NeighborWorks AMERICA

February 12, 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:

Thank you for the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) entitled "Community Reinvestment Act," which was published in the Federal Register on October 19, 2020 by the Board of Governors of the Federal Reserve System ("the Board"). This is a critically important rulemaking, and NeighborWorks applauds the Board's efforts to develop a regulatory framework for the Community Reinvestment Act (CRA) that appropriately balances the desire to provide certainty and clarity to regulated institutions with the fundamental purposes of the CRA statute to effectively meet the needs of low- and moderate-income communities and address inequities in access to credit. NeighborWorks is deeply appreciative of the Board's ongoing commitment to providing community stakeholders with meaningful opportunities to engage and shape these regulations.

Please note that these comments have not been submitted to or approved by NeighborWorks America's board and do not necessarily represent the views of its board members, either collectively or as individuals. These comments have been formed based on the ongoing work of NeighborWorks America with our network of nearly 250 NeighborWorks-chartered local and regional nonprofits. Responses to specific questions within the ANPR are noted as such.

For over 40 years, the Neighborhood Reinvestment Corp. (doing business as NeighborWorks America), a Congressionally-chartered, national, nonpartisan nonprofit, has created opportunities for people to improve their lives and strengthen their communities by providing access to homeownership and safe, affordable rental housing, increasing financial capability, and promoting community and economic development. NeighborWorks America traces its origins to the same era and circumstances that drove enactment of the Community Reinvestment Act, and it is with this shared history in mind that we offer our perspective on the ANPR.

NeighborWorks is truly encouraged by the work of the Board to develop thoughtful, practical proposals that meaningfully address much of the stakeholder input that was offered in response to the Office of the Comptroller of the Currency's 2020 rulemaking on this subject. NeighborWorks expressed deep concerns about the framework that the OCC (and FDIC, at the NPRM stage) proposed for revising the Community Reinvestment Act. CRA is a critical framework for ensuring that the low- and moderate-income (LMI) people that NeighborWorks organizations serve have access to safe, sustainable banking and financial products and services, and that the neighborhoods in which they live are able to attract and retain investment for homeowners, small businesses, and others. CRA also provides incentives for banks to partner with NeighborWorks and NeighborWorks organizations (NWOs) and other community-based organizations to increase their reach and enhance access to safe and responsible financial products and services. NeighborWorks and the organizations that make up the NeighborWorks network have a vested interest in ensuring that CRA is 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 three regulatory agencies--the Federal Reserve, the OCC and the FDIC--to return to pursuing a new, unified regulatory scheme based on the proposals of this ANPR.

While over forty years have passed since the Community Reinvestment Act was signed into law, the statute remains vital today to ensure that banks meet the credit needs of the communities that they serve, particularly in low- and moderate-income neighborhoods. Since its enactment, CRA's regulations and guidance have been updated periodically, but additional changes are still needed to reflect the realities of the modern financial system, community needs, and the regulatory environment. To that end, NeighborWorks is conceptually supportive of efforts to revise the CRA regulations to improve their efficacy and transparency.

Despite the passage of four decades, however, there is still evidence that redlining continues in communities across the country. The pandemic and resulting economic crisis have laid bare the scale of inequality in our communities and the extreme unmet needs in many places. Access to safe, reliable credit is critical for low- and moderate-income individuals and families at all times, but the economic crisis has underscored just how limited this access can be, particularly for people of color and their communities. In this light, it is no longer sufficient to strive for a new CRA framework that is as strong as the current standards. The modernized regulations must be enhanced to ensure significant new access and investment to people and places that have long been overlooked or locked out.

Now more than ever, we must harness the power of this important statute to ensure credit and investment flow to all communities to stabilize markets, create economic opportunities, and realize the full potential of reinvesting in communities. In times of economic upheaval, partnership and collaboration between banks and community development organizations has been critical, most recently exemplified by the response to the foreclosure crisis in the Great Recession. As we work to recover from this current economic crisis caused by the COVID-19 pandemic, we will need the power of CRA to incentivize banks to play a leading role.

