Record of Meeting

Community Advisory Council and the Board of Governors
Friday, October 5, 2018

1. Community Reinvestment Act (CRA) Modernization: *The Treasury Department's recent CRA modernization findings and recommendations focused on four key areas, including redefining geographic assessment areas, increasing transparency around the rating process, improving the examination process, and incentivizing CRA performance. How would these recommended changes affect the work in the communities the Council serves? Does the Council have other recommendations besides those in the report?*

Advocates have long noted that the CRA should be reformed to better address the financial needs of the most vulnerable populations while addressing changing technologies and market realities. As a key lever to improve economic growth and mobility for the most vulnerable, banks should be required under a reformed CRA to do more to safely invest, lend, and bring underbanked populations into the financial and economic mainstream and out of the shadows of predatory, under-regulated alternatives. The Council feels the proposed framework laid out by the Treasury misses the mark in this regard. While the document adequately highlights the requisite areas of reform, it fails to further the legislative intent and goals of the CRA to advance financial inclusion and access in underserved low- and moderate-income (LMI) communities and communities of color. Among other suggested improvements to the CRA included below, the Council supports the recommendations of the National Community Reinvestment Coalition,[1] the California Reinvestment Coalition,[2] and other organizations that lay the foundation for a stronger, more robust CRA to serve LMI communities. These recommendations include the following:

- strengthening the grading process to ensure more lending and strategic investments that help poorly served communities thrive
- requiring public/community-informed plans that reflect local community input and scrutiny
- downgrading scores when banks act outside of the spirit of the CRA and against the interests of the most vulnerable
- creating additional CRA assessment and/or investment areas to reflect the modern age of online banking
- bringing transparency to small business lending by implementing section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)
- including mortgage companies, credit unions, and insurance companies under the CRA to level the playing field for other financial actors that impact the most vulnerable

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[1] See https://ncrc.org/treasurecra/.
[2] See http://www.calreinvest.org/system/resources/W1siZiIsIjIwMTgvMDQvMDMvMTgvMjQvNTMvODY0L0hhcm5lc3NpbmdfdGhlX1Bvd2VyX29mX0JhbmtzX3JlcG9ydF9GSU5BTF92ZXJzaW9uLnBkZiJdXQ/Harnessing%20the%20Power%20of%20Banks%20report%20FINAL%20version.pdf.

- explicitly considering race and examining banks more closely to address ongoing discriminatory practices that are still widespread and documented (the Home Mortgage Disclosure Act and CFPB 1071 allow the collection of race/ethnicity data to determine demographic performance in provision of financial services; transcripts of congressional debates during the passage of the CRA indicate that the intent of the CRA was to address racial discrimination *and* redlining)
- serving all segments of communities, including immigrants, people whose first language is not English, and people of color in employment and servicing as part of the CRA
- maintaining the importance of branches

The financial sector has expanded rapidly in the four decades since the CRA's passage in 1977. Domestic banks' corporate profits have increased substantially since then. When investment in LMI areas increases, the whole economy benefits, yet lending and investment in LMI areas has not expanded at scale with the financial industry. And while the financial sector has mushroomed at a much faster rate than the overall economy since 1977, LMI communities have gone backwards. The Council believes that LMI investments should be commensurate with financial sector growth and profit. The CRA has been a long-standing bulwark for financially underserved people and places seeking access to capital and financial services, and over decades, an ecosystem of social enterprises and community infrastructure has grown that is rooted in the market dynamics the CRA underpins. Substantial changes to CRA regulations could place this ecosystem and the impact it creates at risk; therefore the rate, type, and amount of change to the CRA should seek to enhance the investments our nation has made in this financial infrastructure.

To be explicit, in any conversation around CRA modernization, the Council unanimously agrees that the aggregate level of banks' investments in low-income communities should be a top priority. The aggregate level of these investments should substantially increase (e.g., double) going forward, to reflect record levels of financial sector profits, in the context of decades-long trends in income and wealth inequality in America.

The Council urges the federal banking agencies not to adopt a single quantitative assessment to determine the majority of a bank's score on CRA performance evaluations, but rather to follow the recommendations above. The Office of the Comptroller of the Currency (OCC) suggests totaling various loan types (e.g., mortgages, small business, auto loans, loan fund investments) within a given period to reach a composite metric. There is a fundamental disconnect between the aim of the CRA and the idea that a single number can address complex and historical needs. Any "one-ratio" test would need to have considerable thought on the weights given for different products, and extra weights for innovating products, services, and untested niches. It is also important that higher-risk equity investments and unprecedented or untested credit products be given enough weight to encourage innovations. It is unclear how local community needs and performance context would factor into a one-ratio approach, as well as what role public input would be able to play in such a strictly quantitative approach. In an attempt to make this one-ratio approach workable, it is likely that a system of weighting and sub-ratios would make the CRA far more complex, which would be detrimental to all stakeholders and would negate the goal of simplifying performance evaluations.

As stated in the principles above, public participation should remain a key component in the exam and application processes. No stakeholder has better insights into local community needs or bank CRA performance than community members active in addressing local needs. If banks and regulatory agencies do not consider seriously the comments of community stakeholders, they effectively eliminate public participation and a core purpose of the regulation.

