NATIONAL ASSOCIATION FOR LATINO COMMUNITY ASSET BUILDERS

February 16, 2021

Ann E. Misback, Secretary, Board of Governors of the Federal Reserve
20th Street and Constitution Avenue NW, Washington, DC 20551

Re: Docket Number R-1723 and RIN Number 7100-AF94

Dear Ms. Misback:

We write in response to the Federal Reserve's October 19, 2020 Advance Notice of Proposed Rulemaking (ANPR) regarding the modernization of the Community Reinvestment Act (CRA). As we recover from the COVID-19 pandemic, which has disproportionately negatively impacted Latinos, and move into a post-pandemic economic recovery, a CRA that upholds its statutory intent of meeting the credit needs of low- and moderate-income people (LMI) and communities of color is more important than ever. NALCAB appreciates the opportunity to submit comments to strengthen this law.

NALCAB – National Association for Latino Community Asset Builders represents and serves a geographically and ethnically diverse group of more than 120 non-profit community development and asset-building organizations that are anchor institutions in our nation's Latino communities. Members of the NALCAB Network are real estate developers, business lenders, economic development corporations, credit unions, and consumer counseling agencies, operating in 40 states, Puerto Rico and Washington, DC.

Since its enactment in 1977 the CRA has been critical to ensuring depository institutions meet the credit needs of LMI people in the communities they serve. It was a landmark response to redlining practices that targeted communities of color and unfortunately, similar practices that still continue today. Particularly in light of the disproportionately negative impact the COVID-19 pandemic has had on Latinos, modernization of the CRA that maintains its focus on LMI and communities of color is critical to a just economic recovery. For example, the Stanford Latino Entrepreneurship Initiative found that Latino-owned businesses are more likely to be in industries most negatively affected by the pandemic and are less likely to be able to access relief. Latina-owned businesses have been the worst off, with 30% of surveyed businesses closing by September 2020, the most of any surveyed demographic group.[i]

The ANPR put forth by the Federal Reserve includes new performance measures, possible changes to the structure of CRA exams, expansion of the geographical areas covered by CRA exams and increased clarity on the activities that count for CRA credit.

NALCAB provides recommendations throughout our comments for ways the CRA can better address the needs of communities of color. We offer the following feedback:

CRA Exams

(1) NALCAB agrees with the National Community Reinvestment Coalition (NCRC) and the Opportunity Finance Network (OFN) that, considering CRA's history and purpose, the CRA can be strengthened in addressing ongoing systemic inequity in credit access for minority individuals and communities by explicitly including race data and making this data publicly available. CRA exams could include performance measures assessing lending, investing, branching and servicing to people of color and communities of color. In addition, CRA exams can include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas (geographical areas on CRA exams). The Federal Reserve could also provide CRA consideration for lending and investing in majority-minority census tracts outside of assessment areas just as the Federal Reserve is considering for Indian reservations and other underserved areas.

(2) CRA exams must reflect the requirement that banks engage in efforts to help communities of color and LMI neighborhoods. Different exam structures should be maintained for banks of various asset sizes and business models. We agree with the Federal Reserve's proposal to maintain separate exams that would explicitly scrutinize and rate the number and percent of bank branches and deposit products offered in LMI communities and recommend that communities of color also be explicitly evaluated. The CRA is a civil rights law to help address systemic inequity; it is important that modernization focus on increasing lending and investment in communities of color.

(1, 73, and 74) We appreciate the Federal Reserve's commitment to community engagement and agree that clarity and transparency are critical to promoting partnerships among banks and community organizations to undertake community development projects that they know will count on CRA exams. To ensure that CRA ratings are more fully informed by public input, the CRA rating criteria should include a scoring sub-element that rates how a bank engages the public, including organizations that serve LMI communities in their assessment areas. Banks should be required to detail their outreach to the community and local stakeholders. Regarding strategic plans, banks should be required to publish them on their websites and the regulatory agency website.

(87) Violations of fair lending and/or adherence to consumer protection laws by banks must be considered in their CRA ratings. Beyond failing to lend equitably banks have participated in predatory and harmful practices that targeted LMI and communities of color. Ratings must be lower for banks that have a track record of failing to lend to specific racial or ethnic demographics in the markets they serve.

Assessment Areas and Defining Local Communities for CRA Evaluations

A bank's assessment area must be made publicly available at the beginning of each new CRA exam cycle. The list should include the census tracts and branches for each of the assessment areas. If a bank's assessment area changes during the upcoming CRA exam due to a merger or some other event, the amended and updated list should be made publicly available. This transparency will help ensure that LMI and minority tracts are being sufficiently included.