NeighborWorks is 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. The single ratio framework operated on the flawed assumption that each dollar is as valuable as the next. Simply put, it would be impossible to design a system of multipliers and other adjustments that could adequately compensate for the nuance that this structure, which attempted to assign a numeric value to each activity, lacked. When evaluated through the lens of community needs, the value of a dollar deployed as an equity investment is not the same as the value of a dollar used to purchase a mortgage-backed security, and no multipliers or adjustments could consistently and accurately compensate for this incongruity.

The Board's proposal provides a much more appropriate framework for understanding not only the volume and scale of a bank's activities, but also their impact. NeighborWorks agrees that enhancing the certainty and clarity of the CRA evaluation system will benefit both bank and community stakeholders. We applaud the Board's efforts to apply specific, quantitative metrics where appropriate while also employing qualitative measures where necessary. Furthermore, the Board preserves a role for examiner discretion, which is absolutely necessary, even in the most thoughtfully designed system.

NeighborWorks is also encouraged by the emphasis the Board proposal places on community development (CD). This work is at the core of what the Community Reinvestment Act was intended to accomplish, counteracting the history of structural exclusion through redlining and disinvestment experienced by certain, primarily minority, communities. The historical ties between race and the redlining that CRA was meant to address cannot be ignored, and NeighborWorks encourages the Board to meaningfully include racial indicators in the evaluation framework (Q2). We have included some specific suggestions for how this might be done in the comments to follow.

As a nation, we find ourselves in a moment of historical struggle—a devastating pandemic, the related economic fallout, and a renewed spotlight on issues of racial and social justice. While it is undeniable that these forces shape the contents of our comments, it is critical that the regulations be written with an eye to the future, not just the current crises. Throughout the business cycle, banks should be expected to serve their communities, and in moments like the present they should be expected to be part of economic recovery efforts.

At present, nearly all banks receive a rating of "satisfactory" or better. Given the extent of disinvestment and unmet community credit need, NeighborWorks believes that a new CRA framework should raise the bar, not seek to replicate the current standard. Much of the unmet need represents profitable business opportunities, consistent with safe and sound lending requirements. Rather than maintain the status quo, CRA modernization should create a strong incentive for banks to deploy more capital into the communities where it is needed.

As we noted earlier and in line with our comments to the OCC, we maintain the importance of consistent regulations for all banks regardless of their regulator and urge the Board to re-engage the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation in these efforts. Unified rulemaking will create a level playing field for financial institutions, and, more importantly, increase the ability of community stakeholder organizations to partner with all institutions to pursue community development projects and meet the needs of underserved people and places.

Assessment Areas (AAs)

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 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.

With the growth of online banking and branchless institutions, NeighborWorks agrees that traditional facility-based assessment areas no longer reflect the full geographic landscape of banking. NeighborWorks does not oppose eliminating AAs around Loan Production Offices in cases where regulators concur there is no significant business relationship to the local community (Q6). We do not, however, have sufficient information about the prevalence and circumstances surrounding deposit-taking ATMs located in places that are not also served by bank branches. If the incidence of deposit-taking ATMs located outside of geographies that would already be included in a facility-based AA is low, NeighborWorks would not oppose allowing banks to choose whether to create an AA (Q7).

While most existing AAs should be preserved, additional ones should be demarcated to more appropriately define the universe of communities to which banks have a responsibility. In keeping with the spirit of CRA, these additional AAs should be defined by the places where banks do business and where their customers are located. NeighborWorks encourages the Board to explore a market-share based AA system, whereby AAs would be defined in places where a bank captures a significant portion of the local market. Flipping the analysis to evaluate the extent to which a bank is a significant player in a community—rather than whether the community is significant in the overall scheme of a bank's business—could address varying issues of scale. A study of this concept would assess whether deposits, loans, or some combination is the most appropriate indicator, as well as what appropriate thresholds might be (Q8).

Given their unique nature and lack of connection to a specific geography, NeighborWorks supports the use of a nationwide AA for internet banks (Q9).

