Tuesday, February 16, 2021

By electronic submission to regs.comments@federalreserve.gov

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

Re: <u>Comment Letter on Advanced Notice of Proposed Rulemaking Regarding the Community Reinvestment Act Docket No. R-1723 and RIN 7100-AF94</u>

To Whom it May Concern:

PosiGen, Solar Energy Industries Association (SEIA), and Vote Solar ("Clean Energy Equity Partners") appreciate the opportunity to provide comments to the Board of Governors in response to the Advance Notice of Proposed Rulemaking (ANPR) released by the Federal Reserve System titled the "Community Reinvestment Act." Our organizations appreciate that the ANPR is considering a range of activities that could be viewed as particularly responsive to the affordable housing needs of low- and moderate-income (LMI) communities. Our organizations are encouraged by the proposed rules and offer the following comments on the ANPR. We believe if our recommendations are adopted you will create a stronger more modern Community Reinvestment Act (CRA).

Below, our comments respond to four questions posed in the ANPR and offer additional suggestions to help the CRA more effectively meet the credit lending needs of LMI communities:

A. The Community Reinvestment Act should be expanded to include increased community resilience as an objective.

The CRA is designed to encourage regulated banking institutions to help meet the credit needs of the communities in which they operate, including LMI neighborhoods.[1] The original intent of the CRA was to "address economic challenges in predominantly minority urban neighborhoods that had suffered from decades of disinvestment and other inequities."[2] Congress passed the CRA along with two other complementary civil rights laws (Equal Credit Opportunity Act and the Fair Housing Act).

[1] "*Advanced Notice of Proposed Rulemaking Community Reinvestment Act*." 85 Fed. Reg. 66410 (proposed Sept. 21, 2020) (to be codified at 12 C.F.R. pt. 228).
[2] *Id*. at 66412. Banks were engaged in the practice of redlining, where they were allowed to refuse loans to African-Americans and other minorities.

While the CRA makes no explicit mention of race, these two complementary laws are designed to fill in those gaps and explicitly focus on prohibiting race based discrimination. The CRA has been updated several times since its enactment, and today in the wake of COVID-19, racial injustice, and a widening wealth gap updates to the CRA are critical.

We propose adding as an objective to the CRA "**Increased Community Resilience**," because it encourages a financial system that is flexible and able to meet the immediate lending needs of the LMI communities it serves. In reference to Question 1:

> *Question 1. Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?*[3]

The Clean Energy Equity Partners believe that in order to fully modernize the CRA increased community resilience should be an additional objective. "Community resilience is a measure of the sustained ability of a community to utilize available resources to respond to, withstand, and recover from adverse situations."[4] An evaluation of statutory purpose and history of the CRA shows that the intent is to address persistent systemic inequity in the financial system for LMI individuals and communities.[5] For many LMI communities investments in resilience is an afterthought, for which the CRA can correct. LMI households carry dramatically higher energy burdens then the average household,[6] and many families often have to make tradeoffs on paying for essential bills or food. Households like this are not resilient and struggle to find ways to keep up or get ahead. By adding increased community resilience as an objective financial institutions are given the green light to offer services and investments that build long term resilience for communities.

Financial institutions need to be responsive to the needs of communities, and provide access to more financial resources to help them to become more resilient. Lending and investments for clean energy and energy-efficiency upgrades fit squarely within the goal of the CRA. The ability of LMI communities to participate in clean energy or receive energy-efficiency upgrades is met with numerous financial barriers that keep them locked out. In reference to question 54:

> *Question 54. Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?*[7]

The ANPR correctly includes renewable energy facilities, energy-efficiency upgrades or water conservation upgrades as certain activities that would be responsive to affordable housing needs.[8]

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[3] *Id*. at 66411.
[4] "*Community Resilience.*" The RAND Corporation, (2021) https://www.rand.org/topics/community-resilience.html.
[5] ANPR 85 Fed. Reg. 66412.
[6] "*How High Are Household Energy Burdens? An Assessment of National and Metropolitan Energy Burden Across the United States.*" Ariel Drehobl, Lauren Ross, and Roxana Ayala, American Council for an Energy-Efficient Economy. (2020), https://www.aceee.org/research-report/u2006. Energy burden is defined as the portion of income that is spent on energy bills.
[7] ANPR 85 Fed. Reg. 66445.
[8] *Id*.

The inclusion of these services simultaneously help to improve living conditions for individuals and increase community resilience. For individual households, access to lending and investments for solar can help reduce energy burden and improve health. At the community level investments in renewable energy facilities can provide power to critical community facilities like hospitals, shelters, and public safety buildings with electricity when the grid is down during natural disasters. Furthermore, we encourage that these additional measures are stand-alone in LMI households and communities. The ability to purchase and access these measures creates direct economic benefit to households and communities.

By including increased community resilience as an objective of the CRA you signal to financial institutions that lending, investments, and other products can be used to support communities immediately and long term. Increased community resilience modernizes the CRA because financial institutions can make lending decisions that help LMI communities withstand adverse situations.

