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

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From: Stephen Cross

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

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Comments:

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First name:Stephen
Middle initial:M
Last name:Cross
Affiliation (if any):
Affiliation Type: ()
Address line 1:
Address line 2:
City:Charlottesville
State:Virginia
Zip:22903
Country:UNITED STATES
Postal (if outside the U.S.):
Your comment:
February 16, 2021
Comment Processing
Advanced Notice of Proposed Rulemaking
Board of Governors Federal Reserve System
20th Street and Constitution Avenue N.W., Washington, DC 20551
Re: Community Reinvestment Act Regulations
To Whom it May Concern:
I am writing to you as a former federal bank regulatory agency executive with extensive regulatory and advisory experience related to the Community Reinvestment Act. The comments in this letter represent my views alone and do not reflect the views of any organizations for whom I am working or have previously worked.
My experience includes serving as the Deputy Comptroller for Compliance Management at the Office of the Comptroller of the Currency ("OCC") from 1991-1999, during which time I served as the senior career policy official working on major revisions to the Community Reinvestment Act ("CRA") regulations, which were finalized in 1995. After my tenure with the OCC, I served as the Director of Compliance and Consumer Affairs at the FDIC and as the Director of Federal Home Loan Bank Supervision at the Federal Housing Finance Board and the Federal Housing Finance Agency.
Since retiring from federal service in 2013, I have assisted numerous banks prepare for CRA examinations, develop CRA plans to enhance CRA program management, and remediate CRA performance deficiencies. I have prepared CRA performance evaluations, read hundreds of public performance evaluations, and discussed CRA compliance with bankers, examiners, and other stakeholders. I have authored several articles about CRA performance management, addressed industry conferences regarding CRA evaluation standards and CRA modernization, delivered CRA training to bankers, and provided a wide range of consultative services to bank and thrifts preparing for a CRA examination or responding to preliminary conclusions in a draft CRA Performance Evaluation.

I am writing in response to the Advanced Notice of Proposed Rulemaking ("ANPR") seeking input to modernize existing CRA regulations. The ANPR was publicly released by the Board of Governors of Federal Reserve System ("FRB") on September 21, 2020.

Changes to the Existing CRA Regulations are Needed

During the 25 years since the last substantial revisions to the CRA regulation in 1995, profound changes have occurred in the banking industry in the United States. Changes to banking products, delivery systems, and branching rules, during the past 25 years require that the current CRA regulations be modernized to address shortcomings in their execution and to ensure the on-going effectiveness of CRA. Changes to the rule are overdue that would:

Establish explicit benchmarks for evaluating the distribution of a bank's mortgage and small business loans in its assessment areas;

Establish explicit benchmarks for evaluating community development loans, investments, and services in its assessment areas;

Assess community development ("CD") loans, investments, and services separately from the analysis of retail loan distributions, such as is currently done with the community development test applicable for Wholesale, Limited-Purpose, and Intermediate-Small Banks; and

Assess retail services, especially access to banking services, among low- and moderate-income ("LMI") persons and in LMI geographies.

Those changes, if properly implemented, would add clarity to regulatory expectations and encourage banks to meet credit needs in their communities as well as in areas of particular need that may be located outside their delineated assessment areas. Favorable consideration for activities in distressed areas and in Indian Country would also be a welcome addition to the rule.

Ultimately, changes to the CRA regulations should be adopted by the FRB in a coordinated fashion with the other two federal bank regulatory agencies, the OCC and FDIC. However, I welcome the FRB decision to proceed independently of the OCC at the present time. Changes to the CRA regulation adopted by the OCC in 2020 would be counterproductive. They would place unwarranted emphasis on consumer lending, while diverting attention from mortgage lending in LMI neighborhoods. They would reward large-scale infrastructure projects like roads and hospitals, and could divert resources away from more targeted CD projects that promote affordable housing for LMI persons and neighborhood revitalization and stabilization. Creating a list of qualified community development activities as endeavored by the OCC - while appealing in theory - will stifle innovation if banks default to "safe choices" already on a list. And based on the current CRA Question and Answer process, it is an open question whether the agencies will actually commit sufficient resources to deliver useful and timely information and guidance on qualifying activities. Finally, the OCC rule would impose extensive new data collection, recordkeeping, and reporting requirements that will be costly and time-consuming to implement, but which offer no clear benefits compared to data already being collected and analyzed by examiners, banks, and the public. I support the approach to modernization anticipated by the FRB ANPR, which would avoid many of the shortcomings in the OCC's approach.