Proposed OCC Reforms May Limit Product Innovation

It is important to remember that the CRA is not just a response to insufficient lending and investment volumes, it is also a response to standard products failing on the margin to create financial access. The degree of change proposed (by OCC) for investment measurements will draw a large amount of the energy and attention, but the CRA is intended to encourage service provision and financial innovations as well. It is not as feasible to include a gauge of innovation or services in a quantitative measurement. CRA exams should retain some portion as a subjective, context-specific assessment of a bank's efforts to stretch, create, and accommodate community needs.

With respect to the Treasury's recommendation that "any framework for CRA reform should consider…[e]xpansion of the types of loans, investments, and services eligible for CRA credit," the Council agrees; however, careful consideration and collaboration would need to go into identifying which additional loans, investments, and services should be deemed eligible and what weightings they should be assigned.

Efforts to modernize the CRA must consider how actions will impact various market segments, and should aim to create regulatory frameworks that provide rigor but also allow for flexibility to serve the many communities the CRA intends to benefit, in some different ways. For instance, physical bank branches remain important economic infrastructure in underserved communities.

Assessment Areas

If assessment areas become less well defined geographically, as the OCC memo suggests, the Council is concerned about the possible unintended consequence of creating CRA deserts. In a worst-case scenario, given too much latitude in how to deploy CRA-qualifying credit the issue is that CRA dollars may take the path of least resistance and be deployed based on ease and convenience of the financial institution and other criteria different than the needs of local communities. A possible solution is a method to ensure CRA investment dollars are distributed throughout a bank's market areas according to some objective criteria, such as the distribution of a bank's deposits and/or lending. The Council encourages the use of the strategic plan option that provides the bank with the opportunity to tailor its CRA objectives to the needs of the community and to its own capacities, business strategies, and expertise while ensuring appropriate levels of investment benefitting LMI populations.

CRA exams must be flexible enough to retain a local geographical focus, while expanding to include additional assessment areas where banks and their financial technology (fintech) partners gather deposits and make loans. For example, rural areas and smaller metropolitan areas suffer from a lack of branches and receive little CRA attention. However, it is not acceptable to eliminate assessment areas in CRA exams entirely, as the Treasury has recommended, as research has found that assessment areas have bolstered lending in LMI communities. Instead, regulators should create additional assessment areas in markets where a bank may not have branches but where they do originate a significant percentage of that market's total lending. The Council urges measures to promote financial inclusion in digital innovations, and the provision of digital financial services to LMI populations. If banks' digital innovations are benefiting LMI consumers, then this should be rewarded and encouraged. However, it is very important that the benefit to LMI consumers coming from digital innovations be well defined.

Currently, the CRA service test places primary emphasis on bank branches while still considering alternative service delivery. Geographic focus is critical and should not be eliminated. In fact, branches remain an important source of access to financial services and products for LMI communities. In Massachusetts, a new branch just opened in Roxbury, a predominantly black neighborhood in Boston. This is the first new bank branch opening in Roxbury in more than 20 years. Eight percent of the city's population lives in Roxbury, yet only 3 percent of the city's bank branches are located there. Research has shown that home and small business lending is greater in LMI areas with bank branches. Deemphasizing bank branches on CRA exams would cause banks to pay less attention to neighborhoods where they have stores and receive deposits and therefore would see fewer loans and investments. The Council agrees with the OCC proposal that less than “Satisfactory” ratings should not necessarily block a branch opening. However, that should only be allowed if it is one which would benefit an LMI population as a remedy to a low rating. There should be other clear penalties for poor CRA performance, up to and including denying a bank merger or acquisition.

The Treasury has proposed expanding the range of activities that can qualify for CRA credit to include financing initiatives that may have citywide benefits but that are not necessarily focused on LMI neighborhoods. Development that creates jobs for non-LMI residents is not a goal of the CRA. For instance, health facilities located in affluent parts of metropolitan areas do not significantly benefit LMI people, and the focus of the CRA must remain on LMI places and populations. An aggregated approach may inflate a bank’s CRA composite rating, as there ostensibly would not be an evaluation of how well or creatively the bank is lending to LMI borrowers, but rather CRA credit would be given for any loans made.

CRA Ratings

The current rating system fails to accurately identify banks with poor CRA performance. The agencies should develop a point scale that can reveal more gradations in performance and be more reflective of how banks are serving the needs of communities. Comparing institutions to their peers does not speak to the actual need. Metrics for performance context should be developed. Over 98 percent of financial institutions receive either a ”Satisfactory” or “Outstanding” rating, and the Council believes that this simply does not reflect reality. If a bank fails its CRA exam, or wishes to acquire a bank with a better CRA grade, agencies should encourage and recognize community benefit agreements (CBAs). This spring, the OCC weakened its CRA enforcement by allowing banks with failed CRA ratings to merge, acquire, and grow their businesses, which the Council considers unacceptable. Taking away the strongest penalty for failing CRA performance indicates to financial institutions that CRA performance is not important.

