MHEG
Midwest Housing Equity Group

February 16, 2021

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

Re: Community Reinvestment Act Advance Notice of Proposed Rulemaking
Docket No. R-1723 and RIN 7100-AF94

Midwest Housing Equity Group, Inc. ("MHEG") appreciates the opportunity to comment on the Community Reinvestment Act ("CRA") Advance Notice of Proposed Rulemaking ("ANPR") proposed by the Board of Governors of the Federal Reserve System ("Board").

Background

MHEG is a Nebraska nonprofit corporation formed in 1993. Our mission is to change lives for a better tomorrow by promoting the development and sustainability of quality affordable housing. We accomplish our mission primarily through the syndication of Federal Low-Income Housing Tax Credits ("Housing Credits"). Since inception, we have raised $2.4 billion of capital and helped create more than 20,000 safe, decent and affordable rental homes in the States of Nebraska, Kansas, Iowa, Oklahoma, Arkansas, South Dakota, Texas, Missouri, Colorado and Minnesota. We have invested approximately $1 billion of that amount in communities of 50,000 or fewer people. Those dollars have helped create and preserve almost 10,000 quality rental homes in rural America. Across the entire portfolio, our average development is comprised of just 30 units and many of our investments are in 6-, 10- and 12-unit properties. We are honored to play a key role in providing affordable housing across our footprint.

As the foregoing indicates, we are committed to helping the Midwest, particularly the rural Midwest, meet its affordable housing needs. It is against that backdrop that we respectfully offer a few points for the Board's consideration as it relates to the ANPR. Our core motivation is to ensure that any CRA regulatory rewrite does no harm to affordable housing and community development investment, especially in rural communities.

Importance of Housing Credit Investment

The Housing Credit is the primary financing tool for the development and preservation of affordable housing for all low-income households, including veterans, seniors, victims of domestic violence and persons with special needs. As a great example of a successful public-private partnership, it has financed more than three million affordable homes since 1986. The CRA and its regulations provide a strong motivation and incentive for regulated financial institutions to purchase Housing Credits. According to the accounting firm CohnRenzick, total Housing Credit

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investment reached $18.3 billion in 2019 and approximately 73 percent came from CRA-motivated banks.

Affordable housing investment and development are critical to any community's growth and success. Without a safe place to call home, it is impossible to focus on the other factors that lead to a productive and happy life: nutrition, health care, education and career. Additional second- and third- factor benefits of affordable housing development are also well documented: increased economic activity, job creation, improved property values, lower incarceration rates and increased tax revenue. These benefits are even greater in rural communities, many of which haven't seen any housing development, affordable or otherwise, in many years. Any CRA changes that reduce regulated financial institutions' motivation and incentive to purchase Housing Credits will adversely impact the development of critically needed affordable housing. As with so many other societal goods, this adverse impact will hit our rural communities the hardest.

The CRA was enacted in 1977 to ensure that banks help meet the credit needs of the communities in which they operate, especially low- and moderate-income areas. We appreciate the need to update and modernize CRA regulations to address the expansion and changes in the banking industry. At the same time, it is important to remember that the CRA is the primary driver of regulated financial institutions' investment in affordable housing, particularly the Housing Credit. Additionally, we ask that the Board consider the impact of the COVID-19 health crisis on the low- and moderate-income areas that the CRA directs banks to serve. COVID-19 is being felt by everyone around the country, but persons of low- and moderate- income are hit the hardest. Many of these people are front-line service workers in the travel, hospitality, retail and restaurant industry – the first folks laid off. Right now, the entire country needs our regulated financial institutions focused on economic recovery efforts, including (and especially) remaining committed to affordable housing investment and lending. The need for safe, decent and affordable housing continues to grow across the nation, including both the Midwest and rural communities. For that reason, we hope the Board will avoid any CRA changes that will have an adverse impact on affordable housing investment moving forward.

Our comments on specific parts of the ANPR are:

QUESTION 38. *Should the Board provide CRA credit only for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in CRA examinations? Alternatively, should the Board continue to value home mortgage loan purchases on par with loan originations but impose an additional level of review to discourage loan churning?*

We appreciate the Board's efforts to limit mortgage loan churn for CRA credit. In order to hone the review process and provide more clarity, we recommend the Board provide CRA credit only for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate). We also support the ANPR proposal to include the purchase of mortgage loans under the Retail Test, rather than the Community Development Test. Since mortgage loan purchases provide limited direct benefit to low-income households, it fits better under the Retail Test. Instead, financial institutions can focus their Community Development efforts on activities that will provide more substantial and long-term benefits for low-income households and 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?*

We oppose the proposed elimination of the separate investment test for large banks. Under the current CRA scoring, 25 percent of the CRA score is derived from bank investments. This relationship provides a strong incentive for banks to invest in the Housing Credit, which in turn has ensured that these financial institutions remain key partners in financing most Housing Credit investments.