Small Banks

The Board's proposal conscientiously avoids creating a one-size-fits all model for assessment, one of the primary critiques leveled against the OCC's framework. NeighborWorks agrees that it is important to tailor assessment models according to banks' size and business models but would 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.

Particularly concerning is the Board's proposal to increase the asset threshold for defining small banks to $750 million or $1 billion. NeighborWorks urges the Board to maintain the current $326 million threshold, though we would support indexing the threshold for inflation. 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 for no apparent reason (Q13).

Retail Test

Retail Lending

NeighborWorks supports tailoring CRA examinations to a bank's business model by evaluating only major product lines. Excluding minor product lines where banks do only a small amount of lending would simplify assessments without sacrificing their power. NeighborWorks suggests, however, that a 15% threshold for identifying major lines of business should be applied against either the dollar volume of lending that the product lines represent *or* the number of loans that the product lines represent. In some parts of the country where home prices are very high, home mortgage loans may be similar in size to small business or small farm loans. However, in communities where home prices are much lower, a threshold based only on dollar volume would underrepresent the significance of the home mortgage product line. This situation may be more common in minority and/or rural communities, and it is imperative that the retail lending test be applied to these places (Q33).

We also believe the Board's proposal to use a retail lending screen comparing a bank's performance against a market benchmark that reflects the level of retail lending by other banks in the same AA is an appropriate mechanism for determining which assessments will require greater level of examiner attention. NeighborWorks views this proposal as analogous to automated versus manual underwriting, with banks that fit the model being processed through a standardized process and those that do not being processed through an alternative, more subjective system that can be adjusted on the basis of performance context (Q14).

As we noted during the OCC's rulemaking, it is important to focus on the number of loans being made, not simply the total dollar volume of lending. By proposing a retail lending test based on the number of loans made, the Board has avoided creating the disincentives to small dollar lending created by a single metric approach. The Board's proposal captures the importance and responsiveness of smaller dollar loans to the needs of lower-income borrowers and smaller businesses and farms and does not provide an incentive to make only larger loans to reach performance levels. Under the OCC structure, rural communities and markets with low property values will suffer most, as obtaining smaller loans and investments, which are less profitable for banks, is a serious and chronic challenge for these communities.

In addition to the metrics laid out in the ANPR, NeighborWorks recommends 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.

While recognizing the importance of giving banks certainty about how their performance will be viewed, NeighborWorks is concerned that the Board's proposal sets the threshold for a presumption of satisfactory too low. As previously discussed, a modernized CRA should create incentives for banks to do more, not simply maintain the status quo. The presumption threshold essentially sets a floor for banks' targeted performance. While setting it too low may discourage banks from working harder to meet community credit needs, the potential risks of setting it too high are quite small, given that an examiner may still adjust a bank's score to account for factors not well represented by the quantitative measures.

Another powerful feature of the Board's proposal is the use of benchmarks, which would automatically adjust to reflect changes in the business cycle or other environmental factors. However, NeighborWorks is concerned that the proposed thresholds are too low and do not require enough from banks, particularly in majority-minority AAs. We encourage the Board to develop and test mitigating measures, and to publicly share its findings (Q18).

NeighborWorks supports the proposed use of performance ranges to delineate clear performance targets associated with achieving the various ratings. Because these ranges would be used to more precisely calibrate banks' ratings, it is important to disaggregate lending to low-income and moderate-income borrowers at this stage. The enhanced clarity of performance ranges would provide incentives for banks to strategically strive for higher ratings.

Given the acknowledged limitations of some of the quantitative methods, the CRA framework must maintain significant discretion for an examiner to adjust outcomes, either up or down, in instances where the numbers do not tell the whole story. Examiners should be empowered to make adjustments on the basis of their judgment, though clear guidance will be essential to creating consistency (Q23).

In addition, examiners should receive comprehensive, uniform training, a project which NeighborWorks would welcome the opportunity to further discuss. Effective administration of the CRA requires well-trained examiners with the necessary expertise in community development. The Federal Reserve, FDIC, and OCC should jointly develop comprehensive examiner training to ensure consistency and support well-informed judgements about topics such as performance context, innovation, and community needs. NeighborWorks, in its capacity as the leading provider of training for the community development field, would be pleased to offer our technical expertise and capacity to assist in developing and delivering a curriculum to train and support CRA examiners through our NeighborWorks Training Institutes or Place-Based-Trainings.

