Reading Cooperative Bank

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ANPR on Regulation BB Community Reinvestment Act

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The FRB has issued its ANPR which includes certain questions seeking feedback from supervised institutions. Abbreviated questions follow with Reading Cooperative Bank (RCB) feedback for any material question in consideration of RCB's current CRA posture and plans. If a question is immaterial or the writer had no opinion it has been excluded.

It appears based on our review of this overarching document that the Fed is trying to determine whether a quantitative approach to a very qualitative problem is possible. This helps avoid nuances of examiner discretion; however, could lead to significant regulatory challenges for community banks and large banks alike given the significant variances in business model and market from bank to bank.

Question 1 – has the Board captured the most important CRA modernization objections or are there additional objectives to be considered.

The provision of financial services that are not just credit related should be a consideration of the CRA. As we look at economic disparity, it is clear that provision of credit in a safe and sound manner assumes that the consumer has a banking relationship. The provision of safe and affordable deposit products in an LMI community to include financial education and access to credit during a period when branch footprints are being replaced with online products and services can be a barrier to access. Banks and credit unions should receive CRA credit for creating and maintaining banking activities in LMI communities where the proliferation of check cashing services and payday lending interrupts the progress of consumers on the road to being banked and becoming a first-time homebuyer.

Question 2 – consider how CRA history and purpose relate to the nation's current challenges - and what modifications and approaches would strengthen CRA implementation and address systemic inequity in credit access for minority individuals and communities.

To follow up on the response to Q1, Banks should be incentivized to expense capital and resources on the development of products and services that meet the needs of minority communities. Further banks should be encouraged to develop new more efficient products and services that could better outcomes in LMI markets and should be provided a safe harbor to test and learn when developing products intended to improve consumer outcomes. Banks should be provided the same safety net provided by the CFPB to fintech developers in the form of 'no action letters'.

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Question 3 – Given CRA purpose and its nexus with fair lending laws what changes to Reg BB would reaffirm the practice of ensuring that assessment areas do not reflect illegal discrimination and do not exclude LMI census tracts.

There is no incentive for banks to intentionally open offices in LMI census tracts; it is easier to open in communities that do not have LMI tracts. Further post pandemic with the move to remote access online and mobile products, there is no reason for a bank to take the risk of opening in an LMI community as even unintentional non-compliance with CRA could adversely affect a banks strategic planning.

Question 4 – no response

Question 5 – Should facility-based assessment area delineation requirement be tailored based on bank size requiring larger institutions to delineate counties and smaller banks delineate census tracts.

As more fintech firms purchase banks or seek banking charters, it is more important to address how a national platform can meet their CRA obligations. Must they only meet the CRA needs of the headquarters location, or beyond. And largest residential lenders like Quicken Loans or Rocket Mortgage take the largest share of home mortgages and refinances from community banks, who is ensuring that they are not redlining and what are their responsibilities to the communities where they are the largest lender.

Question 6 – Would facility-based assessment areas that surround LPO's support the objective of assessing CRA performance where banks conduct business?

Yes, and should include Quicken Loans, and Rocket Mortgage as well as they are the largest originator in most census tracts today. A bank or mortgage company should not be able to drop an LPO in an active mortgage market and avoid CRA requirements for that area where they are sourcing loans.

In addition as the pandemic has demonstrated that working from home is an option, many office locations may be closed. We would encourage the FRB to consider how the definition assessment area will be impacted when a bank's lending becomes remote and the bank's origination capacity and reach becomes limited to a lender's centers of influence, rather than geography.

Lastly, firms should be provided other means of discharging their CRA obligations outside of their market area, otherwise, a fintech hub like Salt Lake City would see excessive community investment while other less attractive metropolitan regions that are not fintech hubs would lack resources.

Question 7 – Should banks have the option of delineating assessment areas around deposit taking ATM's or should this remain a requirement.

ATM deployments and transactions have been on the decline as more transactions move to online, card and p2p with cash demands at ATM's dropping precipitously during COVID. Banks should not be required to treat a deposit taking ATM as a branch for assessment area purposes.