A revised regulation with measurable performance goals that are grounded in financially safe and sound banking practices and carried out consistent with a bank's business objectives would enhance the overall effectiveness of CRA lending programs. Rather than adopting the wholesale and unsupported changes envisioned by the OCC, I support the FRB's strategy to build on and improve the existing CRA regulations.

A Revised CRA Rule Should Continue to Include Geographic Distribution Analysis of Mortgages

When enacted in 1977, the stated purpose of CRA was to ensure loans were going to neighborhoods that had been underserved - in part because they were viewed as high risk & often because they had lower-income residents and/or a high proportion of minority residents. The perceived risk of those neighborhoods dated back to the 1930s when the Home Owners' Loan Corporation ("HOLC") first prepared "residential security maps" for more than 200 U.S. cities. The neighborhoods the HOLC considered to be the most-risky were outlined in red on those maps, giving rise to the term of "redlining" to denote the absence of lending to neighborhoods considered to be undesirable for loans. I commend the FRB for retaining an assessment of the geographic distribution of mortgage loans in its framework. The OCC's exclusion of mortgage loans in LMI census tracts from the list of qualifying activities and the exclusion of the geographic distribution of mortgage loans in the distribution tests, if implemented, would reverse more than 40 years of industry and regulatory practice combating redlining.

That said, revised CRA regulations should not reward lending in LMI census tracts if that lending is for the purpose of gentrification that results in the displacement of LMI households. The OCC approach of excluding mortgages in LMI neighborhoods from the list of "qualifying activities" is inconsistent with the rationale for the enacting for CRA in 1977 and with more recent community development initiatives to promote mixed-income housing. A much more reasonable solution to the problem of displacement exists. If a disproportionate number of loans in LMI census tracts are going to middle- and upper-income borrowers resulting in the displacement of LMI individuals or families from those neighborhoods, examiners can and should rely on performance context to discount the benefit of such lending.

Retail Lending Should Focus on Originations and Should Not Discount Mortgages Sales

The OCC rule measures qualifying activities, including mortgage loans and small business loans, based on a bank's balance sheet measurement - a significant change from the current regulations' focus on originations. The use of originations; as under the current rule; tracks present lending. The use of balance sheet levels - as in the OCC rule; tracks past activity. No clear rationale exists for the change adopted by the OCC. What public policy purpose is served by collecting monthly balances vs. originations for CRA purposes? Why should assessments be backward looking? What public policy is served by requiring wholesale changes to existing software and analytical tools and changes to call reports? How does the uncertain public policy benefit of the balance sheet approach outweigh the cost of creating entirely new systems for measuring mortgage activity, particularly given that the bank's requirement to compile Home Mortgage Disclosure Act ("HMDA") data would remain?

The OCC regulation also promises to disrupt functioning market processes and increase the cost and risk associated with making and securitizing mortgage loans to LMI borrowers. The effect is likely to be less, rather than greater, access to mortgage credit among LMI borrowers. Securitization of conforming mortgages is a financially safe and sound banking practice that facilitates risk management, contributes liquidity to mortgage markets, and has fueled an expansion in mortgage financing and home ownership in the United States. For decades, mortgages have been underwritten to conform to secondary mortgage market standards allowing them to be sold to Fannie Mae, Freddie Mac, and other secondary market enterprises immediately after closing. The OCC's CRA rule would discourage sales of loans made to LMI borrowers, increasing risk to banks and potentially making those loans more costly to underwrite.