Retail Services

When evaluating bank service, it is important to look at both systems and products. Systems include the distribution of a bank's branches (including current distribution and record of opening and closing), branch-based services (e.g., hours of operation, bilingual services, disability accommodation, payroll and check cashing services, remittance services), and non-branch delivery channels. Deposit products include checking and savings accounts, and examiners should focus primarily on those accounts tailored to meet the needs of LMI individuals and businesses. While both facets are critical to meeting the needs of LMI customers, NeighborWorks recommends applying more weight to the systems portion of the test (Q32).

While much of the banking landscape has evolved in recent years, and notwithstanding explosive growth in online banking, bank branches retain a critical role in serving the needs of communities, particularly for low-income and elderly populations. These populations often lack adequate broadband access to meaningfully and safely take advantage of internet-based tools. CRA must be structured to incentivize maintaining a physical presence in communities where it is most needed—including LMI neighborhoods, rural communities, Native lands, and distressed communities. In addition to ensuring inclusion of these groups, the presence of brick-and-mortar bank branches facilitates deeper engagement with local communities and small businesses. The specific expertise of CRA officers and bankers located within communities must continue to be valued. These on-the-ground personnel are best equipped to identify true community needs on the basis of their firsthand knowledge of the community and their relationships with community stakeholders.

NeighborWorks supports the Board's goals of 1) encouraging banks to offer important services in LMI communities; 2) increasing transparency of evaluation criteria; and 3) accounting for changes in the way some customers interact with their banks, including the widespread use of mobile or online banking and the declining number of bank branches.

NeighborWorks is supportive of community and market benchmarks as a guide for examiners to assess branch distribution but we agree with the Board that it would not be appropriate to set specific thresholds. Examiners should have discretion to use contextual information to evaluate the adequacy of bank branch distribution. Banks that operate in banking deserts, including Native lands and other areas of persistent poverty, should receive extra consideration for these efforts.

NeighborWorks supports the inclusion of a qualitative metric assessing bank product offerings. A bank could operate around the clock, but it would be for naught if it didn't offer products tailored to the needs of LMI consumers. We strongly support the proposal to evaluate products on the basis of their usage and impact. Usage is a good indicator of responsiveness and availability and can paint a clearer picture of the extent to which banks are serving their communities. When considering a bank's product range, examiners should also be watchful for predatory products and deceptive practices, particularly in the consumer lending space. These products are the antithesis of wealth building, and examiners should make downward adjustments in a bank's evaluation as appropriate.

Consumer Loans

CRA credit should be allocated to activities that provide borrowers access to wealth-building products, not just any kind of credit. In particular, credit products with terms unfriendly to consumers should not be eligible. NeighborWorks encourages the Board to limit consumer lending eligibility in CRA to products that responsibly address credit needs. While some consumer loan products such as credit cards and auto loans may serve important functions, all too often these credit products are associated with onerous (and sometimes even predatory) terms. Credit should be narrowly tailored to those products that advance the fundamental purposes of CRA (Q35).

Qualified Activities

NeighborWorks opposes 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. NeighborWorks anticipates that increasing eligibility thresholds would result in capital moving away from these products, further exacerbating the credit challenges that CRA is intended to address (Q37).

NeighborWorks supports 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. By way of illustration, in 2020, 17 of the 81 CDFIs within the NeighborWorks network reported selling loans they originated (Q38).

As we commented to the OCC, NeighborWorks is eager to include additional incentives for banks to increase their retail lending in Indian Country. Mortgage capital is notoriously scarce in Indian Country, and this work needs to be both intentional and rich with relationship building and learning. It is critical that guardrails ensuring appropriateness of products are in place as the question suggests (Q41). That said, all lending in Indian country, even when not included in a bank's AA, should be eligible for CRA consideration (Q40).