B. Considering the history and purpose of the Community Reinvestment Act environmental justice communities should be designated areas of need.

The CRA should allow banks to expand their geographic areas for community development activities and expand to include environmental justice communities as a designated area of need. In reference to Question 69:

> *Question 69. Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are also in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?*[9]

Yes, the Board should expand the geographic area for community development activities and include designated areas of need. To be more responsive to community lending needs the designation of an assessment area must change over time, and financial institutions must be able to monitor their assessment areas and make adjustments. The ANPR correctly suggests that "areas could be removed from the list if they receive substantial amounts of community development financing, and others may be added that have pressing needs."[10] Furthermore if the geographic area for community development expands the CRA must still ensure that it is targeting lending and investment services at LMI communities. In reference to Question 70:

> *Question 70. In addition to the potential designated areas of need identified above, are there other areas that should be designated to encourage access to credit for underserved or economically distressed minority communities?*[11]

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[9] ANPR 85 Fed. Reg. 66451.
[10] ANPR 85 Fed. Reg. 66451.
[11] *Id.*

The Board should consider adding **environmental justice communities** as a potential designated area of need. "Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation and enforcement of environmental laws, regulations and policies."[12] The addition of environmental justice communities allows financial institutions to have greater reach and fill in gaps where needed. In line with the statutory purpose of the CRA, designations of environmental justice communities can be done in a race-neutral manner, and target LMI communities. The Illinois Solar All Program adopted environmental justice criteria and some examples they used of conditions that identify these communities include:

- **Exposure indicators:** based on measurements of different types of pollution that people may face.
- **Environmental effects indicators:** this is based on the location of toxic chemicals in or near communities.
- **Sensitive population indicators:** measures the number of people in a community who may be more severely affected by pollution because of their age or health.
- **Socioeconomic factor indicators:** these are conditions that may increase a person's stress or make healthy living difficult and cause them to be more sensitive to pollution's effects like affordable housing.[13]

To assist financial institutions in identifying environmental justice communities the Environmental Protection Agency (EPA) created the Environmental Justice Screening and Mapping Tool (EJSCREEN).[14] The EJSCREEN was created to address the need for a single nationally consistent tool to help understand environmental and demographic characteristics of locations throughout the U.S.[15] If environmental justice communities are added as designated areas of need, financial institutions can utilize this tool to identify which communities in their geographic area meet this criteria and can benefit from increased lending and investment opportunities.

Financial institutions must think about lending and investment opportunities that address the multiple harms LMI communities are exposed to. Environmental justice communities are areas of need because they are disproportionately exposed to environmental hazards and their communities are more likely to contain substandard infrastructure (housing, transportation, and water). When you layer on this additional criteria it allows you to further hone in on serving the neediest communities and meet their lending and investment needs in a holistic manner.

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[12] "*Environmental Justice: Learn About Environmental Justice.*" Environmental Protection Agency (2021), https://www.epa.gov/environmentaljustice/learn-about-environmental-justice.
[13] "*Environmental Justice Communities*." Illinois Solar For All, (2021) https://www.illinoissfa.com/environmental-justice-communities/.
[14] "*What is EJSCREEN?*" Environmental Protection Agency (2021), https://www.epa.gov/ejscreen/what-ejscreen.
[15] "*How was the EJSCREEN Developed*?" Environmental Protection Agency (2021), https://www.epa.gov/ejscreen/how-was-ejscreen-developed.

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We appreciate the Board's desire to include changes to the Community Reinvestment Act that target the lending and investment needs of low- and moderate- income communities. We hope the Board will adopt the recommendations above.

Respectfully submitted by:

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About the Clean Energy Equity Partners:

PosiGen is working to implement solar power for all, and want solar to be affordable and easy to access, especially for low-to-moderate income communities and communities of color. By making solar more accessible through their solar leasing program, PosiGen is making it possible for families in these communities to invest in their homes, save money on their utility bills, and take steps toward a brighter future. PosiGen's four primary goals are to make a positive impact on families served, provide job opportunities, support growth in low-income and communities of color, and to make a difference in the environment.

Solar Energy Industries Association (SEIA) leads the transformation to a clean energy economy, creating the framework for solar to achieve 20% of U.S. electricity generation by 2030. SEIA works with its 1,000 member companies and other strategic partners to fight for policies that create jobs in every community and shape fair market rules that promote competition and the growth of reliable, low-cost solar power. Founded in 1974, SEIA is a national trade association building a comprehensive vision for the Solar+ Decade through research, education and advocacy.

Vote Solar is a non-profit, non-partisan grassroots organization with a mission of making solar more accessible and affordable across the United States. Vote Solar works in more than 25 states to drive the transition to a just 100% clean energy future. Since 2002, the Vote Solar team has used a winning combination of deep policy expertise, coalition building, and public engagement to power just and equitable clean energy progress in states nationwide.