We believe the proposed Community Development Financing Metric will diminish Housing Credit investments by combining loans and investments into one test. We have significant concerns with the proposed rating system, which will be based largely on the ratio of a bank's qualifying activities (CD loans + CD investments) to the value of the bank's deposits within a given assessment area. The replacement of the separate ending, community development investment test with a presumptive rating methodology is a significant shift away from the current model of evaluating CRA activity (including evaluating the number of investments made or loans originated in addition to the total amount). The shift under the proposed rule to combine investments and debt financing into one bucket for evaluation has the strong likelihood of making Housing Credit investments a much less appealing way of meeting CRA obligations. Tax credit investments are generally longer term, more complex and less liquid than debt financing. As such, banks will probably reduce or eliminate CRA-qualifying investments in favor of debt products. Specifically, this substitution effect of loans over investments will regrettably reduce affordable housing production and preservation. We are worried that the ANPR will decrease the motivation for financial institutions to invest in the Housing Credit at a time when our nation needs affordable housing investment the most.

While we acknowledge and appreciate the inclusion of impact scores (we will discuss more in question 47) for qualitative consideration, it is difficult to discern from the ANPR how much weight an impact score will be given. It appears that the impact score is secondary to the financing metric ratio and will not change the presumptive qualitative score/rating.

In addition, by focusing primarily on the dollar volume of transactions, without also evaluating the number of transactions and originations, the ANPR favors larger and easier loans instead of more impactful and generally smaller investments and loans. We are concerned that the ANPR will drive CRA-driven investment and lending out of rural America and into large metropolitan areas, as the regulated financial institutions seek to satisfy their CRA obligations through the lowest number of transactions possible. Put another way, most rural communities don't need $30, $40 or $50 million transactions. It's the $2, $3, $5 and $10 million transactions that move the needle. But the ANPR encourage banks to chase the big dollar loans.

Recommendation: **First and foremost, we strongly urge the preservation of a separate investment test for large banks.** However, if a separate investment test is not retained, the Board should consider including powerful guardrails to prevent large reductions in community development investment volume, including the Housing Credit. Any rewrite should include a requirement that a reasonable number of transactions and originations be maintained and considered under the community development test, similar to the requirement on the retail lending side for CRA evaluation scoring, in order to limit the moral hazard of banks pursuing the largest loans and avoiding rural America. The final rule could also encourage and incentivize large banks to still meet a minimum threshold of investment activity under the Community Development Financing Subtest score. We believe creating a minimum volume threshold for these activities will achieve a more beneficial outcome for the targeted community development activities, including affordable housing. Additionally, due to the importance of long-term investments like the Housing Credit, we want to ensure that those critically important investments in affordable housing are not inadvertently reduced. For that reason, we ask the Board to incorporate into the evaluation a measurement of whether banks have increased, maintained or decreased originations of affordable housing loans and investments significantly at the bank level relative to the prior assessment period. Since community development cannot flourish in any local community or assessment area without a major commitment to providing ample affordable housing resources, we respectfully ask that any CRA evaluation changes do not harm Housing Credit investment.

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?*

As previously mentioned, we support the concept and use of Impact Scores to incentivize high-impact activities, but we believe it is tough to fully determine from the ANPR how the impact scores will be used. Additional clarification could be helpful. We also endorse ensuring that the impact score evaluation is more clearly tied to the primary evaluation, instead of largely being used as a secondary metric. Based on the ANPR, it appears that impact scores will primarily be considered only after evaluating a bank's financing metric threshold. Rather, by more effectively incorporating the impact scores into the primary evaluation, we believe it will more efficiently incentivize banks to focus on truly responsive and impactful activities. Additionally, since investments, including Housing Credit investments, are generally longer term, more complex and high impact, we propose the highest scores are reserved only for investments. Basic lending activity, especially short-term liquid financings, should not be given much, if any, weight on the impact score.