Community Development Test

CD Financing

NeighborWorks agrees 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 (Q42).

We support using a ratio comparing a bank's total financing to its deposits for this subtest, though we recommend removing grants to nonprofit organizations from this calculation and instead creating a separate metric for these investments under the Services subtest (Q43). As with other metrics, NeighborWorks supports the Board's proposal to use local and national benchmarks to reflect local and national business cycles (Q45).

As we previously commented during the OCC's rulemaking, a responsive CRA framework must be calibrated on the relative impact of different activities. NeighborWorks is very supportive of the Board's proposal to assign an individual impact score to each activity, though we encourage the Board to consider a larger scale than the proposed 1-3 in order to create greater differentiation between those projects which are only minimally impactful and those that have tremendous impact. In particular, equity investments including LIHTCs, NMTCs, CD REITs, and equity-equivalent investments, which require a higher level of effort and commitment on the part of banks, have outsized impacts for communities (Q47). This approach is much more promising than the multiplier-based approach proposed by the OCC.

CD Services

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 (Q48).

Similar to the CD Financing test, NeighborWorks supports using an impact score model to recognize the relative differences among the various services banks offer to their communities. As we commented to the OCC, simply measuring hours invested is insufficient to recognize the contribution of different activities, and volunteer activities must be viewed qualitatively and in the context of the needs of the bank's AA. The impact score model allows for a much more nuanced assessment but should employ a larger scale than the proposed 1-3 to allow for more differentiation in the scale (Q49). CD services provided by banks offer a unique and specialized contribution to local communities, and NeighborWorks is wary of proposals to broaden the definition of services that would eligible for consideration. So doing, particularly in rural areas, has the potential to dilute their value (Q50).

CRA credit should be given for homebuyer education and counseling and financial capability services only for LMI customers or communities. While NeighborWorks is supportive of ensuring all homebuyers have access to appropriate information and guidance when navigating the homebuying process, it is not necessary to offer CRA credit to ensure access to these services for higher-income households or neighborhoods. In addition to homebuyer education and counseling services that are provided directly by banks, the regulations should explicitly list grants and loans to nonprofit organizations to support these purposes as eligible activities (Q51).

Eligible Activities

Given the tremendous unmet need for affordable housing in the United States, NeighborWorks recommends 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, NeighborWorks envisions 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.

Though it is impractical to document and track the income of renters of unsubsidized housing, affordability can be approximated by considering the current and expected future rents and comparing them to prevailing rents in the community. To receive consideration, two conditions should be met: 1) rents should be affordable and 2) most renters in the neighborhood are LMI and most rents in the neighborhood are affordable. If most of the rents in a neighborhood are affordable, it is likely that the market will dictate that the rent for the subject property would remain affordable. Furthermore, the incomes of other renters in the neighborhood are the most reasonable predictor of the incomes of the future tenants. Taken together, these two conditions offer sufficient assurances that the property will benefit LMI renters. This definition should be intentionally narrow so as to ensure that properties receiving automatic consideration are in keeping with the purposes of CRA. It is possible that other unsubsidized affordable housing projects that do not meet this definition should also receive consideration, but such projects should be reviewed on a case-by-case basis (Q52).

For general purposes, NeighborWorks supports using the standard definition for rental affordability, set at 30% of 80% of the area median income. However, NeighborWorks would encourage the Board to develop guidance instructing examiners to consider the depth of affordability when assigning impact scores. Projects serving renters at lower income tiers should be seen as more responsive to community needs and should be given higher scores. Shared-equity housing and subsidized housing with long commitments to affordability should also be rated more highly (Q53).

Access to capital is a perennial challenge for nonprofit housing developers, and some bank activities are more responsive to meeting these needs than others. Enterprise-level investments are powerful tools to help spur larger development activities, while equity investments and below-market loans play very important roles in the capital stack for affordable housing development (Q54).

