vermont affordable housing coalition

February 16, 2021

Submitted via email to:
regs.comments@federalreserve.gov

Ann E. Misback, Secretary
Board of Governors
Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, D.C. 20551

Re: Community Reinvestment Act Regulation BB, Docket No. R-1723, RIN 7100-AF94

Dear Ms. Misback:

I am writing on behalf of the Vermont Affordable Housing Coalition (VAHC). Thank you for the opportunity to comment on this Advance Notice of proposed Rulemaking (ANPR) concerning the modernization of the Federal Reserve Board's Community Reinvestment Act (CRA) regulatory and supervisory framework. We strongly support the objective outlined in the ANPR "to more effectively meet the needs of low- and moderate-income (LMI) communities and address inequities in credit access" and would encourage the Board to regulate CRA in such a way as to create and preserve affordable housing, especially for underserved populations, including Black, Indigenous and other People of Color.

Founded in 1985, the Coalition is a statewide membership organization dedicated to ensuring that all Vermonters have safe, decent, and affordable housing, especially those of color, our seniors, low-income and people with disabilities. Our 90-plus organizational members, representing nonprofit housing developers, homeless shelters and service providers, community action agencies, public housing authorities, and public and private funders, among others, provide housing and services to tens of thousands of LMI Vermonters. Our membership includes agencies that administer and deliver services through major federal housing and anti-poverty programs in Vermont, including the federal Low Income Housing Tax Credit (LIHTC). Throughout the Coalition's history, our members have made extensive use of federal resources and CRA investments to help serve low- and moderate-income and vulnerable Vermonters.

The Community Reinvestment Act (CRA) was enacted in 1977 to prevent redlining and to encourage banks to help meet the credit needs of all segments of their communities, including low- and moderate-income neighborhoods and individuals. The CRA extended and clarified the long-standing expectation that banks will serve the convenience and needs of their local communities.

Over the years, CRA has given banks the incentive to engage with many of our members. VAHC and our members have been able to leverage this engagement to improve Vermont neighborhoods and has been an enormously successful public policy. Our members have made extensive use of LIHTC equity to create affordable rental housing, investing over $1 billion in nearly 14,000 affordable homes and over $1.25 million in other community and economic developments. These investments would not have been possible without strong regulations implementing CRA.

We urge the Federal Reserve Board to:

1. Recognize the original intent of the CRA and ongoing racial inequality by including race as an explicit factor for CRA evaluations;
2. Ensure that CRA modernization encourages continued investment in effective community development activities;
3. Encourage increased investment in communities that are currently underserved, especially rural areas;
4. Explicitly require that CRA lending and investment does not lead to displacement of the very people it is meant to help; and
5. Ensure that CRA regulation makes both bank performance and government enforcement more transparent and predictable.

Over the past 40 years, CRA has helped bring affordable housing, small businesses, jobs, and banking services to underserved communities. Any modernization must build on this successful record. We believe that the current proposed rulemaking and stated objectives of the Board address these concerns well. We strongly support the Board's particular emphasis on addressing historical inequities impacting minority communities and individuals. Given the persistence of inequities stemming from historic discrimination, we would support *increased* requirements for reinvestment and support in LMI and minority communities by regulated institutions.

The scale of the challenge to provide safe, decent and affordable housing to all in America highlights the importance of successfully completing CRA modernization. Even before COVID-19 caused millions of Americans to lose their jobs or suffer a dramatic loss of income, the nation's housing markets were failing to provide affordable options to low- and moderate-income (LMI) households, especially for people of color:

- *Homeownership:* LMI households increasingly struggled to become homeowners in a market that isn't producing housing they can afford. 2019 represented the eighth consecutive year that the median home sale price increased faster than household income while the for-sale home inventory stood at its lowest level since 1982.[1] This supply-demand mismatch must be addressed. It threatens to become a structural, permanent obstacle to the American Dream for millions.
- *Rental Housing:* The average renter in Vermont earns just $13.81 an hour but must earn at least $23.36 an hour to afford a two-bedroom home at fair market rent.[2] In 2019, nationally, over 17.6 million households nationwide paid more than half their income in rent, an increase of 5.6 million since 2001.[3] This reflects nearly two decades of stagnation in LMI household income coupled with the loss of millions of units from affordable rental housing stock. Federal rental assistance has not kept pace with the ratio of eligible households to those receiving assistance increasing from 1-in-3 to 1-in-5 over this period.[4]
- *Homelessness:* Following a period of double-digit declines, rates of veterans, long-term and family homelessness have been on the rise. HUD's 2019 point-in-time count of 568,000 people experiencing, the largest spike among three consecutive annual increases.[5] In Vermont, the pandemic has more than doubled the number of citizens living without permanent housing, making plain the structural deficiencies that we know have existed all along. If Vermont's experience is any indication, the nationwide number of Americans living without housing has grown exponentially as well.