Examiners can already discount gaming activity associated with loan sales or purchases by citing performance context. The FRB, in its ANPR, raises the prospect of only counting loans sold from their originator (or affiliate). When it occurs, churning of loans should be discounted in CRA performance evaluations, but the OCC offered no data to support that contention or the implication that less draconian solutions are not available. To the extent loan churning is a problem, additional industry and examiner guidance and training should suffice to curtail abuses.

Small Business and Small Farm Loan Size and Revenue Standards Should Not Increase

There is no demonstrated basis for increasing the small business and small farm loan size or the gross annual revenues ("GAR") threshold or indexing the threshold over time. In a study published in 2017, the Consumer Financial Protection Bureau found that 95 percent of all businesses in the United States had annual revenues under $1 million. As the CFPB documented, about 20 million firms or 76 percent of all firms had annual receipts of under $100,000. An additional 5.2 million or 19 percent of all businesses had receipts between $100,000 and $999,999. As such, an increase in the size of a qualifying business would affect lending to fewer than 5 percent of businesses and they would be among the largest businesses in the country in terms of revenues. By redefining small businesses to include larger entities, the measured value of lending to small businesses may increase, but a lower percentage of those dollars will likely be reaching the smaller businesses with annual revenues under $1 million, which empirically have been shown to be the primary engines of economic growth and job creation.

The Regulation Should Emphasize Mortgage and Business Loans, Not Consumer Loans

The original intent of the CRA statute was to reduce or eliminate redlining by making mortgage loans available to low- and moderate-income borrowers and communities, consistent with safe and sound banking practice. With that in mind, the emphasis in the regulation should be on mortgage loans. The inclusion of small business and small farm loans in the 1995 revisions supports economic and business development, and they merit consideration in any revised regulation as well.

The OCC rule considers the borrower distribution of any consumer product line that is a major retail

product line for the bank.   Consumer loans, however, do not offer the same wealth building potential to borrowers as mortgage, small business, or small farm loans and should not be a mandatory component of a CRA evaluation. The borrower distribution analysis should be required only when a consumer product line constitutes a substantial majority of a bank's lending, as in the current rule.

Deposit-Based Assessment Areas May Exacerbate the Problems of CRA "Hot Spots" and "Deserts"

As established by the OCC, deposit-based assessment areas will almost certainly be limited to population centers. The creation of deposit-based assessment areas would therefore likely have no meaningful impact on "CRA deserts" and will likely exacerbate problems associated with "CRA hotspots." The proposed framework does not provide incentives for banks to conduct qualifying activities in less populous areas.

The OCC requirement to designate deposit-based assessment areas "at the smallest geographic area where they receive five percent or more of their retail domestic deposits" (for those banks that receive 50 percent or more of their retail domestic deposits from geographic areas outside of their facility-based assessment areas)AA would likely result in a large percentage of deposit-based assessment areas comprising highly-populated metropolitan areas; like New York City or Chicago or Los Angeles. Deposit totals will reflect population centers and will likely be similar across banks that draw deposits online outside of their branch and ATM footprint.

An alternative approach that the FRB should consider would be to require banks to meet a CD minimum requirement in any state in which they exceed a deposit threshold. The deposit threshold could be based on a percentage of the institution's total deposits or be based on the bank's deposit market share in the state. In any state in which the threshold is triggered, the bank would be required to meet or exceed a CD minimum, with the requirement that a specified percentage of the CD activity must benefit areas with limited, if any, branches or that would otherwise be considered underserved.

Recommendations to Modernize CRA: There is a Better Way Forward

A revised CRA regulation should achieve at least four fundamental objectives:

Greater clarity and consistency regarding activities that qualify for CRA consideration;

Expanding where qualifying activities may take place;

Measuring CRA performance with clear and objective performance benchmarks; and

Enhanced recordkeeping and reporting.

Those are objectives that the OCC rule does not adequately achieve. There is an alternative to the OCC rule that the FRB should consider that would achieve these objectives in a way that would be less disruptive and less costly to implement than the OCC regulation, and that could be implemented with a much shorter transition period.