The Board's proposal focuses on ensuring an LMI nexus for qualifying public and private infrastructure. Such projects should only be considered eligible CRA activities when they address critical infrastructure needs (roads, broadband, sewer, etc.) in LMI places. While NeighborWorks recognizes the challenges of determining the specific population of people who benefit from a public infrastructure investment, it is still possible to identify a set of characteristics or parameters to describe these projects and distinguish them from those where financing would be readily available at reasonable terms notwithstanding CRA eligibility. For example, the Board could define eligible projects as those undertaken with applicable federal or state programs designed to spur infrastructure investments in places where they might not otherwise be able to secure financing. While rural and distressed communities often struggle to secure financing for infrastructure projects, these resources are more readily available in urban and suburban areas. This limitation could ensure that LMI communities are the beneficiaries of these activities and encourage credit to flow to projects where it may not otherwise be available (Q61).

LMI communities are particularly vulnerable to climate-related disasters, and history shows that these communities disproportionately struggle to access resources for prevention and resilience as well as for recovery. NeighborWorks supports providing CRA consideration for activities related to preparedness and resilience but emphasizes the importance of limiting these activities to those that have a clear, direct, and targeted benefit specifically to LMI people or communities. Activities that are generically responsive to climate change, such as wind farms or carbon capture efforts, while beneficial to all people, should not be eligible for CRA consideration (Q63).

When used to its full potential, CRA is a powerful tool for incentivizing partnerships between banks and local communities and leveraging investments across those communities, including the nonprofits that serve them, to achieve their shared goals. In proposing to give CRA consideration for any activity undertaken in partnership with a Community Development Financial Institution (CDFI) automatically eligible, the Board has recognized this potential. NeighborWorks recommends extending this status to partnerships between banks and nonprofit organizations that hold a charter from NeighborWorks America. These mission-driven organizations undergo rigorous financial and management assessments prior to receiving their charters and on an ongoing basis thereafter. Furthermore, membership in the NeighborWorks network is only available to organizations that demonstrate a commitment to resident leadership, ensuring that the organization continues to represent the interests of the communities in which it works. Activities relating to partnerships with NWOs, including loans and grants, should be explicitly included in the regulations describing qualified activities (Q67). Additionally, CRA should incentivize banks to robustly partner with Minority Depository Institutions (MDIs) that have a strong track record of serving communities of color. One way the Board could ensure that benefits flow to the intended communities is by codifying the standard recently introduced through the economic stimulus package that requires that that "a majority of both the number and dollar volume of arm's-length, on-balance sheet financial products…are directed at minorities or majority minority census tracts or equivalents."

Clarity-enhancing measures

As we previously commented to the OCC, NeighborWorks is supportive of measures to add transparency and clarity around the activities that are eligible for CRA consideration. In particular, we support the Board's proposal to maintain and publish an illustrative, non-exhaustive list of CRA-eligible activities (Q71). New activities should be added to the list as innovations in the banking industry emerge, and activities should also be removed or refined as circumstances warrant. NeighborWorks also supports an established pathway for banks to seek pre-approval of activities prior to fully underwriting a project. This pre-approval mechanism would provide added certainty that can allow banks and nonprofits to work together more efficiently and effectively (Q72).

Data Collection

NeighborWorks encourages the Board to inject a healthy dose of sunlight to a currently opaque area by collecting and publishing detailed data on community development transactions, with a focus on race. The data should be accessible and in an easy-to-understand format. Making this information publicly available will allow for greater transparency into which communities are being served and to what extent, helping stakeholders to understand the extent to which CRA is affirmatively addressing issues of redlining and exclusion.

Ratings

Under the current system, about 90% of banks receive a Satisfactory rating. The high percentage of banks that are in the same category suggests that additional gradation should be added to the scale to distinguish the level of bank performance. NeighborWorks recommends including final ratings of High Satisfactory and Low Satisfactory in the final grade, both to promote transparency around bank performance and to create incentives for banks to strive for higher ratings.

Conclusion

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 on the basis of 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.

We genuinely appreciate the spirit of openness and collaboration which the Board has brought to this process, and we look forward to serving as a partner in this effort to modernize the Community Reinvestment Act regulations.

Sincerely,

Marietta Rodriguez

Marietta Rodriguez
President & CEO, NeighborWorks America