Numerous data sources link assessment areas to positive economic outcomes, including the Joint Center for Housing Studies at Harvard University, which found that banks made a higher percentage of their home purchase loans to LMI borrowers and census tracts in their assessment areas than outside of their assessment areas between 1993 and 2000. In addition, rejection rates for LMI applications were 8 percentage points lower in assessment areas than outside of assessment areas.[ii] For these reasons, NALCAB supports the Federal Reserve's proposal to expand assessment areas and disagrees with eliminating geographic assessment areas. Bank branches are still important to LMI communities - a 2014 study by a UC Berkeley economist found that when merging banks closed a branch, the number of small business loans made in the tract fell by 13% for more than eight years afterward. The supply of mortgages fell as well. The contraction in both types of lending was concentrated in low-income and majority-minority areas.[iii]

Regardless of a bank's assessment area, banks should have the flexibility to make up to 10% of their approved CRA lending and investments to benefit LMI people that reside in persistent poverty census tracts located anywhere in the United States or the territories. Between 2012 and 2017, over 40% of rural counties lost bank branches. According to a 2019 report from the Federal Reserve, the most affected rural counties had higher poverty rates, lower median incomes, and a higher share of their population who were African American (and to a smaller extent, Latino) relative to all rural counties. The CRA can help begin to end this investment drought by encouraging lenders to serve residents of persistent poverty census tracts.[iv]

(67) CRA consideration should extend to certified CDFIs operating anywhere. By their very mission, CDFIs are effective partners in servicing traditionally underserved populations. Supporting all CDFIs supports important asset-building and community development services to more people that have been left out or ignored by traditional financial institutions. We support the Federal Reserve's proposal for banks to receive CRA consideration for loans, investments, or services in conjunction with CDFIs nationwide. CDFIs are critical to delivering capital to businesses and communities that need it most. Incentivizing banks to invest in mission lenders that are best equipped to reach and serve the unbanked and underbanked will ensure a more equitable recovery.

(68 and 69) NALCAB supports the Federal Reserve's efforts to expand geographic areas of needs, set clear criteria for defining these areas and the inclusion of colonias. Colonias are unincorporated communities in Texas, New Mexico, Arizona and California that lack adequate water access, sewer systems, decent housing or a combination of all three. A 2015 study by the Federal Reserve Bank of Dallas reported that more than 500,000 people lived in close to 2,300 colonias in the State of Texas alone.[v] The U.S. Department of Housing and Urban Development and the border states have recognized the extraordinary needs in colonia communities and developed infrastructure investment and housing programs that take into account the unique challenges faced by these unincorporated communities. While many of

these programs have proven to be effective, the comparatively small scale of investment means that there has been limited progress in improving some of the worst living conditions in the United States. Including colonias in CRA eligible areas of needs would help increase investment in proven programs that address their infrastructure and community development needs.

Eligible Activities

(71) The Federal Reserve asks if an illustrative, but non-exhaustive, list of CRA eligible activities would provide greater clarity on activities that count for CRA credit, how such a list could be developed and published and how frequently it should be amended. Regulators can provide greater clarity on CRA eligible activities by publishing a best practices guide that is informed by community- and consumer-serving organizations and obtaining public input on past CRA activities that have received credit and resulted in significant impacts for LMI people and communities of color.

(72) In terms of pre-approval, new or innovative CRA investments proposed by banks should be evaluated and receive preapproval as "pilot" activities through a process that includes public input and data on the impact of the investment. In order to receive future credit for similar investments, the bank should present actual results and data on the impact of the "pilot" investment.

(50) The ANPR asks if volunteer activities unrelated to the provision of financial services, or those without a primary purpose of community development should receive CRA consideration for banks in rural assessment areas. Community development services currently qualify under one of the four prongs; affordable housing; community services; economic development; and revitalization and stabilization. Banks should be encouraged to provide financial services and community development in rural assessment areas. The Federal Reserve is considering making an exception for rural areas and allowing activities such as volunteering in homeless shelters because it reasons that opportunities for offering community development are limited in rural areas. However, the need for community development, investment, and financial education in rural areas is great, especially in areas that have experienced bank closures. Rural banking clients are facing increased costs and reduced convenience in accessing financial services, and the effects are worse for small business owners, people with lower incomes and/or less reliable access to transportation, and the elderly. The same 2019 Federal Reserve report mentioned above found that this creates "a community-level effect that goes beyond the effects on particular individuals." The CRA must create an imperative to better serve these communities, rather than allow lenders to cut corners.[vi]