The agencies should retain Small Bank and Intermediate Small Bank standards, augmented with explicit performance benchmarks for each. The eligible size thresholds should be increased to at least $500 million for Small Banks and $2.0 billion for Intermediate Small Banks. For Large Banks, the agencies should replace the existing Lending, Service, and Investment tests with a framework similar, but not identical to, the evaluation method currently used for Intermediate Small Banks. The principle principal ?? elements of that framework would be a Retail Lending and Service Test and a Community Development Test. The agencies should also retain the Strategic Plan option for any bank and the Community Development Test for Wholesale and Limited Purpose Banks, updated with explicit performance benchmarks.

This revised framework is explained in more detail in what follows.

? Retain Small Bank and Intermediate Small Bank Examination Programs

Community banks should continue to face a streamlined examination, which could be satisfied by retaining the Small Bank and Intermediate Small Bank performance evaluation standards largely as they current operate, but with explicit performance benchmarks. The lending benchmarks in the current rule should be augmented with standards for LMI branches for banks with ten or more branches. The agencies should consider increasing the size thresholds applicable for those evaluation standards. For example, the Small Bank examination could apply to all banks with assets of $500 million or less and the Intermediate Small Bank examination could apply to all banks with assets of $500 million to $2.0 billion.

? Retail Lending and Service Test for Large Banks

The principal elements of the Retail Lending and Service Test for each of a bank's assessment areas would be:

? Setting explicit benchmarks for the borrower and geographic distribution of a bank's small

business loans and home mortgage loans.
? Setting explicit benchmarks for the distribution of a bank's branches and the opening and closing of new branches.
? The borrower loan distribution analysis would require calculating:
o Percent mortgage loans to LMI borrowers compared to percent of families or homeowners who have low- or moderate-incomes.
o Percent of mortgage loans to LMI borrowers compared to percent of mortgage loans to LMI borrowers among peer institutions.
o Percent of small loans to businesses with GAR of $1 million or less compared to percent of businesses that have GAR of $1 million or less.
o Percent of small loans to businesses with GAR of $1 million or less compared to percent of small business loans to businesses with GAR of $1 million or less among peer institutions.
o A qualitative assessment of innovative or flexible lending programs could result in an increase in the performance level.
? The geographic loan distribution analysis would require calculating:
o Percent mortgage loans to LMI geographies compared to percent of owner-occupied housing units ("OOHUs") in LMI geographies.
o Percent mortgage loans to LMI geographies compared to percent of mortgage loans to LMI geographies among peer institutions.
o Percent small loans to businesses in LMI geographies compared to percent of businesses located in LMI geographies.
o Percent of small loans to businesses in LMI geographies compared to percent of small loans to businesses in LMI geographies among peer institutions.
o A qualitative assessment of innovative or flexible lending programs could result in an increase in the performance level.
? The branch distribution analysis would require calculating:
o Percent of branches in LMI geographies compared to the percent of all geographies in the assessment area that are LMI.
o Percent of branches opened and branches closed in LMI geographies compared to the percent of all geographies in the assessment area that are LMI.
o The actual benchmarks should be grounded in empirical analysis. Conceptually, benchmarks of 85 percent and 60 percent for (LMI branches / total branches) compared to (LMI geographies / total geographies) could be considered to be outstanding and satisfactory respectively.
o Qualitative assessment of innovative means to reach LMI deposit and loan customers using technology could result in an increase in performance level on this element.
? The size of the lending benchmarks would be based on empirical analysis reviewing performance under the current regulations, where similar comparisons are already being made, but without explicit performance benchmarks. Some national banks have adopted to CRA Plans and have set their lending benchmark at 100 percent for Outstanding performance and at lower levels (e.g., 80 percent and 60 percent) for a High and Low Satisfactory.
? For example, a bank made 20 percent of its mortgage loans in LMI geographies. Those geographies accounted for 25 percent of owner-occupied housing units. As a comparison, all HMDA-reporting banks made 16 percent of their mortgages in LMI geographies. The bank's geographic distribution of mortgages would be 80 percent of the demographic comparator (20/25) and 125 percent of the peer average. Those values would be compared to benchmarks established in the rule to form a conclusion about the bank's distribution of mortgage loans in the assessment area. For example, if the rule established that 100 percent of the peer average were to be "outstanding" and 80 percent of the demographic comparator were to be "high satisfactory," the bank's geographic distribution of mortgage loans would be between outstanding or high satisfactory and would depend on the weight assigned to demographic and peer analyses as would be established in the regulation or guidance.
? Similar calculations would be made for the borrower distribution of mortgage loans and the borrower and geographic distribution of small business/farm loans. The results from each comparison would be weighted, such as by number of loans or loan volume, to reach a conclusion about retail lending.
? These calculations are made by many banks today -but they do not know to what standards examiners will hold them. The innovation is establishing and making public the performance

