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

Description:

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From: PCRG, Ernest Hogan

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Comments:

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Your comment: February 11, 2020 Governor Lael Brainerd Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue NW Washington, D.C. 20551 RE: Community Reinvestment Act Regulations, Docket ID FRB 2020-21227 Dear Governor Brainerd, Thank you for the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) regarding the Community Reinvestment Act (CRA). As the executive director of the Pittsburgh Community Reinvestment Group (PCRG), my job is to uphold our organization's mission to address the legacy of redlining and lack of investment in Pittsburgh's low- to moderate-income (LMI) communities. PCRG is a coalition of nearly 60 community development and service organizations representing 125 communities across Western Pennsylvania, each with its own story about how CRA has motivated large and small banks alike to provide loans and investments from affordable housing and community development. As an organization, our mission is to work with our members and stakeholders to ensure equitable access to capital, land, and mobility across the Greater Pittsburgh Region. As we have gathered our members to discuss potential changes to CRA, it has become even clearer just how important CRA is to the work we all do. Banks are willing partners in the revitalization of our region, but it is the weight behind CRA that keeps them coming back to the table. While we are cognizant that this decades-old legislation is showing its age, it can be updated to address the realities of modern banking while still giving banks an affirmative obligation to meet the credit needs of the LMI communities from which they take deposits. Like many community-based organizations across the country, we were troubled by the OCC's final rule on the CRA and fear that its misguided metrics will make it easier on banks while removing incentives to invest in smaller CRA-qualifying projects in LMI communities. Ultimately, there is only one thing that matters: Does this proposed rulemaking honor, uphold, and enhance the goal of getting capital and opportunity into the hands of LMI Americans? Overall, we are heartened to find that the time and care the Federal Reserve Board (FRB) put into understanding what stakeholders wanted from a modernized CRA paid off, with a more sophisticated approach to the quantitative and qualitative assessment of bank performance. However, we believe the proposed rule changes could be strengthened even more going forward. This letter will detail some of the changes and improvements

