FLACDC
FLORIDA ALLIANCE of COMMUNITY DEVELOPMENT CORPORATIONS

126 West Adams St., Suite 601
Jacksonville, FL 32202
T 904-598-2669
F 904-598-26710
www.flacdc.org

Date: 16 February 2021

To: Federal Reserve Board of Governors, regs.comments@federalreserve.gov

From: Theresa Chelikowsky, Executive Director, execdir@flacdc.org

Re: Regulation BB Docket No. R-1723 and RIN Number 7100-AF94

The Florida Alliance of Community Development Corporations, Inc. (Alliance) appreciates the opportunity to provide input on the modernization of the Community Reinvestment Act and the Boards open approach to this process.

The Alliance is a statewide organization that supports the work of over 80 nonprofit community-based organizations working to stabilize and revitalize Florida's lower wealth communities. A significant number of these nonprofit are small, with 40% having 5 or fewer employees; a majority can be considered medium-sized with 53% having 6-20 employees; and a smaller percentage (7%) are large with 21 to 50 or more employees. Budgets range from as small as $150,000 to over $7 million annually. All are universally pushed to deliver services during the best of times and more so now during this pandemic negative and economic fallout. All of them rely on partnerships with local financial institutions for project and program financing and grant and in-kind professional support.

We support the Board's efforts to modernize CRA and think it is heading in the right direction. There is a great deal in the ANPR so we have chosen to comment only on those areas that most impact our members and the Alliance. We hope you will find them useful to the conversation.

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

In our opinion, it does not. We believe a core objective of modernization should be to help banks clarify how to *identify* local community development needs. The ANPR puts a lot of time into the technical aspects of CRA examination and accountability, as it should. But it scarcely mentions a core part of CRA's mission - strengthening the relationship between a bank and the communities in which they do business.

Question 6. Would delineating facility-based assessment areas that surround LPOs support the policy objective of assessing CRA performance where banks conduct their banking business?

Yes. This will ensure the institutions are serving the entire community in which it does business and providing community development loans and investments in those communities.

Question 7. Should banks have the option of delineating assessment areas around deposit-taking ATMs or should this remain a requirement?

This should remain a requirement but could include a mechanism for the bank to 'opt out' of them, as opposed to giving them the option to 'opt in.' In other words, assessment areas around ATMs would be the assumed unless the bank provided a compelling reason to remove the assessment area.

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?

The delineation of new assessment areas should apply to both internet and hybrid banks and be primarily based on lending activity with an option for banks to delineate deposit-based assessment areas, depending on their business model.

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?

We are generally opposed to nationwide assessment areas as they seem to be inconsistent with the legislative intent of CRA to ensure banking and community development investment and services are available *locally*. There is a justifiable concern that the ability to designate a nationwide assessment area will allow banks to gravitate toward the easiest to serve markets where bank activity is likely already present, rather than the harder to serve.

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 believe there is a strong need to incentivize longer term, patient capital. However, we do not agree that treating debt and equity equally or 'combining' them into one numerator for some type of ratio is a good idea as it would dilute the incentive for banks to contribute this desperately needed capital. This approach may also disincentivize the use of grants which are also incredibly valuable to community organizations. The Alliance and its members have found that CRA is a strong incentive for banks to provide riskier capital (such as equity) and money that does not get a rate of return (grants).

Finally, dollar value of the investments (equity, grant, or debt) is not the only metric that should matter. Transaction volume (or units) should matter just as much as dollar value. Relying solely on dollar volume incentivizes large deals over small, even though smaller transactions may have more impact. Both should be part of any set of CD Financing Metrics.

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 areas and over time?

The concern we have here is that banks might meet the benchmark and then stop making investments. As stated previously, dollar value in and of itself does not necessarily tell the story of the investment portfolio's impact. Transaction volume (or units) should also be a consideration to retain incentives for banks to make smaller investments that may have as much or more impact. We would not like to see these national or local dollar-volume benchmark ratios as a singular or primary basis for an evaluation.

Question 48. Should the Board develop quantitative metrics for evaluating community development services? If so, what metrics should it consider?