benchmarks to provide greater clarity while also allowing banks to continue to collect and record and analyze the data they already collect and analyze using software that is already available.

? A bank would have to be satisfactory or better in a specified percentage of assessment areas accounting for at least a specified percentage of its deposits, assets, or capital as established by a final rule. That specified percentage would be based on empirical performance under the current regulations, but could reasonably be assumed to be 80 percent or higher. The proposed threshold in the NPR of a majority of assessment area ratings based on the number of assessment areas and percentage of deposits is far too low to be a binding constraint on bank behavior. Such a low threshold could exacerbate the problem with CRA deserts or encourage banks to close branches to eliminate assessment areas that are not satisfactory. The proposal's failure to incorporate branch openings and closings into the performance measures makes the prospect of closing branches to eliminate assessment areas more likely.

? Community Development Test for Large Banks

The principal elements of the Community Development Test for each of a bank's assessment areas would be:

? Setting explicit benchmarks for the number and dollar amount of CD loans and investments relative to a measure of capacity, which could be based on total assets, deposits, or capital allocated to the assessment area.

? Calculating the amount of CD loans and investments from the current period, using book values, which would close the loophole of bank's renewing CD loans annually.

? Calculating the amount of CD loans and investments from prior periods that remain on the bank's balance sheet, using book values.

? Calculating the ratio of CD loans and investments to assets, deposits, or capital and comparing that calculation to the benchmarks. The size of the benchmarks would be based on empirical analysis under the current regulations, such as 5 percent of Tier One Capital for Satisfactory and 10 percent of Tier One Capital for Outstanding.

? Setting explicit benchmarks for CD services measured in hours of commitment per bank employee. The size of the benchmarks would be based on empirical analysis under the current regulations, such as 2 hours per year per employee for Satisfactory and 6 hours per year per employee for Outstanding.

Formalizing benchmarks for mortgage, small business, and small farm loan distribution and for bank branch distribution and comparing data readily available from Home Mortgage Disclosure Act ("HMDA") and CRA Small Business loan application registers ("LARs") to demographic and peer data would be more cost effective and impactful change than introducing an entirely new CRA evaluation measure, such as established by the OCC. Improved examiner training, and refined and streamlined performance evaluations are also warranted and can be achieved without rulemaking.

Finally, it would be a mistake for the agencies to define home mortgage loans with reference to Call Report data instead of continuing to use HMDA data. The tools to analyze HMDA data are well established and the data are available to the public as well as to bankers, which enhances performance management and transparency. Replacing HMDA data with call report data will be confusing, costly, and counter-productive.

The Three Federal Bank Regulatory Agencies Should Adopt Uniform CRA Regulations

Changes to the CRA regulations should be adopted uniformly by each of the three federal banking regulators, and those regulations should apply consistently to all banks, regardless of the bank's primary federal regulator. Banks and their communities, however, would be poorly served by the adoption of the OCC's CRA rule. That is why the Board's consideration of a revised CRA framework is so important.

Answers to Selected ANPR Questions

Question 1. Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?

The Board's objectives are reasonable. I would reiterate that the following objectives outlined by the OCC are appropriate, but the OCC's rule does not achieve these objectives:

Greater clarity and consistency regarding activities that qualify for CRA consideration;

Expanding where qualifying activities may take place;

Measuring CRA performance with clear and objective performance benchmarks; and

Enhanced recordkeeping and reporting.

