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February 16, 2021

Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW
Suite 3E-218
Washington, D.C. 20551

SUBJECT: Community Reinvestment Act Regulations
1723 (AF94) Reg BB - Community Reinvestment Act

To Whom It May Concern:

These comments are submitted on behalf of Evernorth, a nonprofit organization that raises equity capital for investment in Low-Income Housing Tax Credit ("Housing Credit") properties and makes investments and loans to businesses that improve the economic conditions for low income people.

Background. Evernorth operates in Vermont, New Hampshire and Maine where our leadership in affordable housing advocacy, connection with community organizations, and knowledge of local markets creates high quality, strategic community investments, especially in underserved rural markets. Collectively we represent about 60% of the regional 3-state Housing Credit market, and have raised and invested over $1 billion in nearly 14,000 affordable homes and over $1.25 million in other community and economic developments. While we provide equity financing to for-profit developers of Housing Credit properties, 80% of our work is with nonprofit affordable housing development. In addition to our work financing Housing Credit developments, we are involved in other community development activities that rely on bank participation incentivized by the Community Reinvestment Act ("CRA") including New Markets Tax Credit ("NMTC") investments.

Evernorth welcomes the opportunity to comment on the Federal Reserve Board's Advance Notice of Proposed Rulemaking (ANPR) regarding CRA, a law critically important to the continued success of the Housing Credit program which is by far the most important federal program for affordable housing development and preservation. Commercial banks, encouraged by CRA requirements, provide nearly all of the equity capital for the Housing Credit program in Maine, New Hampshire and Vermont, so any change in CRA that inadvertently reduces that demand could have a devastating impact on affordable housing development. Weakened CRA incentives will make it more difficult to develop higher-impact, complex projects that address the highest needs of communities, such has homelessness, special needs populations, and other smaller projects from community based organizations. Instead, it will favor larger, higher AMI, and simpler projects developed by large developers.

Our bank partners include intermediate small banks currently evaluated under the community development ("CD") test, large banks evaluated under the lending, investment and service tests, and wholesale and limited purpose banks evaluated under the CD test. Since we raise equity capital for the Housing Credit program, our focus is on the Investment and Community Development tests for CRA.

Working with commercial banks to arrange equity financing for affordable housing, we are aware of issues that arise which sometimes suggest a less than optimum application of the rules in ways that impede our business, cause a misallocation of capital among geographic areas, suggest inconsistent application of the rules, impose unnecessary burdens on banks, and create confusion about qualification for CRA credit. We support modifications to clarify and simplify the regulations, but those objectives should not outweigh the fundamental purpose of CRA which is to make sure that insured depository institutions serve the communities in which they are located. The fundamental objective of CRA reform should not be to remove burdens from commercial banks to make their lives easier even if that is an appropriate value. Any rewrite of CRA regulations must be focused on continuing to ensure banks serve LMI communities and more particularly it is important that the Board's proposal focus on increasing lending and investment in communities of color.

RESPONSE TO SELECTIVE QUESTIONS.

Question 2: *In considering how the CRA's history and purpose related to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?*

The Board should not overlook CRA's history as civil rights legislation meant to address the impacts of racial discrimination in banking. The CRA is rooted in addressing systemic inequity, and it is important that the Board's proposal focus on increasing lending and investment in communities of color.

Undoing decades of lending discrimination and racist practices in the financial services industry is difficult work and will not happen unless there is more accountability on access to capital and services for communities of color. Regulators must track and assess how banks are meeting the financial needs of communities of colors as a central purpose of CRA.

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?*

While we don't have a specific recommendation with respect to a threshold of activity, we do believe assessment areas based on the location of loan production offices would help expand the reach of CRA into rural and other areas of the country that have fewer bank resources. This will assist demand for investment in LIHTC properties that currently find it more difficult to attract such equity capital.

Question 13. *Is $750 million or $1 billion an appropriate asset threshold to distinguish between small and large retail banks? Or should this threshold be lower so that it is closer to the current small bank threshold of $326 million? Should the regulation contain an automatic mechanism for allowing that threshold to adjust with aggregate national inflation over time?*

We do not support an increase in the small bank threshold because we are concerned this will remove incentives for small banks to invest in the LIHTC program, especially undermining such activities in Vermont, New Hampshire and Maine and other rural states which do not have much of a large bank presence. There are 27 banks across VT, NH and ME which have deposit between $326M and $1B. Nineteen of these 27 banks have made CRA-qualified investments in Housing Credit properties to create affordable housing. If the small bank threshold is substantially increased, these banks may no longer invest in affordable housing and it could be considerably more difficult to raise equity capital in our region. This would result in higher credit prices which would make affordable housing development using the LIHTC more difficult and reduce the amount of housing for low and moderate income households in our 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?*

No, we are concerned that combining debt with equity will undermine bank incentives to make equity investments, especially since the volume of qualifying bank debt would be considerably greater than the volume of equity. In that situation, banks striving to meet their CRA obligations would find it easier to increase their debt activities rather than their investment activities; that is, a smaller percentage increase in debt volume with shorter duration and less complexity will yield the same CRA credit as a larger increase in investment volume, putting investments at a disadvantage. Separate buckets are vital.

Question 45. *Should the Board use local and national benchmarks in evaluating large bank community development financing performance to account for differences in community development needs and opportunities across assessment area and over time?*

Yes, we support using local and national measures in two different metrics. However, the *local metric* of investing should be the main focus of the local assessment area's CRA rating. Banks will have different concentrations of deposit-taking facilities between areas. The local deposit-taking metric is the most important, as that is the main focus of CRA and the community development test.

The fractions illustrated in the proposed regulations seem appropriate. We do not believe general commercial or bank lending products should be included in the numerator, only investments: equity investments, including equity equivalent activities.

CONCLUSION

In spite of generally shared criticisms of the current rules, the Community Reinvestment Act has fundamentally been a major success. It has increased the level of bank activity that serves LMI communities, and has been absolutely critical to the success of the Low-Income Housing Tax Credit program. The future of affordable housing in this country depends on CRA continuing to incentivize LIHTC lending and investment and we urge you to be cautious that potential changes to CRA not undermine that activity.

Thank you for your attention to our comments.

Nancy Owens
Co-President

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