ATM’s have become costs centers rather than revenue drivers; you should avoid CRA being a deterrent to banks providing a ATM that provides consumers cash access in a community.

For Large Banks with Lending Areas

Question 8 – Should new deposit or lending based assessment areas be considered for internet banks or large banks with a significant amount of deposits or loans not in their market area.

There is a new bank business model emerging as cloud-based cores are under development referred to as a ‘sidecar bank’ or ‘bank in a box’ where a traditional bank foregoes physical branching into markets to focuses the future of its franchise on a new online bank paired build on the backbone of its traditional footprint. As more banks expand without physical locations, the Board should ascertain whether there will be a contraction in CRA investment in LMI and minority communities, and how to measure the level of unanchored loans and deposits.

Question 9 – Should nationwide assessments apply only to internet banks

No, if a bank is a nationwide bank and lends in every state and county and collects deposits from the same than they should be measured nationally whether internet based, nationally deposit taking or lending nationally.

Question 10 – How should retail lending and community development be evaluated with a nationwide measure.

As above, measuring based on main office would centralize CRA activities to certain metropolitan areas when the deposit gather benefits are from individual communities. Applying the Senator Proxmire quote here about taking deposit resource from one community and lending those proceeds elsewhere is effectively redlining. A national testing to ensure that generally deposit gathering is redeployed in credit approximately in the same geographic area is the goal of CRA and all players should be measured by that principle otherwise capital taken from LMI markets and deployed elsewhere is acceptable.

Any measure however needs to recognize that consumers make their own choices, but credit must be offered and be obtainable where the deposits are gathered.

Question 11 – Is it preferable to make the default approach the current framework and the option to opt into other methods.

Unsure

Question 12 – Should small retail banks have to opt into proposed framework to be evaluated under only the retail lending subtest.

We find the retail lending test to be a poor pass-fail metric especially for community banks in the age of mobile first and Quicken loans. The easiest loans in the market are being written in minutes by this national lender at the lowest rates and with the most aggressive sales teams with the best technology and data. The HMDA data incorporates all lenders in a market and judges a banks CRA performance based purely on a 12-month period as to whether or not the bank is adequately meeting the market. It would be highly unwise for any bank to opt for the lending test and put their organizations goals and objectives at right to CRA examination performance. The lending test is dependent on having a lender in the market at the right time to achieve the right mix of demographic originations so as not to meet the market average of all institutions originating volumes far in excess of community bank levels. We know this full well; with all that we do to be intentional about CRA and reaching out to underserved markets, we have run afoul of the lending test.

Question 13 – What level of assets should define a small bank for CRA examination purposes.

It was not clear that this proposal removes the Intermediate small bank model until I participated in a webinar with the FRB Boston. Knowing that then I would consider any bank with assets less than 2-2.5 Billion as a traditional branch model and a small bank for this new CRA benchmark. A traditional branch model today continues to be community centric and not regional in nature; further home price appreciation since the inception of CRA should correlate to the adjustment in bank asset size.

Question 14 – Is the retail lending screening appropriate for assessing the level of bank lending to LMI consumers

See Q 12 above. The metrics proposed presume that owner occupied housing and home ownership in census tracts are the same which they are not. In our current market we have one community with LMI census tracts. The owner-occupancy rate in our non-LMI tracts is around 98%, in the gateway city referenced it is closer to 35% therefore the qualified loans in the market are greatly diminished. As proposed, incorporating originated and purchased in the measure will exacerbate the bidding war for qualified CRA loans as has happened in the community development tax credit markets in recent years.

Question 15 – Are the retail lending distribution metrics appropriate for all banks or should they be adjusted for small banks?

There are so many more variables in small business lending that cannot be accounted for in the measure you assign. Consumer perception of a cooperative bank vs. a commercial bank can drive the volume of applications. A lender leaving one bank for another when you have only one small business lender. These may sound like anecdotes, but turnover and the lending team skill set in small business lending can have an extreme effect on volume and activity. This year we have a home run in PPP loans in LMI tracts; other years we have struggled to originate 10 C&I small business loans.