Question 4. How should the Board provide more clarity that a small bank would not be required to expand the delineation of assessment area(s) in parts of counties where it does not have a physical presence and where it either engages in a de minimis amount of lending or there is substantial competition from other institutions, except in limited circumstances?
This is a matter for enhanced training for examiners and bankers to understand that an assessment area can include areas of de minimis lending, so long as gaps that exist do not reflect illegal redlining based on race or decisions to leapfrog LMI areas in order to disproportionately serve middle- and upper -income communities.
Question 5. Should facility-based assessment area delineation requirements be tailored based on bank size, with large banks being required to delineate facility-based assessment areas as, at least, one or more contiguous counties and smaller banks being able to delineate smaller political subdivisions, such as portions of cities or townships, as long as they consist of whole census tracts?
No. All banks (except see Question #8 below) should be subject to the current interagency rules, which include enough flexibility for banks to adjust AA as needed based on their market footprint and business strategy. Instead, train examiners in how to evaluate the reasonableness of these AA.
Question 8. Should delineation of new deposit- or lending-based assessment areas apply only to internet banks that do not have physical locations or should it also apply more broadly to other large banks with substantial activity beyond their branch-based assessment areas? Is there a certain threshold of such activity that should trigger additional assessment areas?
Because CRA reform needs to address mobile and internet banking, the agencies need to find a way to assess a bank's CRA performance more broadly than just within the areas surrounding its branches and deposit-taking ATMs. Adding deposit-based AA is a reasonable response to this concern. However, the threshold adopted by the OCC; 50 percent - may be too high. The Board needs to evaluate how many banks would be impacted with lower thresholds. In addition, the Board should consider allowing CD activities to count outside of delineated assessment areas, especially for institutions that have a significant internet banking presence.
Question 9. Should nationwide assessment areas apply only to internet banks? If so, should internet banks be defined as banks deriving no more than 20 percent of their deposits from branch-based assessment areas or by using some other threshold? Should wholesale and limited purpose banks, and industrial loan companies, also have the option to be evaluated under a nationwide assessment area approach?
Nationwide AAs may be a reasonable approach for banks with a substantial share of deposits raised "out-of-area" through internet banking. A deposit threshold of 20 percent, however, may be too limiting. Limited Purpose and Wholesale banks are already allowed consideration of activities nationwide given adequate performance in their AA. To better implement this approach for both "Internet" banks and Limited Purpose and Wholesale banks, the agencies should establish public benchmarks that will provide transparency for these banks' performance in branch-based AAs.
Question 16. Should the presumption of "satisfactory" approach combine low- and moderate-income categories when calculating the retail lending distribution metrics in order to reduce overall complexity, or should they be reviewed separately to emphasize performance within each category?
It would not be unreasonable to combine low- and moderate-income categories when calculating retail lending distribution metrics for the presumption of "satisfactory" approach.
Question 18. How can the Board mitigate concerns that the threshold for a presumption of "satisfactory" could be set too low in communities underserved by all lenders?
The Board should review a bank's lending compared to demographic aggregates as well as compared to market aggregates (see my detailed description of this approach earlier in this letter). For example, suppose 40 percent of the owner-occupied housing in a bank's assessment area were located in LMI census tracts and that 20 percent of all mortgage loans in the assessment area were made in LMI census tracts. If a particular bank made 20 percent of its mortgage loans in LMI census tracts, it would have performance that was 100 percent of the market aggregate but only 50 percent of the demographic comparator. A record of 50 percent of the demographic comparator should be considered inadequate, even if that record matched the record of all lenders.
Question 24. In addition to the number of branches and the community and market quantitative benchmarks discussed above, how should examiners evaluate a bank's branch distribution?
Examiners should consider branch distribution in light of population distribution among census tracts of different income levels across the assessment area.