[1] Harvard Joint Center for Housing Studies, State of the Nation's Housing 2020, 11
[2] https://reports.nlihc.org/oor
[3] Ibid., 34
[4] https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#US
[5] Harvard Joint Center on Housing Studies, 36

Responses to Select Questions:

Question 2: *In considering how the CRA's history and purpose related to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?*

The Board should not overlook CRA's history as civil rights legislation meant to address the impacts of racial discrimination in banking. The CRA is rooted in addressing systemic inequity, and it is important that the Board's proposal focus on increasing lending and investment in communities of color.

Undoing decades of lending discrimination and racist practices in the financial services industry is difficult work and will not happen unless there is more accountability on access to capital and services for communities of color. Regulators must track and assess how banks are meeting the financial needs of communities of colors as a central purpose of CRA.

Question 13: *Is $750 million or $1 billion an appropriate asset threshold to distinguish between small and large retail banks? Or should this threshold be lower so that it is closer to the current small bank threshold of $326 million? Should the regulation contain an automatic mechanism for allowing that threshold to adjust with aggregate national inflation over time?*

We do not support an increase in the small bank threshold because we are concerned this will remove incentives for small banks to invest in the LIHTC program, especially undermining such activities in Vermont and other rural states which do not have much of a large bank presence. There are 27 banks across rural northern New England, which have deposit between $326M and $1B. Nineteen of these 27 banks have made CRA-qualified investments in LIHTC properties to create affordable housing. If the small bank threshold is substantially increased, these banks may no longer invest in affordable housing and it could be considerably more difficult to raise equity capital in our region. This would result in higher credit prices which would make affordable housing development using the LIHTC more difficult and reduce the amount of housing for low and moderate income households in our communities.

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 strongly oppose the combination of loans and investments under a single CD Financing Subtest as proposed, because the elimination of the separate investment test would remove a significant driver of bank interest in equity investments in LMI and minority communities. Equity investments tend to be more complex, require greater due diligence, and carry greater risk than loans, and so without a separate investment test, we anticipate that many banks will choose to meet the CD Financing Subtest only or mostly with lending activity.

Equity delivered through LIHTC is absolutely crucial for the financial viability of nearly all affordable housing development and rehabilitation in LMI and minority communities. The CRA's current investment test has been shown to be the greatest single driver of the value of LIHTC equity investment. Removing the investment test would significantly impair affordable housing efforts across the country, and we urge the Board to reinstate the test as it refines its proposed updates to the CRA regime.

Question 52: *Should the Board include for CRA consideration subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing? How should unsubsidized affordable housing be defined?*

We strongly support the Board's statement that as it "…contemplates revisions to Regulation BB, an important goal is to ensure strong incentives for banks to provide community development loans and investments for the creation and preservation of affordable housing."

We support the inclusion of the financing of preservation or production of unsubsidized affordable housing within the definition of eligible affordable housing, but only to the extent such activities limit displacement and support long-term affordability. These protections should include limits on annual rent increases for residents as well commitments to affordability which extend at least ten years from the date of the activity in question. Providing CRA credit for activities which do not provide these protections would exacerbate the loss of affordability within the unsubsidized affordable inventory – it would be preferable not to provide credit for unsubsidized affordable housing at all.

<u>Question 53</u>: *What data and calculations should the Board use to determine rental affordability? How should the Board determine affordability for single-family developments by for-profit entities?*

We encourage the Board to continue to align its definitions of affordability with other major affordable rental housing programs, by using the "30% of income" standard and 80% of local Area Median Income (AMI), adjusted for household size, as the threshold for low income. As we note below, the evaluation of affordable housing activities should also be sensitive to the degree of affordability and the term of affordability protections. We would like to see additional CRA incentives given to investment in housing that is affordable to very low-income (<50% of AMI) and extremely low-income (<30% of AMI) people.

<u>Question 54</u>: *Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?*

We urge the Board to provide strong incentives for activities which support affordability for lower-income households (including "very low income" households below 50% AMI, and "extremely low income" households below 30% of AMI), the population where the nation's affordable housing crisis is most severe. As noted above, we encourage the Board to consider a multiplier which adjusts the dollar value of an eligible activity based on affordability, so that more deeply affordable units are worth more than 80% AMI units.

<u>Question 71</u>: *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 would strongly support the development and maintenance of an illustrative list of CRA eligible activities, which would provide greater clarity for community development actors, banks, and other stakeholders. Such a resource should be updated as frequently as possible to add new kinds of activities which may emerge, with regular opportunities for public comment on both existing and proposed eligible activities.

As the nation continues to confront the economic uncertainty brought on by the pandemic the role of CRA investments in vulnerable communities is now more important than ever.

Thank you for your consideration of our comments on this advance notice of proposed rulemaking.

On behalf of the VAHC Steering Committee,

Cindy Reid

Cindy Reid, Chair