the Network
Supportive Housing Network of NY

February 16, 2021
Federal Reserve Board
Via email: regs.comments@federalreserve.gov

Re: Comments on Federal Reserve CRA ANPR: Docket Number R-1723 and RIN Number 7100-AF94

To Whom It May Concern,

The Supportive Housing Network of New York ("The Network") writes this letter in response to the Federal Reserve Board ("Board")'s Advanced Notice of Proposed Rulemaking (ANPR) proposal to reform the Community Reinvestment Act ("CRA") rules. We appreciate the Board's interest in strengthening the CRA so that banks can better meet the credit needs of low-income communities and communities of color.

The Network represents over 200 nonprofit members who operate 52,000 units of supportive housing statewide. Supportive housing is permanent affordable housing with embedded social services for eligible individuals and families, people who are experiencing chronic homelessness and living with disabilities and/or other barriers to maintaining stable housing. The Network also has over 100 corporate members including tax credit syndicators, banks, and other financial institutions. Our primary concern is to ensure ongoing investment by financial institutions in supportive housing development in New York State and investment in mission-driven, community-based organizations with proven track records.

Supportive housing was created in New York in the 1980's as a response to the then just-emerging homelessness crisis, the result of deinstitutionalization of people living with mental illness coupled with extensive demolition of very affordable housing. Originally, faith-based and community-based nonprofit organizations assembled financing to purchase, rehabilitate and provide services in this new model of housing from any available source, mostly small government subsidies. Over time, as the model was proven to end chronic homelessness[1], save taxpayer resources[2] and improve property values, federal, state and local funding emerged to support the model's proliferation. Included in these funding streams was the Low Income Housing Tax Credit program established in 1986, which promoted private investment in housing for homeless and low income people. The model also evolved from one that often served only formerly homeless disabled people to one that mixes supportive housing apartments for formerly homeless people with affordable housing for low-income individuals and families. Over time, the supportive housing industry became more sophisticated. Bank lending, grants, and investment, which were largely driven by CRA requirements, were critical to its expansion.

---

[1] United States Interagency Council on Homelessness. *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* (2015). https://www.usich.gov/resources/uploads/asset_library/USICH_OpeningDoors_Amendment2015_FINAL.pdf. Accessed 9 March 2020, p. 41.
[2] NYC DOHMH. "NY/NY III Supportive Housing Evaluation: Interim Utilization and Cost Analysis (2013)." Downloaded from https://shnny.org/research/new-york-new-york-iii-supportive-housing-evaluation.

While the 52,000 units created represent tremendous success, the need for supportive housing in New York persists. In New York City, over 57,000 people sleep in NYC shelters each night,[3] over 3,500 people are unsheltered and sleeping on the streets or subways,[4] and there is a deficit of over 500,000 homes that are affordable to low and extremely low income households.[5] Statewide, there are almost 92,000 homeless individuals, approximately 4,000 of which are unsheltered,[6] and there is a deficit of nearly 700,000 homes that are affordable to low and extremely low income households.[7]

We appreciate that the Board refused to join the Office of the Comptroller of the Currency ("OCC") in finalizing their rules. The OCC ignored public comments and rushed through a harmful CRA rule which will lead to less reinvestment, and to reinvestment that is less responsive to community needs. We commend the Board for putting forth a more thoughtful, data driven process that identifies important objectives, such as: more effectively meeting the needs of LMI communities and addressing inequities in access to credit, promoting community engagement and recognizing that CRA and fair lending responsibilities are mutually reinforcing.

We believe that CRA reform must incorporate the following key principles. The comments below reflect these principles.

1. **Quality, Quantity, and Impact are important components of CRA.**
   - The community development finance test must evaluate loans and investments separately.
   - The CRA should never have been color-blind and must have an affirmative obligation to serve people and communities of color with responsive, impactful activities.
   - Downgrade for displacement: There must be downgrades for harmful behavior, including patterns of lending that lead to harassment, displacement and harm.
2. **Community Input and Community Needs must be at the heart of the CRA**
   - Qualifying investments should be in assets that have a demonstrated positive impact for community and economic development.
   - Financial institutions should be incentivized to form meaningful relationships with community-based organizations.
3. **Assessment areas must Maintain place-based Local Obligations**
   - Maintain assessment areas where banks have branches/ATMs, and expand to other areas where banks also do considerable business, such as lending and taking deposits.

---

[3] Coalition for the Homeless website. *Number of People in NYC Shelters Each Night.* http://www.coalitionforthehomeless.org/the-catastrophe-of-homelessness/facts-about-homelessness/. Accessed 13 Feb. 2021.

