

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

Description:

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From: Housing and Community Development Network of NJ, Arnold Cohen

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Subject: R-1723 Community Reinvestment Act

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Comments:

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Re: Public Comment Docket Number R-1723 and RIN Number 7100-AF94

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The Network appreciates the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) for the Community Reinvestment Act. We appreciate that the Federal Reserve has had an open approach to getting public feedback by holding webinars on ways to evaluate how banks meet the needs of low- and moderate-income (LMI) communities and address inequities in credit access. While we agree that aspects of the Community Reinvestment Act do need to be modernized to reflect changes banking products and services, we want to be careful that those changes do not come at the expense of the Act's core values and key practices. The ANPR raises appropriate questions and our comments contained herein address the questions that impact the areas and issues with which we are most familiar.

The Network is the statewide association of over 250 non-profit housing and community development corporations, private sector lenders and advocates who support the creation of affordable homes and economic opportunities for low- and moderate-income (LMI) residents. We have worked with most of the banks in New Jersey to help them meet their CRA obligations. Strengthening CRA will help the Network and our members achieve our goal of increasing housing choices and economic opportunities for LMI communities and residents.

As an organization that works closely with institutions for meeting CRA goals, we are concerned that

the ANPR missed a core objective of CRA modernization. CRA modernization should help banks clarify how to identify local community development needs. Banks need to document and identify community development needs and engage with community stakeholders. Meeting a community development need & at least for banks & is often a relatively technical challenge. The institutions create a new loan product, put financial or human resources here instead of there, count the resources in this way or that, etc. However, in order to meet or address the need, the bank has to identify it first. The ANPR should mandate that banks meet with statewide organizations like the Network and others whose members are directly addressing the affordable housing needs of low and moderate communities and NJ Citizen Action whose members are addressing the economic opportunities. In the Garden State, Housing & Community Development Network of NJ along with NJ Citizen Action has negotiated CRA agreements with more than 40 financial institutions. These agreements have resulted in over \$40B in commitments to LMI residents and communities around the state in below-market rate mortgages, discounted home improvement loans, affordable consumer lending products, construction and permanent financing for nonprofit affordable housing developers, and small business loans for women and minority-owned businesses. Network staff participate in numerous CRA advisory boards and help banks identify barriers to and opportunities for reaching their goals. These agreements and regular communications about their effectiveness are an essential model to meeting the needs of LMI communities and addressing inequities in credit access. Our work starts with bringing impacted residents, community leaders and lenders together to ask, "What does our community need?" This has been a core strength of CRA for 40 years. We have recently launched an advisory board of our private sector partners to help inform their work and foster collaboration between community developer practitioners and CRA professionals.

We find the Board's proposed non-exhaustive list of activities particularly problematic, as it allows banks to relinquish their responsibility to do the hard work of knowing their communities. Instead of providing a list of activities, the Board should consider regularly publishing a list of existing and/or publicly created needs assessments that banks can use to demonstrate they are serving a local community development need. These could include, for example, a local jurisdiction's economic or affordable housing equity plan, a nonprofit's plan developed by residents to redevelop their neighborhood to meet the needs of current LMI residents and businesses, a nonprofit hospital's community health needs assessment, a state disaster recovery plan, recommendations from a community advisory board convened by the bank, etc. Such an approach would provide some measure of additional certainty to banks that they would get credit for an investment, while satisfying CRA's legislative intent to serve local community development needs.

Additionally, specific activities like bank volunteerism should continue to get CRA credit as long as these are limited to activities unique to the skill sets relevant to banking and financial expertise, as the current regulation outlines, or using skills within the bank toward the improving the capacity of a community development entity or nonprofit. For example, a human resources professional within a bank who volunteers to help a local community development corporation craft a personnel manual should count. This part of the current regulation is working adequately. We respectfully request that you do not alter it.

Financial expertise provided by bank employees is critical to the capacity and effectiveness of community development nonprofit organizations to implement challenging projects in which banks invest. It builds trust and familiarity among bankers and community organizations. However, CRA credit for critical financial education (including housing counseling and debt counseling among other activities) must be limited to LMI people and families, not watered down by giving a bank an incentive to provide it to other populations.

Updating the definition of economic development in a way that acknowledges disparities is a step in the right direction toward addressing racial equity concerns. To advance this effort, the definition should clarify that community development activities that support minority-owned, women-owned and other small businesses defined by an established threshold, such as revenues less than \$1 million, all count toward CRA credit. Eligible economic development investments should demonstrate benefits to LMI people or places, with extra consideration given to those investments that serve both. Community development services or financing supports economic development if it provides financial assistance or technical assistance to intermediaries or nonprofit organizations that mentor or provide physical facilities for small businesses. We also support a definition of "underserved" that expressly includes

communities of color.

We recommend at least two additional pieces of information that should be collected and made available to the public.

1) Banks should make public how they are identifying community needs and what these institutions consider the community's needs to be. This practice would allow the public to make the connection between the identified needs and the bank's actions and investments.

2) The ANPR weighs financing data points heavily on dollars invested. The 'units' (or number/volume of transactions) should also be taken into consideration, incentivizing banks to make impactful investments, not just large investments.

Finally, data should be collected and made available on the transaction basis using the census tract as the common reporting level. Only by presenting data at the census tract level by institution will the public be able to see trends toward redlining and or the avoidance of certain parts of the city or populations. In addition to data on transactions at the census tract level, the public should have access to the community need the transactions served and how the financial institutions demonstrated those needs.

Since the start of the pandemic, about 41% of African American businesses have been closed compared to just 17% of White-owned small businesses. Discrimination in lending contributes to these differences in business survival rates. It is imperative that efforts to modernize CRA be used to strengthen the law in order to combat historic and systemic racism in our housing markets and banking institutions. We appreciate the direction the Fed has embarked upon but caution that it must not end up with proposals that replicate existing CRA ratings inflation, as this will not help our communities devastated by COVID-19. If nearly every bank continues to pass their CRA exams, banks will not engage in serious efforts to help communities of color and (LMI) neighborhoods recover from the pandemic.

Thank you for your attention to these important concerns. Please do not hesitate to contact me if I can be of additional assistance.