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?
Examiners should be trained to review performance context to determine whether loan sales reflect an effort to artificially inflate performance and to discourage loan churning. Providing CRA credit for loan purchases only if purchased directly from an originating lender or affiliate warrants consideration.
Question 40. Should CRA consideration be given for retail lending activities conducted within Indian Country regardless of whether those activities are located in the bank's assessment area(s)?
This warrants consideration, as should activities that are located in distressed areas, including rural areas, in which bank services are limited or non-existent and disaster areas.
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?
The Board should adopt a Community Development Test for large retail institutions. That test should include both CD loans and qualified investments, but each should be separately evaluated within the CD Test.
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? Are there readily available alternative data sources that could measure a bank's capacity to finance community development?
The Board should establish a ratio to measure CD activities relative to capacity. Whether that ratio should be based on deposits, total assets, or Tier One Capital is worthy of additional analysis.
Question 48. Should the Board develop quantitative metrics for evaluating community development services? If so, what metrics should it consider?
The Board should consider identifying a quantitative metric for evaluating CD services, such as hours per number of employees. However, that quantitative measure should be augmented with a qualitative assessment as well, including the role of the board and executive management in providing CD services, such as through participation on the boards or committees of CD organizations.
Question 50. Should volunteer activities unrelated to the provision of financial services, or those without a primary purpose of community development, receive CRA consideration for banks in rural assessment areas? If so, should consideration be expanded to include all banks?
No.
Question 51. Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?
No.
Question 58. How could the Board establish clearer standards for economic development activities to "demonstrate LMI job creation, retention, or improvement"?
Under the current rule, low-income jobs that offer little opportunity for growth or advancement receive favorable consideration simply because the people occupying those jobs have low- or moderate-incomes. For low-income jobs to be considered favorably under this standard they should be a bridge to higher income opportunities or career advancement.
Question 64. Would providing CRA credit at the institution level for investments in MDIs, women-owned financial institutions, and low-income credit unions that are outside of assessment areas or eligible states or regions provide increased incentives to invest in these mission-oriented institutions? Would designating these investments as a factor for an "outstanding" rating provide appropriate incentives?
Yes.
Question 67. Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?
Yes.
Question 69. Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are also in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?
Yes
Question 77. Would a template with illustrative instructions be helpful in streamlining the strategic plan approval process?

This idea warrants consideration.
Question 78. Would eliminating limited-scope assessment area examinations and using the assessment area weighted average approach provide greater transparency and give a more complete evaluation of a bank's CRA performance?
If the Board were to adopt quantitative measures for a "presumptive Satisfactory", a quantitative analysis of all assessment areas would be warranted; note data for all AA presently are reviewed as either full-scope or limited-scope reviews.
Question 79. For a bank with multiple assessment areas in a state or multistate MSA, should the Board limit how high a rating can be for the state or multistate MSA if there is a pattern of persistently weaker performance in multiple assessment areas?
Yes. Weak performance in multiple assessment areas in a state or multi-state MSA should adversely affect the state (or multi-state MSA) rating.
Summary
The Federal Reserve should continue to pursue CRA modernization, and should invite OCC and the FDIC to join a coordinated effort to develop a uniform approach that builds on certain elements of the existing examination framework.
CRA reform should build on previous CRA successes. An appropriate strategy would be to refine the Large Bank examination to include a Community Development Test and a Retail Lending and Service Test, each with explicit and measurable performance benchmarks. Examiners would review the borrower and geographic distribution of loans compared to demographic comparators and to the performance of other banks in the market (or market aggregates). Examiners would also review the book value of CD loans and investments and the distribution of bank branches against regulatory benchmarks. This would represent a material improvement in the predictability and transparency in examinations.
Within this framework, the large bank data tables and written Performance Evaluations could be streamlined by capturing "dashboard" metrics that many banks already use for their own CRA self-evaluations. This is an approach I have used to prepare numerous banks for CRA examinations under the current rules, and the performance reports developed using this framework are shorter, more informative, and more-timely than the Performance Evaluations prepared today by the agencies. I would be happy to share a model of such a revamped performance evaluation if the FRB were interested.
Stephen Cross