Question 16 – Should the presumption of satisfactory combine LMI categories when calculating retail lending categories

No, as noted above in both the experience of lending tests and our small business lending experience, examinations should consider whether the bank’s efforts should be measured if the metric is not achieved to ascertain if there are other factors generating an anomaly.

Question 17 – Is it preferable to retain the current approach of evaluating consumer lending without standardized data

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Yes, standardized data does not exist, therefore any change should be considered as available

Question 18 – Presumption of satisfactory is set too low for underserved communities by lenders.

That is a possibility, however, we cannot support the metrics as presented as average work for middle market and national organizations; small organizational nuances can impact outcomes in small organizations, so standards set by national players/data put community banks at risk.

Question 19 – Would the proposed presumption of satisfactory be appropriate to add clarity

No – it will put small institutions at risk as noted above.

Question 20 – Is setting the threshold at 65% or 70% appropriate

No opinion on %, do not support metric.

Question 21 – Will the presumption of satisfactory work for all categories of banks

Not for small banks as noted above.

Question 22 – Does the performance range compliment the presumption of satisfactory

Incorporating targeted performance context and qualitative aspects into the performance ranges approach makes the measure more palatable, however, the language used to describe the restrictions on qualitative measures limiting the examiners discretion to existing enhancements and partnerships evidence tunnel vision in application.

Question 23 – Should adjustments to recommended conclusions under the performance ranges be based on examiner judgement, a predetermined list, specific activities, etc.

This is a modernization act acknowledging that financial services are evolving. It should not be prescriptive

Question 24. In addition to branches and community and market measures how should examiners evaluate branch distribution.

Although appropriate to measure whether the overall industry is meeting the needs of all markets, the Board has appropriately allowed banks the independence to develop their own strategic plans and business models and expend capital resources as it sees fit. This new approach to review the full breadth of a banks delivery challenges by maintaining an emphasis on the importance of branches and non-branch delivery channels and assessing branches in banking deserts will have a significant impact on bank business models and may have an unintended consequence of acceleration in bank combinations. Further, bank decisions to meet CRA requirements could foil other bank's strategic plans to open in underserved markets resulting in duplicative efforts and underperforming branches.

Rather than approaching with the stick, use a carrot and incent banks to open in underserved markets and reward with Outstanding on examination reports until operating at break-even.

Question 26 – what are the appropriate data points for accessibility of delivery systems.

This is an example of modernization overreach. Data access through cores is a challenge for most banking organizations. Having regulators seeking additional data at a cost to the bank to prove negative is a costly proposition.

Question 27 – Consideration to banks for providing services to LMI individuals from branches in middle or upper income tracts.

This question presumes that only middle-income individuals live in Middle or Upper Income tracts. Although more difficult to ascertain, there is financial need an LMI individuals in these census tracts. Banks routinely work with elder services or the local food pantry or other community service organizations to help these individuals. This is CRA in middle class communities, its elders, and single parent households hanging on by a thread. Our bank administered a rent and mortgage assistance program for our town Q4 2020 for families affected by COVID. That is a community bank providing assistance where it is needed, and I think it is an example how a Bank in a middle class community can provide and go above and beyond for its community.

Question 28 – Quantitative measures for non-branch activity for CRA

Every bank business model, resources and capabilities are different and given my experience with the ABA core committee there is not access to standardized data sets for ancillary non-branch activity to establish quant metrics. Qualitative evaluation for other services is the best approach in this area.

Questions 29-32 – Providing deposit product data and usage at the assessment area level

All banks have access to branch level data and know the products that they offer in each. A bank should be able to articulate and defend why one bank product and service may or may not be available from market to market or what the justification would be for pricing differentiation by market.

Question 33 and 34 – Establishing major product levels at 15%

Using a bank level 15% product line breakpoint will give large banks a pass at the community level. Regardless of the level of balance sheet impact a product represents for the bank, access to credit for LMI communities is the intention of CRA whether it represents a major business line or not. The unintended consequences of a major product line approach would be to encourage institutions to exit business lines that may be necessary or needed in certain communities. See small dollar loans below – they will likely never represent a 15% concentration on a large banks balance sheet but are needed in LMI markets to avoid payday lending.