We agree with the Board's determination that using multipliers in the community development evaluation methodology is the wrong approach. We do not believe a 2for1 credit (or similar multiplier) will increase bank activity in these areas. To the contrary, it seems a multiplier would lead to banks decreasing overall investment activity, especially in rural communities. We support the Board's goal of providing greater transparency and consistency and believe the proposal to include supplementary metrics to detail banks' investment, loans, and contributions would be positive.

Additionally, should the separate investment test be eliminated, we recommend incorporating into the evaluation process strong parameters to prevent a substitution effect of loans over investment. We worry that the substitution effect will likely lead to dramatic fluctuations of bank activity and investment. Unfortunately, the real-life implication of this impact is that if a consistent demand for Housing Credit investment is reduced, it will limit our ability to meet the affordable housing needs across the country and, as previously noted, especially in rural America.

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?***

We appreciate the Board's interest in providing additional clarity surrounding investments in infrastructure and community facilities. However, we argue that when CRA is functioning at its best, it is incentivizing activities that have significant and direct impacts for low-income communities and families. We feel that distinction is critically important, and any proposal to significantly expand the qualifying activities for CRA credit in the community development category would allow banks to meet their obligations with less onerous and lower-impact investments. Under the proposal, a financial institution could easily achieve their CRA community development metric through investments in infrastructure investments or community facilities that may only partially benefit low- and moderate-income communities and individuals. Instead, equity investments in affordable housing, supported by the Housing Credit, can be a game-changer for communities across this country. By providing safe and affordable housing and supportive resources for residents in neighborhoods, including rural areas, banks are not only fulfilling their CRA obligations, but they are also being good partners and stewards of the local communities that they invest in and support.

Recommendation: We recommend you restrict the list of qualifying activities that fit within the Community Development Test. Those qualifying activities should include essential infrastructure and essential community facilities related activities only if they "primarily benefit" low- and moderate-income individuals and communities.

QUESTION 68. ***Will the approach of considering activities in "eligible states and territories" and "eligible regions" provide greater certainty and clarity regarding the consideration of activities outside of assessment areas, while maintaining an emphasis on activities within assessment areas via the community development financing metric?***

We support the Board's goal of trying to alleviate CRA hot spots and deserts, and we appreciate that the ANPR proposes that a bank will receive credit at the state level for any community development loans or investments in the state, even if its outside of an assessment area. While we believe this proposal is certainly a step in the right direction, there is still room to provide additional certainty and clarity, while also better addressing the inconsistencies between CRA hot spots and deserts. We propose allowing state-wide Housing Credit investments made outside of assessment areas to count toward the assessment area rating. Housing Credits, which are allocated competitively based on state-specific affordable housing needs, makes certain that only the developments considered to be most impactful and essential are awarded Housing Credits. Since Housing Credits are administered by each State Housing Finance Agency, we suggest incorporating their guidance and judgement into how Housing Credit investments are evaluated.

Recommendation: To specifically address CRA deserts, particularly in rural areas, we suggest allowing banks to receive credit, at the assessment area level, for Housing Credit investments made anywhere within a state in which a bank has one or more assessment areas. We think that it would provide more certainty to a bank if it were clear that such investments would be treated as serving the assessment area(s) in that state. We firmly believe our recommendation would better incentivize affordable housing investment in underserved communities, such as the Midwest and rural America.

Finally, we urge the Board, OCC, and FDIC to work together to develop and support a single interagency rule that provides a consistent regularly framework for all banks. By moving forward with a two-tiered system of evaluation, it will result in substantial confusion and limit the overall benefits and impact of CRA reform that this proposal was attempting to achieve. Instead, we are hopeful that a unified single rule can expand and strengthen the goals of CRA to ensure financial institutions are better responding to community needs, including affordable housing.

We believe the Board's proposal to expand and enhance assessment area consideration, combined with our recommendations, could provide a reasonable path forward to ensure CRA continues to play a vitally important role in the success of both the Housing Credit program and affordable housing development, especially in rural America.

In short, changes to the CRA that reduce regulated financial institutions' demand for the Housing Credit could significantly decrease our ability to provide safe, decent and affordable rental homes to low-income households in rural America. Given the health and economic crisis our nation is facing, combined with the ongoing housing crisis, we encourage the Board to avoid any changes through CRA reform that could negatively impact regulated financial institutions' affordable housing investment**.**

Thank you again for the opportunity to comment on the proposed CRA regulations. We hope our Midwest and rural perspective is helpful. As you consider our recommendations, please let me know if I can provide additional information or if we can be of assistance.

Kindest regards,

John Wiechmann
President/CEO