Yes. The proposal balances a quantitative measurement (hours over employees) that will allow communities to compare banks by hours provided and the needs and services addressed by those hours. A strong qualitative component should assure those services are addressing a community need and making an impact on those needs.

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. CRA credit for bank volunteerism should be limited to activities unique to the skill sets relevant to banking and financial expertise, as the current regulation outlines, or using skills within the bank toward the improving the capacity of a community development entity or nonprofit. This part of the current regulation is working adequately and it builds trust and familiarity among bankers and community organizations.

Question 51. Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?

No. CRA credit for critical financial education (including housing counseling and debt counseling among other activities) *must be limited to LMI people and families*.

Question 57. What other options should the Board consider for revising the economic development definition to provide incentives for engaging in activity with smaller businesses and farms and/or minority-owned businesses?

Updating the definition of economic development in a way that acknowledges disparities is a step in the right direction toward addressing racial equity concerns. The Board should avoid changes that reduce the eligible activities that qualify under the economic development definition, as well as broadening the definition in ways that no longer seeks to secure job creation. Also, a definition that is limited to start-ups or recently formed businesses does not address the needs of small businesses that are not new but are looking for financing to expand. Also, shared ownership business enterprises (such as co-ops) that might not be small in size by their nature but do empower new entrepreneurship could also be considered.

Question 58. How could the Board establish clearer standards for economic development activities to "demonstrate LMI job creation, retention, or improvement"?

The types of governmental workforce development programs and CDFIs that the ANPR references regularly and successfully secure this type of data to support program outcomes. The Board should consult with these counterpart agencies, including SBA and CED program in the Department of Health and Human Services regarding clear job creation standards and definitions that are commonly used by community economic developers.

Question 60. Should the Board codify the types of activities that will be considered to help attract and retain existing and new residents and businesses? How should the Board ensure that these activities benefit LMI individuals and communities, as well as other underserved communities?

No. We fear that codifying a list of activity types will diminish potential community impact rather than invite it - a list created today cannot anticipate all of the needs or potential innovations of tomorrow. It may also result in justification for denials for new initiatives.

To ensure these activities benefit LMI individuals and communities in all instances, the intent of the initial activity and the anticipated impact should be documented as locally relevant. Just as it would defeat the purpose of CRA to bring employment opportunities to LMI areas residents to keep them at that same income level, it also defeats the purpose of the Act to incentivize investment to attract residents that is certain to cause displacement.

The Alliance supports a definition of "underserved" that includes communities of color.

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?

Standard definitions may make it easier to ascertain CRA creditworthiness but it could also serve to both limit activities in places with critically important – but non-listed – needs and also incentivize activities that are not critically needed in other places. We would rather see improved interaction and relationship building with local communities by banks would result in those geographies outlining what is essential in their community, making documentation easier, in the absence of a universal definition.

Question 62. Should the Board include disaster preparedness and climate resilience as qualifying activities in certain targeted geographies?

Yes, but the relevance of and need for these activities should be considered and weighted toward those with documented need.

Question 63. What types of activities should require association with a federal, state, local, or tribal government plan to demonstrate eligibility for the revitalization or stabilization of an area? What standards should apply for activities not requiring association with a federal, state, local, or tribal government plan?

Not all communities value investing in LMI or underserved areas. There should not be a requirement for investments to align with government planning, however, government plans and documentation can be helpful in evidencing a community need and help banks, examiners, and communities understand a project's potential impact.

Question 67. Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?

Florida has a number of very active CDFI's that support our members' work and we encourage banks to invest in and work with them. However, we would prefer that banks have a priority to serve CDFIs that *serve the bank's assessment areas first* and then a second, lower priority for working with CDFIs that work in the bank's non-assessment areas. Banks should be able to get full consideration for contributions to CDFIs investing in their assessment areas and partial consideration for investing in CDFIs where the contribution is invested outside of the bank's assessment areas.

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 - banks should be encouraged to invest in designated areas of need both in and outside of the bank's assessment areas. However, banks should receive full consideration for investments made in their assessment area and secondary consideration for investments make outside of their assessment area.