Queston 35 -36 – What standards should be used to evaluate small dollar consumer loans

As noted with the residential mortgage discussion, the number of loans originated rather than the dollar amount should be indicative of the consumer reach as it relates to meeting the credit needs of LMI communities. The demand for credit may be lower, but the frequency and access in an emergency or for small dollar purchases should be considered. The CRA as amended should not dissuade financial institutions from provided much needed credit when it does not represent a significant dollar concentration. The same applies for small business lending in LMI communities.

Question 37 – should Reg BB create a separate definition for small business lending

Changes to HMDA as required by the Dodd Frank Act for small business lending should be the same for CRA creating one standard for data collection for loans to small business to avoid onerous and redundant data collection and maintenance for bank examinations.

Question 38 – should CRA credit be provided for loans originated, or for both originations and purchases?

The intent of CRA is that banks meet the needs of the community, not buy into someone else's efforts. The acquisition of loans for a fee, should not have the same value or meet CRA obligations at the same level as doing the work at the community level.

Questions 39 – Are there investment alternatives into CDFI's that free up their capital to expand investment into LMI and minority communities.

A direct investment into a CDFI that has local resources to deploy should be an eligible CRA activity.

Question 40 & 41 – CRA credit for retail lending on Indian Reservations - No opinion

Questions 42-47 Community Development Financing

This is seen as generally the approach for larger organizations to meet their local expectations without being present. Their partnerships can move the dial on major housing and economic development projects, and they are rewarded with housing and low-income tax credits. Many of these projects are years to market, maybe a metric for delivery speed could improve outcomes and urgency.

Question 48-51 Should the Board use impact scores or other qualitative considerations in the Community Development Services Test. Numbers and hours and other standardized measures are being considered to include the number of service hours to the number of bank employees.

Subject to a second round of feedback, we would be supportive of a quantitative approach to a community development service test that would include board service, community outreach, financial literacy, and other bank activities (rural or not) as a percent of total employees to provide some level of certainly around meeting the service test.

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Question 52-55 – Should the board consider unsubsidized affordable housing

As noted previously most subsidize affordable housing projects can only be financed by large national banks and the competition for the same and the tax credits is fierce. Smaller unsubsidized projects by smaller developers' intent on meeting housing demand for families in their community at affordable rates should be included for CRA consideration.

Between the subsidized housing rental rates and the luxury unit rates, there is a lot of opportunity to encourage the development of workforce housing in gateway cities. Meeting developers who are taking a risk without federal subsidies could be a win-win for gateway cities that need investments to improve the quality of the housing stock.

Question 56 – How does the Board determine whether an activity is targeted to LMI individuals? Is geography an adequate proxy or should other proxies be used.

No response

Question 57-59 - Economic Development, Job Creation and Workforce Development

These questions are generally directed to efforts in the broader community, but we have developed a banking apprenticeship programs with our state DOL. It is important that our bank workforce reflect the community that we seek to serve. We would be supportive of CRA credit for apprenticeship and jobs programs in LMI communities.

Question 60-63 – large scale projects, climate resiliency and disaster preparedness

The expectations that are proposed are clearly aspirational and beyond the original intent of CRA

Question 64-65 – Should investment in a Women or Minority owned institution be a factor for an outstanding rating?

Any investor considering investing in any institution should consider the quality of management and financial performance of the organization. However, I also recognize that minority and women led companies receive less venture funding. The Board should develop a quantitative approach to identify organizations worthy of investment and reward the investors for investments that generate true measurable community benefit outcomes. Granting 'automatic outstanding credit' for a CDFI investment could incent the activity and not outcomes and may redirect resources from direct lending and services.

Questions 60-70 Potential designated areas of need and other underserved or economically distressed minority communities.

