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

To Whom It May Concern:

Thank you for the opportunity to provide comments on the Advance Notice of Proposed Rulemaking on the Community Reinvestment Act (CRA) of 1977. These comments are submitted on behalf of Cinnaire, a certified Community Development Financial Institution (CDFI) that raises capital for impactful affordable housing and community development efforts. Cinnaire operates in nine states in the Midwest and Mid-Atlantic regions, with a focus on underserved rural and urban communities that mainstream financial institutions have a harder time reaching. Over twenty-seven years, Cinnaire has invested more than \$4.3 billion in equity, loans, and other financial resources in the communities we serve.

Cinnaire is driven by an unwavering belief that all people deserve the opportunities provided by living in healthy communities. To achieve that vision, we raise capital using a range of sources, including equity for affordable housing development through the Low-Income Housing Tax Credit, financing through the New Markets Tax Credit (NMTC) and Historic Credit, and a variety of loan products for projects in low- and moderate-income (LMI) communities. In addition to raising capital for these purposes, we strive to respond to the needs of these communities by leveraging our expertise, often providing co-development and technical assistance for our borrowers. Working with both investors and LMI communities, we play a vital role helping the financial system deliver on the promise of CRA and ensuring that LMI communities that have suffered from a history of neglect and discrimination are brought into the economic mainstream.

CRA is critically important to our ability to raise capital and thus make an impact in the communities we serve. Banks that we work with tell us that CRA considerations drive both the volume and geographic areas of their affordable housing and community development activities. We describe below the importance of CRA to our core activities:

- **The Low-Income Housing Tax Credit.** CRA is particularly relevant to the continued success of the Low-Income Housing Tax Credit (Housing Credit). The Housing Credit is the most important federal program for affordable housing development and preservation; since its establishment in 1986, it has helped finance more than 3 million affordable homes, providing more than 7.2 million low-income households with homes they can afford. CRA helps drive healthy competition among Housing Credit investors: Commercial banks, driven by CRA requirements, provide more than three quarters of the equity capital for the Housing Credit program. As a result, potential

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changes to the pool of investors in the Housing Credit program could have a major impact on affordable housing development in our footprint. A core mission of Cinnaire is to finance the most challenging affordable housing projects, often working with rural developers where equity pricing is already lower. Weakened CRA incentives will make it more difficult to develop higher-impact, complex projects that address the highest needs of communities, such as homelessness, special needs populations, and other smaller projects from community-based organizations. Instead, it will favor larger, higher AML, and simpler projects developed by large developers.

- **Affordable Housing and Community Development Lending.** Similarly, CRA continues to be critical for our ability to raise debt capital for impactful affordable housing and community development projects that are responsive to the needs of the LMI communities we serve. As a CDFI, Cinnaire is working to bring capital and technical assistance to LMI communities, especially communities of color that have long been shut out of the economic mainstream. For example, in both Detroit, Michigan, and Wilmington, Delaware, we are working with local partners to develop new affordable homeownership opportunities for communities of color to reduce the racial wealth gap and promote community stability. In both Detroit and Wilmington, we are also providing technical assistance and training to community-based developers, including underrepresented groups in the development industry such as minorities and women. This work is motivated by our acknowledgement of the history of racism and policies like redlining, the legacies of which we are working to address. CRA, which was enacted in response to redlining, is critical to our ability to raise debt capital for these efforts.
- **New Markets Tax Credit.** In addition, Cinnaire has been awarded several rounds of New Markets Tax Credit allocations, resulting from our strong track record of investing in high-impact projects that meet the needs of the LMI communities we serve. Our activities range from vocational training facilities for individuals with developmental disabilities to retention of quality jobs in low-income communities. We believe that it is critical to ensure that any changes to CRA regulations would not inadvertently reduce demand and thus lower pricing for NMTCs. This will stretch resources and make it more difficult for Cinnaire to fill financing gaps in worthy projects that have a high impact in the communities we serve.

Overall, CRA has proved remarkably beneficial for LMI communities, including both urban and rural communities that were previously overlooked by the mainstream financial sector. Our work is proof of the benefits of CRA for LMI communities. At the same time, CRA has been essential for financial institutions' ability to reach underserved markets. Working with CDFIs like Cinnaire has helped financial institutions in our footprint meet the needs of the community, including affordable housing development and community facilities.

Any changes to CRA regulations should build on this successful framework. We are well aware of issues that arise which sometimes suggest a less than optimum application of the rules in ways that impede our business, cause a misallocation of capital among geographic areas, suggest inconsistent application of the rules, impose unnecessary burdens on banks, and create confusion about qualification for CRA credit. We support modifications to clarify



and simplify the regulations, but it is critical that these objectives do not outweigh the fundamental purpose of CRA, which is to make sure that insured depository institutions serve the communities in which they are located. Any rewrite of CRA regulations must be focused on continuing to ensure banks serve LMI communities.

Finally, we appreciate the Board's intent to increase consistency and transparency, which can benefit financial institutions and LMI communities alike. To that end, we encourage the Board to work with the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) to adopt a consistent CRA regulatory framework. Consistent standards across the banking industry will be critical to ensuring the ongoing success of CRA.

RESPONSE TO SELECTIVE QUESTIONS

Question 8. Should delineation of new deposit- or lending-based assessment areas apply only to internet banks that do not have physical locations or should it also apply more broadly to other large banks with substantial activity beyond their branch-based assessment areas? Is there a certain threshold of such activity that should trigger additional assessment areas?

While we don't have a specific recommendation with respect to a threshold of activity, we do believe assessment areas based on the location of loan production offices ATMs and back-office operations would help expand the reach of CRA into rural and other areas of the country that have fewer bank resources. This will assist demand for investment in LIHTC properties that currently find it more difficult to attract such equity 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?