(51) CRA credit for financial education and counseling must remain focused on LMI consumers. If CRA credit is given for financial education that broadly serves the entire community, banks could significantly reduce their efforts to direct this important service to LMI people who need it the most because they have been disproportionately left out of the

financial mainstream. According to Freddie Mac, "the homeownership rate of Hispanics has remained over 20 percentage points below the rate for Whites. This homeownership gap has narrowed in recent years, but very slowly," and 3 of those percentage points "cannot be traced to population characteristics such as age and income." What created these 3 percentage points, accounting for 13% of the Latino/White homeownership gap, is unclear, although the report suggests discrimination and the wealth gap may be the most likely contenders. The CRA must address these concerns- as the Urban Institute reports, "Over the next 25 years, the Hispanic population will make up more than half of all net new households in the United States. Hispanic Americans will drive future housing demand and, by extension, general economic growth in this country."[vii][viii]

(60) While unemployment has risen for everyone in the COVID-19 labor market, the unemployment rate is even higher and rose faster for Latino workers.[ix] Workforce development that prepares workers for jobs in both large and small businesses is valuable. There is a strong association between training and employment outcomes. These activities should be included in the economic development definition. This approach would include federal, state, local, or tribal economic development initiatives that include provisions for creating or improving access to jobs, job training, or workforce development for LMI people.

(62) The ANPR asks if disaster preparedness and climate resilience should be included as qualifying activities in certain targeted geographies. Disaster preparedness and climate resilience should be activities that qualify across all the targeted geographical areas. Linda A. Lacewell, Superintendent of the New York State Department of Financial Services, explained the need for CRA inclusion of climate resiliency efforts in her recent industry letter to banking institutions in New York State: "Although no one is spared from the impact of climate change, climate change disproportionally affects… LMI communities which tend to be more susceptible to flooding and heat waves, risks exacerbated by climate change. Compounding the problem, LMI communities also have fewer resources to recover from natural disasters which are, in turn, more frequent and severe due to climate change. Further, LMI communities tend to have higher percentages of minority populations, and therefore these effects of climate change are disproportionately borne by people of color."[x]

(65) Minority Depository Institutions (MDI) and women-owned institutions should receive CRA credit for investing in other MDIs and women-owned institutions. We agree with the ANPR's proposal that eligibility be limited to activities that demonstrate meaningful investment in the business, such as staff training, hiring new staff, opening new branches in minority neighborhoods, or expanding products and services.

(57) In considering other options the Board should consider for revising the economic development definition to provide incentives for engaging in activity with smaller businesses and minority-owned businesses, it is important to strengthen technical assistance to intermediaries and nonprofit organizations that mentor and support small businesses. Nearly

a year after the pandemic began, small businesses are still struggling to keep their doors open. The Federal Reserve Bank of New York reports that the number of active business owners fell by 22% from February to April 2020, the largest drop on record. Latino-owned businesses fell by 32%.[xi] NALCAB agrees with the proposal in the ANPR that these community development activities count if they support minority-owned small businesses.

Conclusion

The Federal Reserve has stated that it hopes its ANPR provides a foundation for the three agencies, the Federal Reserve, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Cooperation (FDIC) to converge on a consistent approach for the modernization of the CRA that has broad input and support from stakeholders. NALCAB believes interagency cooperation is important for a strong CRA, and to avoid inconsistency in implementation NALCAB has urged the OCC rescind its final CRA rule.

Strengthening the CRA is a critical component of an equitable economic recovery. Revisions to CRA regulations must put the credit needs of low- and moderate-income people and communities of color first. We believe that this proposal serves as an important starting point for an interagency rulemaking that will strengthen the CRA and take a critical step towards more financially resilient communities and an equitable recovery.

Thank you,

Clarinda Landeros

Clarinda Landeros

Director of Public Policy

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[i] https://www.gsb.stanford.edu/faculty-research/publications/state-latino-entrepreneurship-2020
[ii] http://www.jchs.harvard.edu/research/publications/25th-anniversary-community-reinvestment-act-access-capital-evolving-financial
[iii] 10143 (mit.edu)
[iv] https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf
[v] lascolonias.pdf (dallasfed.org)
[vi]http://www.freddiemac.com/research/insight/20170627_hispanic_homeownership_gap.page

[viii] https://www.urban.org/urban-wire/mapping-hispanic-homeownership-gap
[ix] https://www.epi.org/publication/latinx-workers-covid/
[x] https://www.dfs.ny.gov/industry_guidance/industry_letters/il20210209_cra_consideration

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[xi] DoubleJeopardy_COVID19andBlackOwnedBusinesses (newyorkfed.org)