**February 16, 2021**

**Comments to the Federal Reserve Board**
**20th Street and Constitution Avenue N.W.**
**Washington, DC 20551**

**Community Reinvestment Act Proposed Rulemaking**
**Docket (R-1723)**
**RIN numbers (7100-AF94)**

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The Center for NYC Neighborhoods 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 in our state and throughout the country.

## About the Center for NYC Neighborhoods

The Center promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners, the Center meets the diverse needs of homeowners throughout New York state by offering free, high-quality housing services. Since our founding in 2008, our network has assisted more than 200,000 homeowners. Over 60% of our clients are people of color, with an average household income of $38K. We administer over $60 million in direct grants to community-based partners. Our lending programs have provided over $68 million in interest-free loans to low- and moderate-income homeowners throughout New York state to help them pay mortgage arrears, get an affordable home loan modification, or otherwise avert foreclosure.

## The Benefits of the Community Reinvestment Act in New York

The Community Reinvestment Act (CRA) has been an important force for revitalizing and building wealth in low- and moderate-income neighborhoods throughout New York state. Passed in 1977 as a response to redlining, the CRA has leveraged trillions of dollars of bank investments nationwide and has resulted in tangible successes for New York homeowners and their neighborhoods.

***Affordable, High-Quality Lending Products for LMI Families***

CRA imposes obligations on covered banks to lend in low- and moderate-income neighborhoods in the cities where they operate. The National Community Reinvestment Coalition's review of existing research on CRA lending has found that CRA lending obligations promote safe and affordable mortgage loans for borrowers. One study by the San Francisco Federal Reserve Bank found that loans made by banks in their CRA assessment areas were half as likely to result in foreclosure as loans issued by independent mortgage companies. Another study found that neighborhoods with a larger share of lending by CRA-covered banks than by independent mortgage companies had lower delinquency rates. Yet another study confirmed that low- and moderate-income borrowers were more likely to receive high-cost loans from independent mortgage companies than from CRA-covered banks.[1]

Finally, a study of Philadelphia census tracts before and after changes to their CRA eligibility found that the loss of CRA eligibility status led to a decrease of 10 to 20 percent in the number of home purchase mortgage originations by lenders regulated by CRA.[2] According to the study, these effects are more pronounced among minority borrowers.

***Local Investments in Affordable and Sustainable Homeownership***

The CRA also encourages financial institutions to invest in the communities they serve. At the Center for NYC Neighborhoods, we have seen firsthand the positive impacts of grants and affordable financing from CRA-covered institutions. Here are several New York City programs that receive and are strengthened by CRA funding:

- ***Housing Counseling:*** CRA grants are one of the most important sources of grant funding for housing counseling in New York. Housing counseling programs at community-based nonprofits help families navigate the homeownership journey, whether they are seeking to buy a home, make necessary repairs, or are struggling to afford their mortgage payments. Housing counseling programs are an invaluable service for New York families, and the CRA is an essential tool for their continued success.
- ***Community Restoration Program****:* The Community Restoration Fund Program (CRP), of which the Center is a partner, is an innovative initiative that allows New York City to purchase distressed mortgage notes from the FHA, Fannie Mae, and Freddie Mac. The CRP was created to reclaim distressed community assets from mortgage lenders and servicers in order to preserve affordable homeownership and rental opportunities throughout New York City. It is the first of its kind in the nation.
- ***Interboro Community Land Trust:*** The Center is a proud founding member of the Interboro Community Land Trust, New York City's first community land trust dedicated to providing permanently affordable homeownership opportunities for New York's low- and moderate-income families. Interboro received $1 million in grant funding from Citi Community Development to help accelerate completion of Interboro's first 250 units by supporting land acquisition and affordable housing development.

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[1] NCRC, The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy, June 2016. Available at:
https://ncrc.org/the-community-reinvestment-act-vital-for-neighborhoods-the-country-and-the-economy/

[2] Ding, Lei, and Leonard I. Nakamura, "'Don't Know What You Got Till It's Gone' – The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market," Federal Reserve Bank of Philadelphia Working Paper No. 17-15, June 19, 2017.
(https://www.phil.frb.org/-/media/research-and-data/publications/working-papers/2017/wp17-15.pdf)

## Key Principles for CRA Reform

- Quality, quantity, and impact are important components of CRA.
  - 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
- Community input and community needs must be at the heart of the CRA.
- 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
  - Any assessment area reform must increase the size of the pie. Maintaining or increasing quality reinvestment in high need "CRA hot spots" and directing capital to under-banked regions is a necessity.

