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February 16, 2021

Federal Reserve Board
Via email: regs.comments@federalreserve.gov

Re: Comments on Federal Reserve CRA ANPR: Docket Number R-1723 and RIN Number 7100-AF94

To Whom It May Concern,

Neighborhood Housing Services of Jamaica, Inc. 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 New York City and throughout the state and country.

Neighborhood Housing Services of Jamaica, Inc. (NHSJ) is a 47 year old nonprofit, HUD Certified Housing Agency that serves low- to moderate-income residents in New York City, with a focus on the communities of southeastern Queens, whose neighborhoods are inhabited by primarily black and brown people of modest means. We are committed to stabilizing neighborhoods by offering pre- and post-purchase homeownership education, technical and financial assistance to residents of low- and moderate incomes and working with distressed homeowners at risk of losing their homes to foreclosure to find solutions to stabilize them and keep them in their homes.

To this end, the organization works with a number of banks to facilitate placing first-time homebuyers in affordable mortgages and also counsels and guides distressed homeowners through the foreclosure intervention process, assisting them with navigating the complicated process of applying for mortgage modifications, forbearance or other foreclosure avoidance options.

We appreciate that the Board refused to join the Office of the Comptroller of the Currency ("OCC") in finalizing their CRA rules. The OCC ignored public comments and rushed through a harmful rule which will lead to less reinvestment, and to reinvestment that is less responsive to community needs, should it survive. We commend the board for putting forth a more thoughtful, data driven process that identifies important objectives, such as more effectively meeting the needs of LMI communities and addressing inequities in credit, promoting community engagement, and recognizing that CRA and fair lending responsibilities are mutually reinforcing.

We believe that CRA reform must incorporate the following key principles

1. Quality, Quantity, and Impact are important components of CRA.

- Just as redlining was never color-blind, the CRA should also not be color-blind and must have an affirmative obligation to serve people and communities of color with responsive, impactful activities to reverse decades of bias/
- Banks must be evaluated on the quantity and quality of CRA activities: retail lending, community development finance, branches, banking products, and services. All of these activities are key to improving the economic health and stability of the communities where those most need it, live, work and conduct business.
- Downgrade for displacement and harm: There must be downgrades for harmful behavior, including products, practices, and patterns of lending that lead to harassment, displacement, high costs, and harm.

2. Community Input and Community Needs must be at the heart of the CRA.

- Community input must be woven into the CRA process at all levels, including the performance context and needs assessment; evaluation of bank performance; and additional areas where CRA is taken into account, such as branch closures, mergers and acquisitions, and other applications.
- 3. 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: maintain or increase quality reinvestment where it is needed within large cities like New York City, while also directing capital to under-banked regions.

PRIORITY #1: Evaluate banks on the quantity, quality and impact of their activities within the communities they serve to ensure they benefit historically redlined communities: low- and moderate-income people, and Black, Indigenous, and People of Color (BIPOC). The CRA should incentivize high-quality, responsive, impactful activities and downgrades for displacement and harm.

The CRA should never have been color-blind: Banks must have an affirmative obligation to serve BIPOC and communities.

We appreciate the Board's recognition that the CRA and fair lending responsibilities are mutually reinforcing, and for asking how the CRA can better serve people of color. As incorporated in each section below, and throughout all three priorities, we believe that banks must have an affirmative obligation to serve people and communities of color with responsive, impactful activities. Redlining, discrimination, and racial disparities in lending, banking, wealth, and income continue to this day. As the Board recognizes, it was one of the reasons for passing the CRA in the first place, and yet the CRA has never evaluated banks on how well they serve people and communities of color. Banks must have an affirmative obligation to serve BIPOC and communities.

Responsible multifamily lending: Quantity and Quality: Downgrade for Displacement

New York City is a city of renters; nearly two-thirds of New Yorkers rent their homes. Multifamily lending in New York City is particularly critical for banks and regulators to understand, given the unique housing stock here and its importance to affordable housing and protections for millions of New Yorkers. Access to credit is critical to maintaining this stock of housing in the City, especially in lower-income neighborhoods. Equally important to the volume of lending on these and all sources of housing, if not more so, is that the loans are underwritten responsibly.

Multifamily mortgage lending is a business line for many banks, as is the case for 1-4 family lending, small business lending and others. Multifamily lending should be evaluated under the retail test.

First, evaluate all multifamily loans under a set of metrics, such as lending in LMI tracts, different loan purposes, range of building sizes, and how many units are affordable to low- and moderate-income residents. Metrics like these can give an idea as to how equitably the bank is lending to see if they are reaching a range of neighborhoods, rental levels, and building types.

Second, incorporate a robust qualitative assessment to determine if the rating should stay the same, upgrade or downgrade. Give credit for deep and permanent affordability, subsidized affordable housing, and loans to mission-driven developers. Banks should also get credit for committing and adhering to multifamily anti-displacement best practices in all forms of housing, subsidized and unsubsidized. Downgrade banks for lending to landlords who harass or displace tenants, and/or keep buildings in poor conditions.