No, we are concerned that combining debt with equity will undermine bank incentives to make equity investments, especially since the volume of qualifying bank debt would be considerably greater than the volume of equity. In that situation, banks striving to meet their CRA obligations would find it easier to increase their debt activities rather than their investment activities; that is, a smaller percentage increase in debt volume that is shorter duration and simpler will yield the same CRA credit as a larger increase in investment volume, putting investments at a disadvantage will yield the same CRA credit as a larger increase in investment volume, putting investments at a disadvantage. Separate buckets are vital. Return profiles are not created equally, so having both a loan and investment test helps to diversify efforts (and not create an overweight in one bucket that may be market driven by returns/spreads). Further, Basel III capital requirements that assign higher capital requirements on a bank's investment in housing -- bank investments in housing credits are assigned a risk weight of 100% that does not diminish over time, as is the case with debt -- favor debt over equity investment.

Question 43. For large retail banks, should the Board use the ratio of dollars of community development financing activities to deposits to measure its level of

community development financing activity relative to its capacity to lend and invest within an assessment area? Are there readily available alternative data sources that could measure a bank's capacity to finance community development?

The metric for the Community Development Test should be the numerator of community development equity investments, and equity equivalent investments, relative to the dominator of deposits. We believe using an established bank lending line of commercial loans and products in the numerator would discourage banks from making more complex equity investments for CDFI, LIHTC, NMTC and SBIC purposes.

Lending to community development organizations that are undertaking some form of economic development in low- and moderate-income areas should be considered under the community development test. In contrast, standard bank commercial lending in low- and moderate-income areas is lending, NOT an investment.

Question 45. Should the Board use local and national benchmarks in evaluating large bank community development financing performance to account for differences in community development needs and opportunities across assessment area and over time?

Yes, we support using local and national measures in two different metrics. However, the local metric of investing should be the main focus of the local assessment area's CRA rating. Banks will have different concentrations of deposit-taking facilities between areas. The local deposit-taking metric is the most important, as that is the main focus of CRA and the community development test.

Question 52. Should the Board include for CRA consideration subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability in the definition of affordable housing? How should unsubsidized affordable housing be defined?

The Board should include for CRA consideration rental housing subsidized under a tribal government, local, state or federal program that is "affordable" to households with incomes up to 80% of area median income. Affordability should be based on the HUD standard using maximum rents (including utilities) that do not exceed 30% of household income.

Eligibility of unsubsidized, naturally occurring affordable rental housing presents more difficult questions since such property presumably does not include government imposed restrictions on future rent increases and it could be unwieldy for lenders to insist on such conditions. For unsubsidized rental housing, eligibility should be based on whether rents are affordable (AMI or FMR) and the location of the property in LMI areas or where the median renter is LMI. Ideally there should be enforceable pledges or other mechanisms to retain affordability in the definition of affordable housing.

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

Bank investments in LIHTC properties and investments/loans to CDFIs should be viewed as particularly responsive to affordable housing needs. Additional credit should be given to investment in more difficult to develop affordable housing that has deeper income targeting (below 40% of AMI), serves residents, including the homeless, in need of supportive services, and otherwise fulfills a critical housing need.

We also believe that CRA incentives can be significantly strengthened if banks are not given full credit for purchasing qualifying mortgage-backed securities, especially those MBS purchases made just prior to their CRA examinations, often which are then sold shortly afterwards to another bank. We believe these practices have little positive impact in the community.

Question 55. Should the Board change how it currently provides pro rata consideration for unsubsidized and subsidized affordable housing? Should standards be different for subsidized versus unsubsidized affordable housing?

We support providing pro rata credit for unsubsidized and subsidized affordable housing which permits a bank to receive a pro rata share where less than a majority of the dollars benefit LMI families or less than a majority of the beneficiaries are LMI. Where subsidized units are more than a majority, we recommend that there be no pro rata credit for those units affordable only for income levels above 80% AMI. We don't share the concern that buildings with units affordable to households with incomes above 40% AMI concentrates poverty.

We believe all bank activity in support of LIHTC development should receive full CRA credit regardless of the make-up of the development. Affordable rental housing undertaken in conjunction with an explicit federal, state, or local government affordable housing policy or program should receive full CRA credit if at least 20 percent of the units will be affordable for the term of the bank's financing. The primary federal affordable housing production policies – LIHTC, tax-exempt multifamily housing bonds, and the HOME Investment Partnerships program – all use 20 percent as their eligibility thresholds. More states and localities are supporting affordable housing through direct funding, tax relief, and inclusionary zoning requirements. Aligning CRA with other governmental policies would promote consistency, clarity, simplicity, and efficiency.

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

Yes, banks should receive CRA community development test credit for lending and funding CDFI investment anywhere in the country.

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?

The development of a list of CRA-eligible activities would provide appropriate clarity with the caveat that a list that too broadly identifies activities of questionable community development would undermine the rule.



CONCLUSION

In spite of generally shared criticisms of the current rules, the Community Reinvestment Act has fundamentally been a major success. It has increased the level of bank activity that serves LMI communities and has been absolutely critical to the success of the Low-Income Housing Tax Credit program, the New Markets Tax Credit program, and the growth of CDFI activities and partnerships in underserved communities. The future of affordable housing and community development activities in this country depends on CRA continuing to incentivize these efforts.

Thank you again for the opportunity to comment on the proposed rule. We would be happy to provide any additional information or expertise based on our experience working with financial institutions and the communities intended to be served by CRA.

Respectfully submitted,

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