As noted above, there are fintech's and predominately online banks that have CRA obligations where these types of designations would be wholly appropriate to address credit deserts, however, these areas of needs should not create areas where a bank can abdicate its local responsibility to meet a need in another region.

Question 71-72 – would an illustrative, but non-exhaustive list of CRA eligible activities provide greater clarity to activities that would count for CRA purposes to include a preapproval process for eligible activities.

The sample list would be helpful, the preapproval process is likely non necessary as we would participate in the activity if we felt it was appropriate whether CRA credit was authorized or not. The preapproval might be more helpful on the product development front.

Question 73-77 CRA Strategic Plan

Our bank uses a CRA Strategic Plan to focus our efforts on what we determine to be our markets greatest financial need. We are still measured under the Intermediate bank approach but find the strategic plan approach to best serves our organization to focus on need and strategies, rather than transactions. We do not publish our plan, but we do engage stakeholders. We would encourage the Board to reconsider how they encourage banks to approach CRA; the carrot is always better than the stick. The questions about templates. illustrations and instructions presume wrongly that our strategies, models, and plans are alike.

Question 78 – Would eliminating limited scope assessment exams and use area weighted approach provide greater transparency give a more complete evaluation

Community Banks have no idea what you are talking about.

Question 79 – For a bank with multiple assessment areas in a state should the Board limit how high a rating can be if there is weakness in a one or more assessment areas.

Why would you do that? You have not given enough info to answer this question. It could be the sample size is not large enough or other factors have influenced the results. A lot of these questions presume that the sample size is large enough to answer this question.

Question 80 – No, one cannot conclude that best efforts have just not yielded results. Our organization has learned that it takes time to earn trust in communities, the exam should evaluate for effort.

Question 81 – Should large bank ratings be simplified

No, they should have the same 5 level rating as all other banks.

Questions 82-85 – Questions about transparency for large bank measures

Without intending to be flip – there is no transparency on how a large bank's satisfactory scores are achieved. This entire document delivery looking for feedback in the middle of a pandemic while PPP is consuming every waking hour – it is hard to answer these questions with a straight face while trying to figure out who thought it was a good idea to publish an ANPR when we are consumed with trying to help small businesses stay afloat.

Next time do not make us work so hard to find the questions in 4-point font imbedded in your document.

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Question 86 – should Services activities only augment satisfactory performance for small banks.

Absolutely not. With the advent of technology, check cashers, mobile loans etc., it is becoming very difficult for single branch credit unions and banks to get a consumer's attention. Service activities are an opportunity to determine if the organization is making the best efforts it can based on its resources against the competition.

Question 87 – Should violations of UDAAP and Military Lending etc. affect a CRA rating.

It depends on the violation and whether it was intentional or not.

Question 88 – Should an outstanding prompted by an investment in a Minority or Women owned financial institutions at least have been a satisfactory prior to investment.

Absolutely, no institution should absolve itself of its responsibilities by investing in another. Further, we believe an institution should be able to achieve an outstanding on its own merits not an investment elsewhere.

Question 89 – No opinion

Question 90 & 91 – Relying on SOD data for all banks etc.

SOD data is only as good as how a bank aggregates and we know banks reallocate deposits to branches.

Question 92 – Data collection for lending

Use the same source data as HMDA and the planned HMDA for small business, do not replicate with different nuances.

Question 93 - 96 – no response

Question 97 – is the burden associated with data collection and reporting justified

No – this increases the cost of data collection to satisfy new regulatory measurements and manual and human intervention required to generate materials for examination without p evidence that communities will benefit as compared to the current CRA approach I see nothing here that moves the dial to improve community outcomes by modernization.

Question 98 – Would collecting information in a board provided standardized template be an effective way of gathering consistent information.

If the Board were able to mandate every Core provider to provide at NO COST to the bank, the data you seek to better evaluate our service to our community, then we would be wholly supportive of the effort.

Question 99 – Collecting data service information.

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Would welcome reviewing the proposed collection efforts. Our bank has had an online approach through SharePoint, and although centralized, have a very difficult time getting staff members post volunteering to complete the required forms. The hours of community outreach is under-reported at every examination.