

Proposal: 1723 (AF94) Reg BB - Community Reinvestment Act

Description:

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From: Pennsylvania Assistive Technology Foundation, Susan Tachau

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Subject: R-1723 Community Reinvestment Act

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Comments:

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February 15, 2021

RE: RE: Advance Notice of Proposed Rulemaking, Community Reinvestment Act Regulations - Docket No. R-1723 and RIN 7100-AF94

To: Board of Governors of the Federal Reserve System

Pennsylvania Assistive Technology Foundation (PATF) is Pennsylvania's Alternative Financing Program (AFP) as designated by the federal Assistive Technology Act as well as a state accredited and federally certified Community Development Financial Institution (CDFI). PATF's mission is to provide education and financing opportunities, and advocacy, for individuals with disabilities for the purchase of assistive technology that improve the quality of their lives. Since 1998, PATF has helped more than 4,000 Pennsylvanians finance the assistive technology they need through low-interest or no-interest loans worth more than \$42 million.

The Board of Governors of the Federal Reserve System's (Board) Advance Notice of Proposed Rulemaking (ANPR) to reform the Community Reinvestment Act (CRA) ignores the importance of including low- and moderate-income (LMI) people with disabilities as a key target audience for qualified CRA investing, lending and services. For far too long, people with disabilities in LMI neighborhoods have not been a focus of CRA activities nor been part of the performance evaluation process. As a result, PATF strongly recommends that the ANPR be revised to address the financial and economic needs of low- and moderate-income people with disabilities.

Many of the individuals with disabilities who come to PATF for services have been left out of the financial mainstream and, in the past, have resorted to borrowing from predatory lenders (e.g., on-line payday lenders or those high-interest rate lenders from contiguous states), participate in the underground cash economy or simply do without the devices they need. These AT devices make it

possible for someone to go to school and work, live in their own home and not be forced into an institution, and contribute to the community. Without specifically including people with disabilities in the CRA, there will not be any progress in helping this community advance in the financial mainstream of American society.

If revised with attention to the comments below, the proposed rule changes to the CRA have the potential to address the needs of this unserved, and underserved, population.

In response to four specific questions, we recommend:

Question 36: Should consumer loans be evaluated as a single aggregate product line or do the different characteristics, purposes, average loan amounts and uses of the consumer loan categories (e.g., motor vehicle loans, credit cards) merit a separate evaluation for each?

Consumer loans should not be evaluated as a single aggregate product line. Credit cards, car loans and small dollar loans to purchase technology or modify a home so that it is both accessible and affordable (e.g., barrier-free showers, widened doorways, ramps, lowered counters in the kitchen, elevators) respond to different needs and can be critical funding to support LMI individuals with and without disabilities to have greater financial stability and respond to financial emergencies. Analyzing these types of access to credit separately that compares LMI utilization and non-LMI consumers by census tract should be a part of the performance evaluation to further analyze whether banks are meeting different needs within and across assessment areas.

Question 51: Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?

Given the historical patterns of low economic status and disparities to access and use of bank services by LMI individuals with disabilities and other vulnerable minority populations, the expansion of financial education and housing counseling activities without regard to income levels as being eligible for CRA credit is not acceptable. The economic realities of the COVID-19 pandemic have been documented to show that people who are LMI, have disabilities and / or are members of communities of color have experienced higher levels of adverse consequences in their overall financial wellbeing. CRA attention for community development services for LMI populations are now needed more than ever before. If the bank wants to engage in these types of activities without regard for income levels, it has the resources and choice to do so. However, such a choice should not deserve CRA credit or diminish the level of effort in the LMI community.

Furthermore, it has been PATF's experience that the need for financial education opportunities is greater in the disability community because fewer "organic" opportunities exist for individuals with disabilities & financial education is not a required course in Pennsylvania high schools (and there is no data that it's taught at all in our special education classrooms) and the unemployment and underemployment is greater in the disability community. Because of these discrepancies, more individuals with disabilities lack the education and real-time experiences to participate in the decisions that affect their financial future.

Question 71: 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?

Similar to the approach being taken by the Office of the Comptroller of the Currency (OCC), an illustrative, non-exhaustive list of activities that are CRA-eligible helps provide clarity not only for banks and community groups, but also expands the possibilities of what a bank will consider for investment, lending, and service activities. Similar to the OCC process, the list should be published and updated quarterly with new additions. The Board should follow the OCC precedent of, for the first time, providing examples of qualifying CRA activities that will benefit LMI individuals with disabilities such as the provision of loans and grants for the purchase of assistive technology devices and services (including modified vehicles and home accessibility modifications), financial education opportunities (including staff engagement) for individuals with disabilities, and donations that support workforce development activities to increase employment for people with disabilities.

Question 72: Should a pre-approval process for community development activities focus on specific proposed transactions or on more general categories of eligible activities? If more specific, what information should be provided about the transactions?

A pre-approval process that is time-sensitive for specific proposed community development activities would help banks consider with greater certainty more innovative and complex activities that are

outside the illustrative, but non-exhaustive, list of CRA-eligible activities. The inquiry should explain the community need, how the need was identified, who are the targeted LMI beneficiaries, potential outcomes from the activity and who are the private and / or public partners.

In summary, PATF is particularly concerned about the following key issues and hopes the Board of Governors of the Federal Reserve system considers:

The ANPR does not require banks to disaggregate reporting data by gender / race / ethnicity or disability, thereby failing to compel banks to address the historical lack of access and equitable treatment of sub-populations of the LMI community.

The ANPR discusses the applicability of other relevant laws that address discrimination but fails to include the Americans with Disabilities Act (ADA). This oversight continues the lack of attention to this most economically vulnerable population and their financial and economic needs. Since the passage of the ADA more than 30 years ago, financial institutions have, in multiple court cases, been found in violation of the ADA for lack of website accessibility and discriminating practices regarding access to credit.

Performance measurement and metrics must draw specific attention to the economic needs of LMI people with disabilities and impact performance scores. No bank should receive an outstanding rating without both the Community Development and Retail Services Subtests demonstrating a direct response to identified community needs of LMI people with disabilities.

Quantitative and qualitative data should be identified and analyzed regarding utilization of retail banking products and services and community development financing that directly responds to needs of LMI individuals with disabilities within and across assessment areas.

A qualifying illustrative list of CRA activities should be included in the final rule that contains specific examples of LMI people with disabilities benefitting from investments, lending and/or service activities. Such a list would begin to provide regulated financial institutions specific ways to meet the needs of this underserved population. Such a list should be developed with input from the disability and financial communities.

Banks should receive CRA credit for investment in workforce development activities including apprenticeships, internships, on-the-job skills training, and skill certifications that are vitally important to many LMI populations, including those with disabilities. Workforce development activity should be identified separately, rather than simply as a subpart of economic development activities. In light of millions of job losses due to the COVID-19 pandemic, an emphasis on workforce development activities deserves specific attention for CRA credit.

As we know, vibrant communities are best supported when economic opportunities are inclusive of LMI populations, including people with disabilities. Unless the challenges of LMI people with disabilities are intentionally addressed, people with disabilities will be unintentionally excluded from the financial system and overlooked as a target of community development activities.

If you would like to learn more about our programs and read the stories of individuals with disabilities who are now living in their own home, working, communicating with others, and contributing to their communities, please go to our website, [www.patf.us](http://www.patf.us).

The Board needs to revise the ANPR in its current form and offer, for the first time, a set of rules that responds to improved financial inclusion and economic stability for low- and moderate-income people with disabilities.

Thank you for your attention and the opportunity to provide our comments.

Sincerely yours,

Susan Tachau

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