Question 70. In addition to the potential designated areas of need identified above, are there other areas that should be designated to encourage access to credit for underserved or economically distressed minority communities?

In general, we do support designating very hard to serve areas as places where banks can get CRA credit for investments outside of their assessment areas. There are several different methods currently at the federal level to designate these types of areas but they should have low wages, high unemployment, high poverty rates, areas of stagnant property values, and a lack of banking options for residents.

Question 71. Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?

We and our members have grave concerns about the creation of an illustrative, but non-exhaustive list of CRA eligible activities. The existence of a list could have the effect of limiting innovation among CRA bankers and investors and stifling locally needed projects.

We believe that a modern CRA that serves the law's original intent to end redlining and ensure local access to basic financial services should start with the question, "What does the community need?" So, we ask the board to consider regularly publishing a list of existing and/or publicly created needs assessments that banks can use to demonstrate they are serving a local community development need: e.g. a local jurisdiction's economic development plan, a nonprofit hospital's community health needs assessment, a state disaster recovery plan, recommendations from a community advisory board convened by the bank, etc. Such an approach would provide some additional certainty to banks that they would get credit for an investment, while satisfying CRA's legislative intent to serve local community development needs.

Question 74. How should banks demonstrate that they have had meaningful engagement with their community in developing their plan, and once the plan is completed?

Banks need to demonstrate that they have an information gathering system where they get input from people in their assessment areas on community needs. A community advisory board or similar outreach mechanism should meet periodically to ensure that a plan is created, followed and updated as needed.

Question 75. In providing greater flexibility for banks to delineate additional assessment areas through CRA strategic plans, are there new criteria that should be required to prevent redlining?

No, we don't think banks should have the ability to delineate additional assessment areas through strategic plans. Based on the questions previously outlined by the board, it seems as though the Fed is already considering flexibility with whole/partial county/jurisdiction assessment areas depending on bank size.

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, we support limiting bank overall ratings if a portion of their assessment areas need improvement even though the overall blended rating may be High Satisfactory or Outstanding. Systematically poor performance among some portion of a bank's assessment areas is the definition of redlining and the detrimental legacy and impact of redlining is too important to be lax on this question.

However, we don't want to create impediments for banks opening branches in hard to serve markets or in areas that might initially pull down their overall CRA score. Weighting expansion branches in LMI communities differently in their first few years to account for potentially less activity, could incentivize banks to open branches in LMI neighborhoods.

Question 85. Would the use of either the statewide community development financing metric or an impact score provide more transparency in the evaluation of activities outside of assessment areas? What options should the Board consider to consistently weight outside assessment area activities when deriving overall state or institution ratings for the Community Development Test?

The Alliance would endorse a statewide community development financing metric. One factor to consider in the development of a statewide impact score are investments in the activities of state and regional networks and intermediaries, such as the Alliance. These statewide entities play an integral role in CRA related community development activity by providing research, training, technical assistance, advocacy, and general promotion of the sector. Currently, there is a mismatch with banks in their footprint that have CRA assessment areas in some parts of the state but not others, creating artificial barriers between banks and statewide network organizations that have the same goal of meeting the credit, banking, and community development needs of LMI people and places. A clear statewide metric could offer some clarity.

Question 95. Are the community development financing data points proposed for collection and reporting appropriate? Should others be considered?

We would like to see the Board add the following two pieces of information for collection and reporting.

1) Banks should make public how they are *identifying* community needs and what it considers the community's needs to be. This would allow the public to make the connection between the identified needs and the bank's actions and investments.
2) As stated previously, the financing data points seem to weigh heavily, if not almost exclusively, on dollars invested. The 'units' (or number/volume of transactions) should also be taken into consideration, incentivizing banks to make impactful investments, not just large investments.

Question 96. Is collecting community development data at the loan or investment level and reporting that data at the county level or MSA level an appropriate way to gather and make information available to the public?

The Alliance would prefer that data be collected and made available using the census tract as the common reporting level for each institution. If this is done, the public will be able to see trends toward redlining and or the avoidance of certain parts of the city or populations. The public should also have access to the community need the transactions served and how the financial institutions demonstrated those needs.