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

Description:

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From: SPARCC, Sasha Forbes

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Subject: R-1723 Community Reinvestment Act

Comments:

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Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Re: Community Reinvestment Act Advance Notice of Proposed Rulemaking
Docket No. R-1723 and RIN 7100-AF94

The Strong, Prosperous and Resilient Communities Challenge (SPARCC) is pleased to respond to the advance notice of proposed rulemaking (ANPR) on the Community Reinvestment Act (CRA) issued by the Board of Governors of the Federal Reserve System (Board).

SPARCC is a national initiative created to address the structural barriers facing low-income communities and communities of color that continue to feel the effects of historical redlining and financial discrimination. A key focus for SPARCC partners, who include more than 100 local community organizations, investors, developers, public agencies, community foundations and national partners including the Low-Income Investment Fund, Natural Resources Defense Council and Enterprise Community Partners, is to advance effective investment strategies for community development projects that integrate racial equity, climate resilience and health outcomes for current and future residents and that build community-wealth and ownership.

CRA has provided critical financing over many decades to our communities, and yet significant challenges remain. SPARCC partners are working to advance community-driven models of development and investment that put residents' priorities at the center of the decision-making process. This approach focuses on racial equity and power so that communities choose the types of development projects and related policy changes that impact their lives. We are seeing results in SPARCC communities; Atlanta, Chicago, Denver, Los Angeles, Memphis and the San Francisco Bay Area -- that we believe can become best practices to inform the future of CRA.

We are eager to share our perspective and have provided detailed responses to select questions below. We also highlight racial equity as a top priority for the SPARCC network. We specifically recommend that the Board embed racial equity in CRA regulations by collecting and reporting comprehensive data disaggregated by race; including demographic factors in Performance Context; and providing credit for community development activities undertaken with an explicit emphasis on racial equity.

QUESTION 2: In considering how the CRA's history and purpose relate to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?

Much of the work we do today is in response to the enduring legacies of redlining. Racist redlining practices disproportionately impacted Black households and have had lasting impacts on wealth and opportunity in Black communities. Simply ending the practice of redlining is a necessary but insufficient step to fully address the challenges and inequities plaguing Black communities and other communities of color. Efforts must be taken to undo the decades of lending discrimination that have compounded and contributed to the nation's current challenges. This will require a strong commitment from the federal regulators to affirmatively enforce equity within the sector.

We are encouraged to see the Board explicitly consider its role in updating CRA to address systemic inequity, specifically for people and communities of color. Throughout our comments we have provided recommendations to advance racial equity in CRA regulations, including recommending that the Board:

Collect and report comprehensive data disaggregated by race;

Include racial demographic factors in Performance Context to explicitly require banks to consider measures of racial equity in their community development lending and investments and articulate efforts taken to improve outcomes for people or communities of color; and

Provide credit for community development activities undertaken with an explicit emphasis on racial equity, for example, taking steps to mitigate racialized perceptions of "risk" associated with borrowers of color, or seeking to remediate racialized disparities in application approvals and cost of capital.

QUESTION 42: Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?

Ensuring robust community development equity investments must be a top priority in this new regulatory framework. SPARCC supports the proposal to combine community development loans and investments under one subtest provided there are sufficient incentives and requirements to ensure a continuation of bank participation in community development equity investments. We echo a common industry and stakeholder concern that banks may favor community development debt products over community development equity products given that debt products have a lower cost of capital and are traditionally more attractive to lenders. We note that separating community development and retail activities is a sound policy decision given the distinct difference between these products and services.

We support the Board setting a minimum threshold of a bank's total community development activities that must be in equity investments. The Board should consider prior levels of community development equity investments when creating this threshold. We also support additional incentives to encourage banks to do more equity investing than the minimum threshold. One example may be impact scores, which could include a measure of how responsive the bank's financing mix (e.g. debt, equity, services) is to local needs.