**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 CRA should never have been color blind.**

*1-4 Family Lending*

We support the board's proposal to evaluate borrower and distribution metrics and a separate qualitative analysis. In this case, the metrics should have the higher weight, with the possibility of additional credit for responsive products and practices and downgrades for problematic behavior. The exam must evaluate the data across multiple data points, ensuring that it prioritizes lower-income people and people of color to achieve and maintain homeownership. Low-income and moderate-income [LMI] people and communities should be evaluated separately; lending by race/ethnicity; originations vs purchases (prioritize originations); investor vs owner-occupied (prioritize owner-occupied); loan types separately and connect to local needs.

New York City is 22% Black, yet Black borrowers received only a total of 7.6% of home purchase loans in 2016. Likewise, Hispanics comprise 29% of New Yorkers, but received just 7.9% of loans.[3] Recognizing our history of racial discrimination in home lending and community investment, the CRA should require financial institutions to assume an affirmative obligation to serve people of color and their communities.

Currently, banks receive CRA lending credit for originating mortgage loans in LMI neighborhoods, regardless of the income of the borrower. Unfortunately, in neighborhoods with rapidly rising prices, CRA can reward lenders for making loans to higher-income newcomers to a neighborhood, which can help fuel gentrification. Home Mortgage Disclosure Act data shows that this is already occurring in New

[3] Association for Neighborhood and Housing Development, Black and Latino Borrowers Locked Out of Homeownership in New York City, New Data and Analysis Shows, June 2018. Available at: https://anhd.org/report/black-and-latino-borrowers-locked-out-homeownership-new-york-city-new-data-and-analysis-shows

York City's LMI census tracts, where higher income homeowners are much likely to receive a refinance loan than LMI homeowners. Given New York's affordable housing crisis and its gaping racial wealth gap, the CRA should promote lending to LMI borrowers, as opposed to any borrower in an LMI neighborhood.

The qualitative analysis would evaluate the products and practices the bank has implemented to achieve metrics in a meaningful way. Banks should be evaluated on their COVID response, such as forbearance with no lump sums, loan modifications, and loan forgiveness.

Regulators can evaluate how well banks support homeownership in other areas of the CRA as well, such as financing the construction or preservation of affordable homeownership, including limited equity coops; grants for housing counseling and financial education, added staff to provide financial education or homebuyer classes; and foreclosure prevention services.

*Community Development Finance*
We support a comprehensive community development finance test. However, within that test, regulators must evaluate loans and investments separately to uphold 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 LIHTC investments in New York City, and that they make them 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, including NMTC, EQ2, deposits, and more. Grants are also a critical component of the investment test and help community organizations continue and strengthen the community development work they do.

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.

For example:

- Housing developed by mission driven 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; and more.
- Quality employment opportunities for underserved populations with a pathway to economic stability, not just low-wage jobs.
- Grants, loans, and investments in mission-driven CDFIs and MDIs that support and lend to very small businesses and BIPOC-owned businesses, as well as others that lend to further affordable housing and equitable economic development.
- Grants to community-based organizations that provide financial education, housing counseling, tenant support, and assistance for small businesses.

- Grants, loans, and investments in single-family climate adaptation, such as solar and energy retrofits, flood retrofits for disaster resiliency, and other projects that aim to help LMI homeowners adapt to climate change and become more resilient to disasters caused by climate change. The New York State Department of Financial Services recently announced it will give credit for these activities under the New York State Community Reinvestment Act[4]
- Additional activities with mission-driven entities and community-based organizations for community services like 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.

**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. We support the Board's goal for CRA reform to promote community engagement, but 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 research centered on low-income and BIPOC communities to identify local needs and evaluate how well banks are meeting those needs.

**PRIORITY #3: Assessment areas must maintain place-based, local obligations**

We appreciate that the ANPR maintains branch-based assessment areas. ATM-based areas should remain obligatory, not optional. We oppose national assessment areas for internet banks. And for other banks, we oppose any area larger than an MSA. We appreciate that the proposal seeks to 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, affordable bank accounts, home and small business loans, 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.

**Conclusion**

Now is the time to ensure we have a strong CRA that helps hold banks accountable and truly meets the needs of our communities. We urge you to use this as an opportunity to develop an interagency approach so that all banks are held to the same standards. The CRA should not allow 98% of banks to

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[4] New York State Department of Financial Services,
https://www.dfs.ny.gov/industry_guidance/industry_letters/il20210209_cra_consideration

pass their exam in the face of persistent disparities, unmet banking and credit needs, and lending patterns that foster displacement. Banks should be evaluated at the holding company level and be held accountable for their affiliates, lending practices, and all entities with which they do business (referrals, partnerships, etc). At a minimum, CRA Strategic Plan requirements would be strengthened by requiring more transparency regarding planning, groups outreached to, comments submitted, and bank responses.

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

Thank you for this opportunity to comment.
Sincerely,
Julian St. Patrick Clayton