[4] *NYC HOPE 2020 Results*. City of New York Website hope-2020-results.pdf (nyc.gov) Accessed 13 Feb. 2021.

[5] *NYC Housing: Problem.* City of New York website. https://www1.nyc.gov/site/housing/problem/problem.page. Accessed 13 Feb. 2021.

[6] The U.S. Department of Housing and Urban Development. *The 2019 Annual Homeless Assessment Report (AHAR) to Congress*. https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf. Accessed 13 Feb. 2021, p. 13.

[7] National Low Income Housing Coalition. *The Gap: A Shortage of Affordable Homes* (2020). THE GAP: The Affordable Housing Gap Analysis 2016 (nlihc.org). Accessed 13 Feb. 2021. Appendix A.

(1) PRIORITY #1: Evaluate banks on the quantity, quality and impact of their activities within the local communities they serve. With an affirmative obligation to serve low- and moderate-income people and communities and people and communities of color.

The Network supports combining the comprehensive community development finance test. However, within that test, regulators must evaluate loans and investments separately to maintain the requirement to make investments. The high concentration of banks and a strong CRA obligation through the investment test have ensured banks compete for and make Low Income Housing Tax Credit (LIHTC) investments in New York City and elsewhere. These can be complicated deals and provide a critical source of financing for affordable housing. The CRA must incentivize LIHTC and a broad range of investments.

The CRA has historically channeled investment to mission-driven nonprofits and their affordable and supportive housing projects through the LIHTC program. LIHTC is our nation's most productive tool for developing and preserving affordable and supportive housing, and its success is closely tied to CRA regulations. Industry leading tax credit accounting firm Novogradac estimates that 85% of LIHTC investment is motivated by CRA compliance.[8] Starting from the early 1990s, banks have been the primary investors in supportive housing in New York State through their purchase of LIHTC. Since so many financial institutions have assessment areas in New York City, CRA activity has ensured that demand for LIHTC has remained strong, providing much needed equity for affordable and supportive housing development.

Without a distinct investment test, the value of LIHTC investments will almost surely diminish as banks compete less for investment opportunities. This will reduce the amount of equity available to develop supportive and affordable housing. Without the continued investment by banks in supportive housing development, both through LIHTC investment and direct investment, the housing and homelessness crises would be much more severe than they currently are. It is essential that the proposed CRA amendments do not decrease investment in housing New Yorkers with the greatest barriers to accessing affordable housing.

Incorporate a qualitative assessment to determine if the rating should stay the same, upgrade or downgrade. Banks deserve credit for financing supportive housing, deep and permanent affordability, subsidized affordable housing, and loans to mission-driven developers. They also should get credit for committing and adhering to landlord and tenant best practices and anti-displacement practices. Also, if a bank has a pattern of lending to landlords who harass or displace tenants, and/or keep buildings in poor conditions, that merits a downgrade.

Other best practices include:

- Appropriate vetting of borrowers. Banks should use all available resources to lend to responsible landlords who are dedicated to maintaining the stock of rent-regulated and affordable housing and respecting the rights of tenants in these and all buildings they finance. This includes

[8] Novogradac, Michael. "Proposed CRA Regulations Greeted with Great Concern: Aggregate Balance Sheet Ratio Could Overwhelm Other Changes." https://www.novoco.com/periodicals/articles/proposed-cra-regulations-greeted-great-concern-aggregate-balance-sheet-ratio-could-overwhelm-other. Published 2 January 2020.

consulting news reports and public lists; monitoring loan conditions, lawsuits, violations, and fines; and consulting with tenants and tenant organizers.

- Responding to issues in buildings: Create a formal process to work with tenants and organizers to respond when problems arise in buildings they finance.

Banks should also get credit for transferring distressed properties to responsible mission driven developers, rather than selling the debt to the highest bidder that is only seeking to make a profit. This will be especially important post COVID.

We support both a quantity and quality metric. For both loans and investments, dollars are important, but equally important is the impact of that activity. The Board must be careful not to drive banks to make the largest, simplest deals possible to meet a quantitative metric. The quality score should offer more nuance than just 1, 2, or 3, and should prioritize impactful activities as determined by local communities, and with a strong emphasis on mission-driven nonprofit entities. Many of these activities may be small in comparison to some other activities, especially those done by for-profit entities or as part of a large-scale development, but the dollars will have a larger impact. Further, under this proposed approach, banks can do high volumes of investment in some areas, while excluding others entirely.

