is particularly critical for banks and regulators to understand, given the unique housing stock here and its importance to affordable housing and protections for millions of New Yorkers.

Of particular importance are rent-stabilized buildings, which *de facto* house many of NYC's low- and moderate-income New Yorkers, but generally do not have any subsidy which would lock affordability requirements for tenants. Any change to CRA rules must take into account what responsible lending looks like to this crucial part of the housing stock. Banks provide senior mortgages, and are thus active stakeholders in the building and, by extension, the well-being of tenants. Many financial institutions see these multifamily mortgages as core parts of their business, and also rely on the dollar volume that those mortgages generate for CRA credit.

While the volume of lending is important, there is actually no mechanism to ensure that mortgage -- whether at the moment of acquisition or during refinance -- trickles down to tenants in the form of improved conditions or affordability. Because of this, equally important to the volume of lending on these and all sources of housing, if not more so, is that the loans are underwritten responsibly. Any change to CRA rules must mandate that banks underwrite to current in-place rents and realistic maintenance costs.

For rent-stabilized buildings, we recommend a DSCR of at least 1.2X. In all cases, there should be no provisions that increase rent burden and displace tenants, be it through rent increases or reduced maintenance and services. But regulators should not just stop evaluating underwriting at current income and DSCR minimums. Underwriting should also be judged on whether there are realistic maintenance benchmarks, including capital reserve requirements for capital costs. Too often do we see senior mortgages provided to landlords that only meet coverage ratio requirements because of extremely low expense projections and no net income reserved for capital costs. Financial institutions must ensure that enough rental income flows back into the building to keep conditions safe and habitable for tenants. This is especially important in the wake of COVID, as landlords' bottom line has likely taken a hit. Without mandates from their lenders, many landlords may very well cut expense costs or defer maintenance in order to boost their net income and pay debt service.

Beyond underwriting, there are a number of other best practices for multifamily lending that should be considered in any CRA exam:

- **Appropriate vetting of borrowers**. Use all available resources to lend to responsible landlords who properly maintain the stock of rent-regulated and affordable housing and respect the rights of tenants. This includes consulting news reports and public lists; monitoring loan conditions, lawsuits, violations, and fines; and consulting with tenants and tenant organizers.
- **Responding to issues in buildings:** Create a formal process to work with tenants and organizers to respond when problems arise in buildings they finance.
- **Responsible disposition of distressed assets:** Banks should also get credit for transferring distressed properties to responsible mission driven developers, rather than selling the debt, or

supporting the building being sold, to the highest bidder that is only seeking to make a profit. This will be especially important post COVID.

Bank branches and physical access to banking matter.

We support the Board's framework for evaluating branches. The Federal Reserve put forth a comprehensive analysis of bank branch locations, impact of branches opened and closed, products and practices. In addition to factors in the ANPR, regulators should consider branching in communities of color; branches in unbanked and underbanked neighborhoods (at the census tract or neighborhood level); access for immigrants; and efforts to bring people into mainstream banking.
Unbanked and underbanked communities, predominantly LMI and communities of color have been asking for branches and affordable, accessible services for decades to no avail; the need is only exacerbated as branches close and banks direct people to online services. Banks must provide all their service equitably: physical branches, online banking, and the products offered in both spaces. They must also invest in staff, education, and outreach to underserved populations, on their own and in partnership with local organizations.

Over the last year, UNHP has been involved in an effort to prevent a number of branch closings on Burnside Avenue in the Bronx. While this effort has been partially successful, it has also served as a stark reminder that financial institutions do not necessarily see branches as important reinvestment infrastructure, unless they are forced to by advocates and regulators.

We appreciate the ANPR maintains branch-based assessment areas. ATM-based areas should remain obligatory, not optional. We oppose national assessment areas for internet banks. And for more traditional banks, we oppose any area larger than an MSA; even within just the five boroughs / counties of New York City, the CRA isn't adequately addressing long standing disparities. Related, we appreciate that the proposal seeks to direct capital to underserved areas outside of traditional assessment areas, but as it stands today, low-income, BIPOC neighborhoods are persistently neglected within assessment areas, as is the case in New York City. Too often, when investment comes in, it is for larger scale developments that fuel displacement, rather than for bank branches, affordable bank accounts, small home and small business loans, or other activities that local communities loan to small eed. The CRA must maintain and strengthen a place-based, local commitment to partnering with and meeting the needs of the populations the CRA was meant to serve: LMI people and communities and people and communities of color.

Additional Points

In addition to the points above, we urge you to advocate for an interagency approach so that all banks are held to the same standards. No CRA should allow 96% of banks to pass their exam in the face of persistent disparities, unmet banking and credit needs, high-cost products, and patterns of lending that foster displacement. Further, regulators must preserve the "low" and "high" satisfactory ratings, and not combine the two in any part of the CRA; this allows a distinction between banks that are barely meeting needs and others that are doing more. Banks should be evaluated at the holding company level and evaluated on the totality of their lending, including by affiliates. They should also be held accountable for problematic practices of entities with which they do business with, such as through formal referrals and partnerships. Additional data will be very useful for communities to evaluate bank performance.

CRA Strategic Plan requirements must be strengthened by requiring more transparency regarding planning, groups outreached to, comments submitted, and bank responses, at a minimum.

Conclusion

Low- and moderate-income and BIPOC communities deserve equal access to affordable, accessible banking and credit; safe, affordable housing; quality jobs; and community services. The CRA must be preserved and strengthened with a robust analysis of quality and quantity; incorporating community input, and keeping a strong local commitment.

Thank you for this opportunity to comment.

Sincerely

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