Consortium for Citizens with Disabilities

February 16, 2021

Submitted via email

RE: Comments by the Consortium for Citizens with Disabilities Financial Security and Poverty Taskforce on FEDERAL RESERVE SYSTEM 12 CFR Part 228 [Regulation BB; Docket No. R–1723] RIN 7100–AF94 Community Reinvestment Act
AGENCY: Board of Governors of the Federal Reserve System.
ACTION: Advance notice of proposed rulemaking; request for comment.

To Whom It May Concern:

Thank you for the opportunity to comment on the Federal Reserve Board's Advanced Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA). The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

Thirty years after the passage of the Americans with Disabilities Act (ADA), people with disabilities remain more economically vulnerable than ever before and are among America's poorest citizens. Data from the U.S. Census Bureau Community Population Survey documents significant disparities in poverty rate, employment status and net worth for people with disabilities when compared to people without disabilities. Moreover, the groups with the highest poverty rates in our country include individuals who live at the intersection of race and disability, including Black, Brown and Indigenous individuals with disabilities.

It is important to understand the context of people with disabilities in America at the time the Community Reinvestment Act was signed into law some 40 years ago.

• Children with disabilities, based on a new federal law, were first allowed to attend their neighborhood schools, ending historical patterns of exclusion.
• Individuals with disabilities, who had committed no crime, were incarcerated in state and regional institutions. There was no articulated or constitutionally-protected right to humane care and treatment.
• There was no discussion or expectation of community life and participation in the workforce or the financial mainstream.

Thirty years ago, bipartisan support resulted in the passage of the Americans with Disabilities Act, signed by President George Herbert Walker Bush and societal norms changed over time. Today, great advances such as the following have been made:

• Record numbers of students with disabilities are graduating high school and move on to higher education.
• For the past 30 month's pre-COVID, the Bureau of Labor Statistics (BLS) has consistently reported an increase in workforce participation for individuals with disabilities. Still, two-thirds of working-age adults are not participants in the labor force. CRA investment in workforce development could change this picture.
• With the passage of the Achieving a Better Life Experience Act (ABLE), some eight million individuals with disabilities and their families can establish an ABLE account through one of 42 state programs and, for the first time, become savers and investors in a choice of strategies to grow their contributions tax-free, without fear of losing eligibility for diverse public benefits, including healthcare, Supplemental Security Income (SSI) payments, housing and food assistance. It is expected that, over the next 10 years, assets under management will grow to more than $2 billion. However, less than one percent of eligible individuals and families have so far opened ABLE tax-advantaged savings accounts. The banking system could do more to attract interest and investment in ABLE accounts.

CRA modernization is long overdue for some 22 million working-age Americans with disabilities and one in five families with a member with a disability, including individuals over the age of 65. It is important to understand the population of people with disabilities, their likelihood to be LMI and their significant economic challenges.

Unfortunately, people with disabilities are more likely than others to be LMI as evidenced by the fact that more than 60 percent of adults with disabilities are considered LMI[1]. Additionally, because people with disabilities are more likely than those without disabilities to have low- or moderate-incomes, LMI neighborhoods have a high prevalence of people with disabilities. Give this reality, we have identified the following five concerns with the ANPR:

1.) The ANPR does not require banks to disaggregate reporting data by gender/race/ethnicity or disability thereby failing to compel banks to address the historical lack of access and equitable treatment of sub-populations of the LMI community. Bank regulators have a moral imperative to act on the racism, sexism and ableism that permeate societal attitudes and that intersect and overlap in ways that exacerbate discrimination and poverty. In order to achieve true economic growth, the CRA needs to join the growing chorus of communities calling for policies that explicitly addresses equity and justice. Without specifically identifying people with disabilities as a part of LMI populations, banks will likely overlook the specific needs of this population.

2.) Performance measurement and metrics must draw specific attention to the

1 Have household incomes less than 80 percent of the median household income.

economic needs of LMI people with disabilities and impact performance scores. No bank should receive an outstanding rating without both the Community Development and Retail Services Subtests demonstrating a direct response to identified community needs of LMI people with disabilities. It is past time that retail banking products and services and community development financing become responsive to the needs of LMI individuals with disabilities.

3.) The ANPR discusses the applicability of other relevant laws, but does not mention the Americans with Disabilities Act. In our view, it is a massive oversight that the ANPR fails to mention the applicability of the Americans with Disabilities Act which requires that banks ensure equal access to services. By excluding the Americans with Disabilities Act in the final rule, we would fail to remind banks of their legal responsibility to address the needs of this often-overlooked population.

4.) A qualifying illustrative list of CRA activities should be included in the final rule that contains specific examples of LMI people with disabilities benefitting from investments, lending and/or service activities. This list should be developed with input from the disability community.

5.) Banks should receive CRA credit for investment in workforce development activities including apprenticeships, internships, on-the-job skills training and skill certifications that are vitally important to many LMI populations, including those with disabilities. In light of millions of job losses due to COVID-19, an emphasis on workforce development activities deserves specific attention for CRA credit.

Development of a new CRA rule presents an opportunity to meaningfully address the needs of people with disabilities. Unless the challenges of LMI people with disabilities are intentionally addressed, people with disabilities will be unintentionally excluded from the financial system and be overlooked as a target of community development activities. CRA regulatory changes should help financial institutions work cooperatively with the disability community to meet the intent of the Americans with Disabilities Act. Please contact Cyrus Huncharek (cyrus.huncharek@ndrn.org) should you have any questions or concerns with these comments.

Sincerely,

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