Suggestions for impactful metrics:

- Housing developed by non-profit developers; deeply affordable housing for homeless populations, and very low-income people living below 20%, 30%, and 40% AMI; permanent affordability that doesn't expire in 30-40 years; supportive housing.
- Support for quality jobs, and not simply low-wage jobs with no path to middle class, particularly for underserved populations.
- Additional activities with mission-driven entities and community-based organizations for community services, such as childcare, healthcare, and financial education
- Support for organizing and policy work that will benefit LMI and BIPOC populations.
- As in all sections**, banks should be downgraded for harm or displacement**. This includes higher-cost products and practices; loans to problematic developers; business with entities that foster displacement; and more. Strong community engagement throughout the process can mitigate this.

The Network supports the Board's framework for evaluating branches in regards to access to banking outlined in the ANPR. In addition to factors in the ANPR, regulators need to strongly consider branching in communities of color; branches in unbanked and underbanked neighborhoods (at the census tract or neighborhood level), access for immigrants and efforts to bring people into mainstream banking.
A local focus requires banks to assess local community needs and be responsive to those needs, which is essential to impactful community and economic development, especially in areas where supportive housing residences are located. The Network believes that removing the emphasis of CRA requirements from bank activities in the LMI geographies surrounding branches and deposit-taking ATMs, or in other targeted geographic areas, would be problematic and result in those areas no longer receiving appropriate focus from banks.

(2) <u>PRIORITY #2: Community Input and Community Needs must be at the heart of the CRA: Strong community needs assessment and community engagement should inform how examiners evaluate how well banks are meeting those needs.</u>

We support the Board's goal for CRA reform to promote community engagement, however there is little detail in the ANPR to support that goal. Community input must be woven into all aspects of the CRA exam process. Currently it is very passive, relying upon community members to submit comments. Few people know about this process, and likely not the people who are most impacted by a bank's CRA activities, good or bad. In addition to demographic and statistical data, regulators must do proactive outreach and consult low-income and BIPOC communities and non-profit housing providers in these areas to identify local needs and evaluate how well banks are meeting those needs.

Supportive housing has historically been developed, owned and operated by nonprofits. For decades, these organizations have remained faithful to their missions to provide housing and social services to the most vulnerable, no matter the challenges or changing housing market conditions. The outcome-oriented operation of supportive housing by nonprofits ensures that individuals and families that have experienced poverty, trauma and homelessness maintain their housing over the long-term. By supporting and empowering nonprofit organizations and their input, CRA activities are more likely to support lasting, beneficial products and services for low-income communities. Continued investment in affordable housing projects and communication with mission-driven nonprofits with strong track records of success and proven outcomes for LMI communities must be strongly encouraged.

(3) <u>PRIORITY #3: Assessment areas must Maintain Place-based, Local Obligations</u>

We appreciate the ANPR maintains branch-based assessment areas. ATM-based areas should remain obligatory, not optional. We oppose national assessment areas for internet banks. We appreciate that the proposal seeks to offer direct capital to underserved areas outside of traditional assessment areas, but as it stands today, low-income, BIPOC neighborhoods are persistently neglected within assessment areas, as is the case in New York City. Too often, when investment comes in, it is for larger scale developments that fuel displacement, rather than for bank branches, or other activities local communities need. The CRA must maintain and strengthen a place-based, local commitment to partnering with and meeting the needs of the populations the CRA was meant to serve: LMI people and communities and people and communities of color.

New York is currently in the midst of dual homelessness and housing crises; the CRA must maintain the current place-based commitment banks have to local communities. Though technology and the growth of many banks in geographic reach have radically altered the way that many access banking services, tying assessment to historically underserved geographic areas is still of the utmost importance, especially in an economically diverse city like NYC. While a modernization of assessment areas is important to capture the influence of institutions that primarily operate online, losing the local focus would have a negative impact on CD activities in LMI communities. The housing, community development, and economic development needs in NYC are great and are not likely to abate any time soon.

Conclusion

Now is the time to ensure we have a strong CRA that makes certain banks truly meet the needs of our communities. Banks should also be held accountable for problematic practices of entities with which they do business with, such as through formal referrals and partnerships.

theNetwork
Supportive Housing Network of NY

The Network supports a proposal that will incentivize high quality, responsive activities that lift historically redlined people – people of color and low- and moderate-income people – out of poverty and help reduce wealth and income disparities, spurred by displacement and irresponsible lending.

Low-income communities of color deserve equal access to affordable, accessible banking and credit; safe, affordable housing; quality jobs; and access to services that enable them to thrive. The CRA must ensure they do.

Thank you for this opportunity to comment.

Sincerely,

Laura D. Mascuch
Executive Director
Supportive Housing Network of New York