Best practices for multifamily lending include:

- Responsible underwriting. Underwrite to current in-place rents and realistic maintenance costs. For rent-stabilized buildings, we recommend a DSCR of at least 1.2X. In all cases, there should be no provisions that increase rent burden and displace tenants, be it through rent increases or reduced maintenance and services.
- Appropriate vetting of borrowers. Use all available resources to lend to responsible landlords who properly maintain the stock of rent-regulated and affordable housing and respect the rights of tenants. This includes consulting news reports and public lists; monitoring loan conditions, lawsuits, violations, and fines; and consulting with tenants and tenant organizers.
- Responding to issues in buildings: Create a formal process to work with tenants and organizers to respond when problems arise in buildings they finance.

Banks should also get credit for transferring distressed properties to responsible mission driven developers, rather than selling the debt, or supporting the building being sold, to the highest bidder that is only seeking to make a profit. This will be especially important post COVID.

Small business lending and support:

We support the board's proposal to evaluate borrower and distribution metrics and have a separate qualitative analysis, with the possibility of additional credit for responsive products and practices. There must also be downgrades for harm. The exam must evaluate and prioritize small loans to very small businesses, BIPOC-owned businesses, and lending in underserved communities. This can be done by looking at low- and moderate-income communities separately; categories of loan size and business size; lending by race/ethnicity of owner and in communities of color; originations vs purchases. As data is available, regulators should also evaluate loan types separately (credit cards serve a purpose but aren't as impactful or in has high demand as traditional loans and lines of credit).

The qualitative analysis would evaluate the products and practices the bank has implemented to achieve metrics in a meaningful way. Banks that prioritize larger businesses, bypass immigrant communities or borrowers of color, or rely only on credit card loans should be downgraded. Banks that demonstrate responsive products and practices should get positive credit.

Regulators can evaluate how well banks support small businesses in other areas of the CRA as well, such as loans and investments in CDFIs or MDIs identified as meaningfully serving BIPOC, low-income, and immigrant communities; supporting technical assistance; and providing direct grants to small businesses (by the bank or through a nonprofit). Regulators can also evaluate how banks responded to COVID, and who they served, with grants, loans like the Paycheck Protection Program and others, debt relief, and more.

1-4 Family lending to access and preserve homeownership:

We support the board's proposal to evaluate borrower and distribution metrics and a separate qualitative analysis, with credit for responsive products and practices. Also, the metrics here and throughout cannot allow a race to the bottom. For example, a benchmark set to 70% of the market performance in New York City would mean a bank could pass with fewer than 1% of its loans to low-income borrowers. There must also be downgrades for harm. The exam must evaluate and prioritize lower-income people and BIPOC to achieve and maintain homeownership: low- and moderate-income people and communities separately; lending by race/ethnicity; originations vs purchases (prioritize originations); investor vs owner-occupied (prioritize owner-occupied); loan types and purposes separately, connected to local needs.

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, loan forgiveness. Also, banks should get credit for affordable CRA products that they marketed and originate to LMI borrowers and BIPOC, including products requested by local communities. Banks should also be downgraded for indications of disparate pricing, harmful products, neglect, or displacement.

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, staff to provide financial education or homebuyer classes; and foreclosure prevention. In a community such as southern Queens where one finds some of the oldest housing stock in New York State, access to affordable financing for home repair is badly needed. NHSJ has a 2.5 year waiting list to apply for an affordable home repair grant program targeted to homeowners whose incomes do not exceed 120% of AMI. Many of our homeowners are in need of home repairs which pose a threat to their safety or health and also to the preservation of affordable housing and maintaining the value of the homes. With 47 years of experience administering a home repair loan fund, an organization like NHSJ would be able to serve more residents if it had access to low-cost or no-cost funds that could be disbursed as home repair loans or grants to lower-income homeowners. First-time homeownership which is a key factor in building family wealth is out of reach of many prospective homebuyers because of the financial hurdle of down payments and closing costs. Banks that offer financial incentives such as down payment and closing cost assistance are very much needed to expand the opportunity for such residents to be able to purchase and sustain homeownership without being financially stressed. Lower-income homeowners with limited resources are often pushed into higher cost mortgages because of the lower down payment requirements which start them out with a handicap from day one.

Consumer Lending

Similar metrics for consumer lending makes sense. Quality is more important than volume in this category. Large quantities of high-cost credit cards or other high-cost loans are not helpful, and banks should not be incentivized to increase that volume.

Community Development Finance:

We support a comprehensive community development finance test. However, within that test, regulators must evaluate loans and investments separately to maintain 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 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, CRA-eligible grants, and more. Lastly, we appreciate the attention to long-term patient capital, which can be challenging to obtain given the short-term cycle of CRA Exams. However, the final rules must also incentivize new activity each year and cycle by evaluating outstanding and new activity.

