NeighborWorks
GREEN BAY
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TOGETHER WE'RE BUILDING A BETTER GREEN BAY!

February 16, 2021

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

Re: Docket No. R-1723 and RIN 7100-AF94 (Advanced Notice of Proposed Rulemaking Community Reinvestment Act)

Dear Ms. Misback and Members of the Board,

CRA is a critical tool for ensuring that the low- and moderate-income (LMI) people that NeighborWorks Green Bay serve have access to safe and sustainable banking and financial products and services, and that our neighborhoods can attract and retain investment for homeowners, small businesses, and others. CRA provides incentives for banks to partner with our organization to increase our reach and enhance access to safe and responsible financial products and services. We want to see CRA preserved and enhanced while the regulatory structure is strengthened to better meet the needs of LMI people and communities in a changing banking environment. The final rule published by the OCC in 2020 did not satisfy these goals, and we encourage the Federal Reserve, the OCC and the FDIC-- to return to pursuing a new, unified regulatory scheme based on the proposals of this Advance Notice.

We are encouraged by the Board's approach to constructing a robust CRA evaluation framework. The Board's proposal appropriately balances the banking industry's desire for clarity and consistency with the need to meaningfully measure banks' activities. By moving beyond the single metric approach championed by the OCC, the Board has charted a more productive path to improving the mechanics of CRA evaluations while prioritizing the core purpose of meeting the credit needs of LMI people and places.

Given the changes to the banking landscape since CRA regulations were last revised in the mid-1990s, it would be impossible to consider appropriate reforms without also revisiting issues involving geography. NeighborWorks Green Bay is encouraged by the Board's efforts to ensure that any reforms to AAs do not arbitrarily exclude LMI areas or embed illegal discrimination. When delineating AAs, large banks should not be permitted to exclude portions of counties (Q5). Small banks that do not have the capacity to serve an entire county, particularly in parts of the country where counties are very large, should be allowed to serve only a portion of a county or counties. However, AAs that do not include a full county should be subject to examiner review to ensure that the geographic bounds appropriately reflect the community of borrowers and depositors served by the bank, and that the boundaries do not unreasonably exclude minority communities.

While we appreciate the Board's effort to avoid creating a one-size-fits all model for assessment, we strongly caution against expecting too little of small banks. Smaller financial institutions, which often have some of the deepest ties to local communities, should not be totally exempt from having to engage in CD activities. Rather, the expectations of their work should simply be scaled appropriately. Small banks may be uniquely situated to engage in locally responsive activities and are more likely to be in rural or other underserved areas. We do not agree with the Board's proposal to increase the asset threshold for defining small banks to $750 million or $1 billion. We urge the Board to maintain the current threshold. Given that small banks are exempt from a substantial portion of CRA regulatory requirements, increasing the threshold, particularly by doubling or even tripling it, would reduce the number of banks subject to the full requirements of the statute and could decrease the amount of investment, particularly in rural and minority communities.

Along with other community development partners, we recommend that the Board include a metric measuring the racial distribution of loans. Careful consideration should be given to how to structure such a metric, and we encourage the Board to engage stakeholders in a conversation about how best to do so. However, we believe that disparities in lending along racial lines are too significant to not be examined in an intentional, transparent way.

We oppose increasing the revenue limitations for small businesses and farms, as doing so would have a negative impact on the availability of credit for the small businesses and farms that face the greatest challenges in accessing credit. The focus should remain on truly small enterprises and credit availability for small loans, which is much more limited. Because of their scale, these loans are relatively more labor intensive to underwrite and generate less revenue than larger ones. We anticipate that increasing eligibility thresholds would result in capital moving away from these products, further exacerbating the credit challenges that CRA is intended to address.

We support giving equal CRA consideration to loan originations and first-time purchases of loans held on a bank's balance sheet. First-time loan purchases provide important liquidity, allowing smaller lenders, including CDFIs, to originate additional loans. Solely churning loans should not be worthy of CRA credit.

We agree that the modernized CRA assessment should encourage patient capital, increase clarity, consistency, and transparency of performance expectations, and provide stronger incentives to serve underserved areas. To that end, we support basing the CD financing test on the combined loans and investments held on balance sheet. By including everything on the balance sheet, not just new originations, the test would remove the current incentive to provide artificially short terms for CD activities. Furthermore, by combining loans and investments the Board would avoid privileging one over the other, allowing the needs of the project to dictate the financing vehicle. However, examiners should review the mix of loans and investments to ensure that there are not extremes in terms of reliance on only one.

The Board's focus on impact and responsiveness as the ultimate measures of CRA performance is to be commended. In addition to assessing how a bank serves its community through investments of volunteer time, this subtest would be enhanced by the inclusion of a quantitative metric for grants, as measured against a bank's deposits. The relatively smaller scale of grants as compared to other CD financing would result in these investments being drowned out in the CD financing subtest. However, grant funding is essential to the success of nonprofit organizations and should be assessed through a standalone metric.

Given the tremendous unmet need for affordable housing in the United States, we recommend that all subsidized housing, unsubsidized affordable housing, and housing with an explicit pledge or other mechanism to retain affordability should be automatically eligible for CRA credit. However, because it is impossible to develop a definition that will be adequate in all situations, we envision a scenario in which tailored definitions will create certainty around the core of these activities, and more nuanced projects will be approved on a case-by-case basis. Since unsubsidized affordable housing represents approximately 80% of the nation's low-cost housing stock, it is critical to include it in the CRA framework, though other tools will also be needed to preserve these assets over the long term.

CRA regulations are one of the most powerful tools that the federal government has for incentivizing and rewarding certain bank behaviors. Historically, CRA has been structured to give additional weight to certain activities based on the value that they bring to the community. As rational actors, not to mention corporations with a fiduciary duty to their owners or shareholders, banks would be incentivized only to engage in those activities which are most profitable, i.e., activities that would likely already take place in the normal course of business. CRA has long been the "thumb on the scale" that pushes more challenging deals or projects (within the confines of safe and sound lending) across the finish line, and it must remain that way. A modernized framework will provide certainty and clarity for banks while better focusing their activities on those that most impactfully address community needs. Thank you for the opportunity to provide comments to this process.

Sincerely,

Noel S. Halvorsen

Noel S. Halvorsen
President & CEO
NeighborWorks Green Bay