We also recommend that the Board commit to making data publicly available for stakeholder evaluation on the percentage and dollar amount of a bank's community development activities that are loans, investments and contributions. This data would be most effective if reported on an annual basis.

QUESTION 47: Should the Board use impact scores for qualitative considerations in the Community Development Financing Subtest? What supplementary metrics would help examiners evaluate the impact and responsiveness of community development financing activities?

We echo the comments from our partner the Low-Income Investment Fund (LIIF), which recommends that impact scores be used to quantify the existing evaluation criteria of responsive, innovative, and complex.

Responsive: the extent to which a bank's products are directly responsive to the local needs, as determined by performance context.

Innovative: activities that involve flexible underwriting, or a program or product that may already be in the market but is new for that institution.

Complex: degree of difficulty of the particular loan or investment. May also be considered complex if it is not routinely provided by the private sector.

We believe that these qualitative criteria have been an effective means of determining impact but could be improved if greater objectivity was attached to the definition of each concept. The Board should consider assigning an impact score between 1-3 for each of the three qualitative terms: responsive, innovative, and complex. This would ultimately create a 9-point scale, which allows for more gradations to capture the nuance of community impact. The Board may also consider assigning an impact score to the mix of activities that would capture how responsive the financing was to priority needs. For example, if performance context demonstrates that a community needs community development equity investments more than community development lending, the Board may incorporate a percentage of its overall assessment of impact (such as 20%) to measure how responsive the financing mix was to priority needs.

We request that the Board provide additional information as to how impact scores would be incorporated into the final rating structure. And in order for any evaluation of impact to be successful, we strongly recommend that Federal Reserve economists and community affairs staff collaborate to develop a standardized method for developing performance context for metropolitan areas and rural counties. The current process in which banks set their own performance context is insufficiently rigorous and will impede the successful implementation of any proposals like impact scores that hinge on strong performance context criteria.

QUESTION 54: Should the Board specify certain activities that could be viewed as particularly responsive to affordable housing needs? If so, which activities?

We support the Board's proposal that transit-oriented development (ETOD), and energy conservation and climate mitigation be considered particularly responsive to affordable housing needs. SPARCC collaborative members have supported equitable TOD projects (ETOD) in major markets that have increased low-income people's access to employment opportunities and saved families money through reduced housing and transportation expenses. SPARCC defines ETOD as a policy, process and a development form that facilitates equitable community development serving the needs of existing residents, especially the most vulnerable, and of future residents and employers. ETOD is centered on the people who live, work and create in communities of color and in low-income communities that are served by high-capacity transit service whether bus and/ or rail and would benefit from CRA related resources.

Additionally, as the climate crisis exacerbates inequities for LMI people and communities, investments in housing that is energy efficient and climate resilient will benefit both residents and the broader community. Climate related investments should include green infrastructure and parks with ample access to community-designed recreational and natural spaces that strengthen the continuity of a neighborhood's long-term economic stability. Community land trusts and land banks can be supportive in responding to affordable housing needs and when operated with community vision can help mitigate displacement. Providing transit-accessible and climate resilient affordable housing can at times add to the project cost whether through higher land acquisition or construction costs. Despite potentially higher costs to provide, the long-term costs savings for affordable housing residents can be significant. For these reasons we recommend that the Board call out both as important activities to support through CRA investments and policies.

QUESTION 61: What standards should the Board consider to define "essential community needs" and "essential community infrastructure," and should these standards be the same across all targeted geographies?

SPARCC does not believe the Board needs to define "essential community needs" and "essential community infrastructure" given that these elements are highly dependent on local communities. We do, however, believe that a comprehensive view of infrastructure is required that includes housing, health care, and civic infrastructure including libraries, daycare and home health care, and other community serving needs. We have seen in the past that large infrastructure projects such as freeways may have minimal economic benefits for local communities while imposing significant public health and community segregation costs for Black, Brown, Indigenous and other people of color (BIPOC). As a result, we recommend that essential infrastructure and essential community facilities qualify for CRA credit only if they primarily benefit low-income individuals and communities, can demonstrate local BIPOC support for their location, and can be shown to help stabilize these communities. The extent to which they meet these criteria will be dependent on performance context.