We support both a quantity and quality metric. For 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 be broader than a scale of 1 to 3, and should prioritize impactful activities as determined by local communities, with a strong emphasis on mission-driven nonprofit entities. Many of these activities may be small by comparison, but the dollars will have a larger impact.

For example:

- Housing developed by mission driven developers; deep 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.
- Creation and preservation of quality jobs for BIPOC and LMI people, and not simply low-wage jobs with no path upwards
- 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 on affordable housing and further economic development. Grants to community-based organizations that provide financial education, housing counseling, tenant supports, small business support.

- Additional activities with mission-driven entities and community-based organizations for community services, such as 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 can mitigate this.

Branches / Access to Banking

We support the Board's framework for evaluating branches. The Federal Reserve put forth a comprehensive analysis of bank branch locations, impact of branches opened and closed, products and practices. In addition to factors in the ANPR, regulators should consider branching in communities of color; branches in unbanked and underbanked neighborhoods (at the census tract or neighborhood level); access for immigrants; and efforts to bring people into mainstream banking.

Unbanked and underbanked communities, predominantly LMI and communities of color have been asking for branches and affordable, accessible services for decades to no avail; the need is only exacerbated as branches close and banks direct people to online services. Banks must provide all their service equitably: physical branches, online banking, and the products offered in both spaces. They must also invest in staff, education, and outreach to underserved populations, on their own and in partnership with local organizations.

Our community has banking deserts, making it difficult for low-income, disabled and elderly residents to access the services provided by traditional banks, forcing them to rely on neighborhood banking alternatives such as high-fee ATMs or check cashing establishments where they must pay transaction fees.

The dearth of traditional banks with affordable mortgage products that actively market to our communities results in home buyers and existing homeowners wishing to refinance, using banks with no local presence, online lenders or mortgage banks to secure financing. Despite being financially sound with good credit and sufficient income to qualify for traditional bank mortgage products, these homeowners are often placed in mortgages with higher interest rates than their white counterparts, highlighting the fact that 'redlining' continues to plague homeowners in communities of color.

PRIORITY #2: Community Input and Community Needs must be at the heart of the CRA:

We support the Board's goal for CRA reform to promote community engagement, however there is little detail in the ANPR to achieve that goal. In our experience, banks with community advisory boards and other mechanisms to engage with the community are more responsive in their CRA products and practices. Such processes have led to CRA plans informed by community needs, strengthened relationships with community organizations, and led to the creation of new products and practices. However, overall, few people know about the CRA process, and it is likely not the people most impacted by a bank's activities. Community input must be woven into all aspects of the CRA exam process.

- Performance context and community needs: In addition to gathering demographic and statistical data, regulators must conduct proactive outreach and consult research centered on LMI and BIPOC communities to identify local needs and evaluate how well banks are meeting those needs. This needs to be a representative sample by geography, populations served, and area of focus. Regulators should also collaborate with community organizations to incorporate feedback from residents throughout the assessment areas.
- Bank evaluation: Regulators should have a similar process to gather feedback on individual banks. They should ensure the public knows about bank exams and engage in proactive outreach to solicit feedback. A similar process can be implemented at the time of mergers, branch openings/closings, and other applications that connect to CRA.
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- Banks should be evaluated on their community engagement. Banks must also be evaluated on how well they engage community organizations and residents in their CRA plans and implementation.

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

We appreciate 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 more traditional banks, we oppose any area larger than an MSA; even within just the five boroughs / counties of New York City, the CRA isn't adequately addressing long standing disparities. Related, 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, small home and small business loans, or other activities that 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.

Additional Points

In addition to the points above, we urge you to advocate for an interagency approach so that all banks are held to the same standards. No CRA should allow 96% of banks to pass their exam in the face of persistent disparities, unmet banking and credit needs, high-cost products, and patterns of lending that foster displacement. Further, regulators must preserve the “low” and “high” satisfactory ratings, and not combine the two in any part of the CRA; this allows a distinction between banks that are barely meeting needs and others that are doing more. Banks should be evaluated at the holding company level and evaluated on the totality of their lending, including by affiliates. They should also be held accountable for problematic practices of entities with which they do business with, such as through formal referrals and partnerships. Additional data will be very useful for communities to evaluate bank performance. CRA Strategic Plan requirements must be strengthened by requiring more transparency regarding planning, groups outreached to, comments submitted, and bank responses, at a minimum.

Conclusion

Low- and moderate-income and BIPOC communities deserve equal access to affordable, accessible banking and credit; safe, affordable housing; quality jobs; and community services. The CRA must be preserved and strengthened with a robust analysis of quality and quantity; incorporating community input, and keeping a strong local commitment.

Thank you for this opportunity to comment.

Sincerely,

Lori Miller

Lori Miller
Executive Director