we would like to see. It is vital to us, our stakeholders, and our community that the FRB: 1) Preserve and Honor CRA's Original Intent - The needs of LMI people are at the heart of CRA. The 70s' era CRA could not take into account investment opportunities that we believe should garner banks CRA credit, including microlending, broadband access, and workforce development, but these must serve LMI individuals and communities, not just society at large. A huge source of contention between the community development world and the OCC regarding the CRA was their broadening of who can benefit for an investment to qualify during a CRA examination. While it seems like the FRB is not pursuing a similar plan, we hope we can get more definitive language that if things like infrastructure improvements are to receive credit, they must help primarily LMI people and communities. Another way to honor the original intent of the law is to preserve the testing structure, which treated banks of different sizes differently and tailored the examination to them. Unlike the OCC's new metric, which grossly oversimplifies the quantitative side of CRA examination, the FRB is preserving the tests, which is something we and our members wholeheartedly support. We are especially glad to see that the FRB will keep branches and deposit products in LMI communities as part of the assessment, which is so vital to understanding how well LMI people are being served. One area of the ANPR we would like to see changed is the asset threshold separating large banks from small. It currently stands at $326 million and the floor you have proposed in $750 million, thereby doubling it. We believe that $750 million as the threshold is far too high, and that banks with assets between where it stands and what you have proposed should continue to be assessed on their community reinvestment. Though we work primarily with urban and suburban communities, we know how important small banks are to meeting the development needs of rural areas, of which there are many in Pennsylvania. If the pressure to make community development investments is removed, we expect to see a drop in investment that will be a big blow to already-declining areas. 2) Enhance CRA by Accounting for Race - We are extremely pleased to see that the FRB is soliciting public comment on how to expand CRA so that it takes racial inequities into account. In Pittsburgh, our poorest areas are also communities with the highest proportions of Black residents, and those communities track almost perfectly with HOLC's redlined maps from 1937. The Pittsburgh region is a prime example of why the CRA must keep at its center the importance of place and space for community input. Major discrepancies, if not outright discrimination in lending, persists. The most recent 2019 Home Mortgage Disclosure Act (HMDA) data shows that under 5% of home purchase loans were originated to African-American borrowers, while over 14% of the population in the Pittsburgh region is African-American. Conditions are worse when looking at the City of Pittsburgh – a quarter of the population is African American, but only 6% of home purchase loans went to African-American borrowers in 2019. Since the start of the pandemic, PCRG jumped in to help disseminate information to impacted business and community leaders, most recent reports show more than 440,000 African American businesses nationally have been closed or 41% compared to just 17% of White-owned small businesses. Discrimination in lending contributes significantly to racial disparities in small business survival rates. Our work continues but we saw firsthand the inequities as African American applying for Paycheck Protection Program (PPP) loans for their small businesses during the pandemic were likely to receive less information or encouragement to apply than White testers. CRA must be strengthened considerably in order to combat discrimination and help our communities recover from the pandemic. We believe strongly that CRA exams would be strengthened by considering activities to serve people and communities of color in a manner similar to those in place for LMI people and communities. Redlining arose from the need to delineate "good" from "bad" along racial and ethnic lines, and they remain disproportionately impacted by predatory lending and a dearth of conventional lending options. Currently, there is no language in the CRA that explicitly prohibits discrimination along any lines other than income. In addition to race, it should include protections for other federally protected groups deal with lack of access to credit and investment, such as immigrants and people with disabilities. 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. 3) Clarify and Codify CRA-Qualifying Activities - PCRG convenes eight meetings a year between our members and dozens of small and large banks throughout the Pittsburgh region. These meetings, which we call Bankers Collaborative Councils, give leaders from community-based organizations a chance to meet with local bank leadership, and gives both groups an even playing field on which to discuss issues affecting Pittsburgh's community and economic development. Whenever the issue of CRA comes up, which has been often over the past two years, there is always consensus that CRA-qualifying activities should be consistently applied and transparent to both banks and the communities they invest in. We applaud the FRB's suggestion to provide banks and communities with a publicly available list of qualifying activities –Create a principles-based list that clarifies complicated concepts, a principles-based list would be shorter than the OCC's list of qualified CRA activities which would probably evolve into an ad hoc listing of numerous CRA activities that would end up deluging readers rather than enlightening them. A principles -based list would illustrate how the definition of community development (CD) would work in practice. The current definition of CD used by the Board and FDIC includes four components: affordable housing, economic development, community-support facilities (i.e., community services), and revitalization and stabilization activities. The agencies must develop a non-exhaustive list of qualified activities carefully and explain the list in order to avoid banks not engaging in activities that are not included in the list. The banks could develop a tendency to refrain from activities that are not on the list for fear of not receiving credit on CRA exams. This would repeat a behavior that some allege occurs today due to uncertainty as to what counts. We are also happy to see the potential inclusion of pre-approval – we believe that banks of all sizes would leap at the opportunity to use such a service and it would hopefully spur more and large investments into LMI communities by removing the doubt some banks have about their activity qualifying. However, we suggest a clear list of guiding principles rather than spelled-out activities. This would hopefully prevent a lot of negotiating back and forth between banks and regulators after the fact and prevent large deals from being favored over small. In addition, List of eligible activities should further explain application of impact scores, another important use of the list of CRA eligible activities could be to explain further impact scores and which activities would receive higher impact scores. We recommend for activities that would be responsive and innovative and therefore receive higher impact scores. Examples of this include affordable housing that helps integrate neighborhoods or green investments. A guide describing how banks can score well in the impact score section of the exam would help clarify how the qualitative criteria work and would encourage banks to engage in responsive and innovative activities. A principles-based list can be supplemented by an interactive database that is updated frequently and could include hundreds or thousands of examples of CD financing and services that counted on CRA exams. Another change we would like to see the FRB embrace would be to give community groups a greater hand in guiding CRA-qualifying investments. A pre-approval process should be available to all stakeholders, not just banks, the process should be open for community-based organizations as well as banks. Community-based organizations would be able to present their proposals for activities to banks with more confidence if they had assurances that particularly new or novel approaches would be CRA eligible. Likewise, banks would have more confidence in collaborating with community organizations if an activity had received pre-approval. A pre-approval process should be flexible and be able to accommodate questions about specific transactions as well as more general questions about CRA eligible activities. The receptiveness to specific proposals would facilitate new forms of financing or other innovations. 4) Modernize Assessment Areas - The CRA shows its age the most when looking at assessment areas, and we agree with both the OCC and FDIC that an overhaul is needed to address the impact of online banking. Not only are customers using their mobile phones for banking, but they might also keep deposits in a bank that isn't in their state or even completely digital, such as Ally Bank. Despite the growth of fintech and online banking, brick and mortar banking remains a vital industry in Southwestern Pennsylvania, with a healthy and diverse mix of banks – over two dozen in our county alone. Most bank lending in our area falls within current assessment area coverage – a finding echoed by your own research. Since the current procedures capture the majority of traditional bank lending, reforms should adopt an additive rather than subtractive approach to changing the regulation. In particular, reforms should focus on nontraditional and national banks that are making large volumes of loans using non-branch means, including brokers and the internet. The delineation of deposit- or lending-based assessment areas should not only apply to internet banks, but all large hybrid banks with significant lending or deposit-taking outside of areas with their branches. Banks must serve LMI and communities of color in the areas in which they engage in significant amount of business, not just where their branches are located. If they are not held accountable for making loans, investments, and services to underserved communities in areas beyond their branches, racial and income disparities in access to credit will widen. Collecting improved community development and deposit data Finally, the Fed should pursue its proposals to collect improved community development and deposit data. Community development and deposit data should be collected on a census tract level so that CRA exams can better target community development financing to areas of need. This will give local advocate the ability to review investment and follow the flow while offering better transparency. Conclusion The challenge and opportunity of CRA reform is successfully addressing the gaps in CRA coverage while not disturbing the core mechanisms of public input, transparency, and local accountability. We believe that increasing the effectiveness of CRA entails creating more opportunities for public input, improving the quality of data on CRA exams, evaluating bank lending, investment, and service to people and communities of color, and expanding assessment areas to consider non-branch lending. CRA has been vital to the revitalization of Pennsylvania's cities and towns, especially LMI communities of color. We strongly encourage the FRB to continue to listen to stakeholders as you move into the formal rulemaking process. We are pleased but believe more work can be done in refining Sincerely, Ernie Hogan Executive Director