QUESTION 62: Should the Board include disaster preparedness and climate resilience as qualifying activities in certain targeted geographies?

SPARCC supports the inclusion of disaster preparedness and climate resilience as a qualifying activity and, given that the climate crisis is a national emergency, we recommend that these activities qualify in all geographies. In certain targeted geographies, such as those most impacted by climate change, investments in disaster preparedness and climate resilience should receive a higher impact score. Years of repeated and worsening climate disasters have demonstrated the economic and social cost of climate change particularly on society's most vulnerable people and communities. Past government actions have led to increased concentration of pollution and exposure to toxins for many frontline communities, the overburdening and destruction of natural ecological systems and unsustainable development patterns that drive up greenhouse gas emissions. BIPOC communities are often the most impacted by climate change and extreme disasters, yet have the fewest resources to respond, rebuild and implement mitigation efforts even when good plans are in place.

We support the use of the CDC Social Vulnerability Index tool to identify areas of high social vulnerability and areas highly vulnerable to climate impacts. Such action can accelerate investments in energy efficiency, weatherization, and green infrastructure and nature-based solutions for multi-family affordable housing, accessible housing, and across all types of infrastructure funded by the federal government. As stated in the Fourth National Climate Assessment, "with the limited and often expensive adaptation opportunities currently under consideration, including elevating properties or constructing seawalls, climate-driven impacts may lead to a great deal of unplanned and undesired community change that is likely to disproportionately impact communities already marginalized. This action to include disaster preparedness and resilience can support pro-active investment in both at risk areas as well as affordable areas in areas less impacted by climate impacts from acute and chronic flooding and sea level rise.

The Board should encourage communities to prioritize fair housing needs in their disaster preparedness and climate resilience implementation strategies, which may include supporting actions to reduce local land use or regulatory barriers that perpetuate segregation, discrimination, and environmentally unsound community building.

QUESTION 67: Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?

We support the Board's proposal to provide CRA consideration for activities completed in conjunction with a CDFI operating anywhere in the country. This proposal will allow our CDFI partners more flexibility to support communities across the country.

QUESTION 95: Are the community development financing data points proposed for collection and reporting appropriate? Should others be considered?

We support the proposed data points, which include the loan or investment amount (original or remaining on balance sheet), area(s) benefitted, community development purpose (e.g., affordable housing or economic development), and type of investments (e.g., equity investment or mortgage-backed security). These data are a foundational step to creating a baseline understanding of community development activity. We also recommend collecting and reporting community development financing data disaggregated by race, where feasible.

There is tremendous value in building a comprehensive dataset of community development investment activity; this information will allow stakeholders to better target resources to underserved communities and communities of color, as well as identify efficiencies that strengthen the sector. We believe it is feasible for banks to collect and report this data, and we posit that the widespread benefits; to communities, to overall safety and soundness, to the public, and to compliance with other banking laws & outweigh any short-term data collection or reporting burden. Further, given the fact that the vast majority of the community development proposals in the ANPR rely on improved data, the Board is unlikely to be able to proceed with the proposed framework in the absence of this baseline data.

SPARCC is encouraged by the direction articulated in the ANPR and we are eager to offer feedback on many of the questions posed by the Board. We also take this opportunity to reiterate the importance of the three federal regulators coalescing around a joint rulemaking process, and we appreciate the Board's leadership on this issue.

If you have any questions regarding these comments, please contact Sasha Forbes at sforbes@nrdc .org.

Sincerely,

Sasha Forbes
Policy Lead, Strong Prosperous and Resilient Communities Challenge (SPARCC)