Findings of discrimination should be penalized and reflected in a bank’s CRA rating. Increased service to local underserved markets should be rewarded. Banks with failed CRA ratings should continue to be prohibited from merging or acquiring other institutions. If a bank fails its CRA exam, or wishes to acquire a bank with a better CRA grade, agencies should encourage and recognize CBAs. The goal is to motivate a race to the top across our financial industry.

CBAs are negotiated between banks and community groups and commit banks to specific levels of loans, investments, and services to LMI and minority communities over a multiyear period. The agencies should encourage CBAs and should recognize them as a valuable means to improve CRA performance.

Knowing this requires legislative action, the Council recommends that the CRA be applied to all lenders, the same way it’s applied to traditional banks, given how the financial landscape has changed. Mortgage companies, credit unions, fintechs, and other nonbank lenders now make the majority of the home loans in America. For example, in the city of Milwaukee in 2017, two nonbank lenders had over 15 percent of the home purchase loan market, and 18 of the top 27 lenders originating home purchase loans to owner occupants on one- to four-family homes were not banks. Generally, nonbank affiliates of banks are included in CRA exams at the bank’s discretion. Such inclusions should be mandatory.

There is the potential for elements of the OCC recommendations to actually reduce CRA lending and investment. The Treasury memorandum explicitly specified that "[b]anks stated that they do not understand how to 'meet the minimums.'" The Council feels that any new "objective minimum thresholds" should be set in such a way that if institutions subject to the CRA do the bare minimum they need to in order to keep a "Satisfactory" rating, the overall level of their CRA investments needs to be maintained. If CRA investments deteriorate following the implementation of these changes, then there should be a mechanism for increasing the thresholds to, at a minimum, get back to the investment levels seen before the changes were rolled out.

Similarly, the Council is concerned by the recommendation that "community development loans receive the same annual consideration as community development investments." The Council is concerned that this might also lead to a reduction in community development lending or investments overall. Attention should be paid to how this recommendation would specifically be implemented and the likely impacts on community development lending and investments.

Rural/Non-Metro Areas

CRA modernization could have a significant impact on persistent poverty in under resourced, low-capacity rural regions if it resulted in intermediate and large banks being evaluated on how well they support community development projects in response to local needs. Local banks in these areas are small and have lower CRA thresholds for investment, while the need for community investment is high. Local banks do what they can, but they do not or cannot make significant investments like the bigger banks do in more urban areas. CRA modernization presents an opportunity to correct this imbalance without putting unrealistic burdens on our small locally grounded banks. Most large banks don't have branches in remote, rural places even though they are likely to have a significant market share. Maintaining geographic assessment areas is crucial--but thoughtful consideration must be given to meaningful inclusion of remote, rural areas where large banks are gaining market share but not being held accountable for reinvestment. The OCC's Advanced Notice of Proposed Rulemaking (ANPR) suggests evaluating bank activities outside of where they have physical branches in aggregate; the Council does not think this approach would address this issue. The Council would prefer that additional assessment areas be created in markets where a bank may not have branches, but where they do originate a significant percentage of that market's total lending.

In addition to the critical role of race and ethnicity, geography also plays a significant role in the way investment impact is measured. Outdated Housing and Urban Development (HUD) formulas based on a percentage of local area median income are not only irrelevant, but often are harmful to those communities most in need of reinvestment. For example, Boone County, West Virginia, located in the coal fields, recently lost $7,000 in area median income as energy markets shifted. It is designated as a distressed county by the Appalachian Regional Commission due to persistent poverty and economic disinvestment. There are no CRA-qualified census tracts in Boone County. Jefferson County, West Virginia, located close by but in closer proximity to Washington, D.C., has 10 qualified out of its 15 census tracts. Based on CRA guidelines, poverty-level income in Jefferson County is equal to twice the area median income in Boone County. Community development loans in high-priority non-metropolitan statistical area (MSA) tracts are even more incongruent with reality. Operating lines of credit for nonprofits in CRA lines of work are often tied to real estate, which disqualifies the loan as "community development," and few qualify for or need the threshold amount of $1 million. Community development loans should be purpose driven and community defined, not based on collateral type or loan size.

Revision of Regulation H

The Council believes it is important to remove barriers that make it difficult for banks to make much-needed CRA equity investments. CRA investments are important enough that if an investment meets the definition of a CRA qualified investment under the Federal Reserve's CRA regulations, then a bank should have the legal authority to make that investment without having to meet additional or different standards under the Federal Reserve's Regulation H (Public Welfare Investments). The CRA regulations place significant emphasis on innovative and flexible community development loans and investments, but the Council is aware of numerous banks that are not able to make such investments because Regulation H currently requires prior approval from the full Board of Governors (which in some cases is taking one to two years). We believe that the Federal Reserve should align its Regulation H legal authority provisions with its CRA qualified investment provisions in a manner similar to the OCC and FDIC approach, as set forth in 12 CFR §24.3, so that banks and their community partners do not have to comply with two different sets of requirements enforced and interpreted by two different departments of the Federal Reserve, which often results in significant delay.

2. Current Market Conditions: *What is the Council's view of the current condition of, and the outlook for, loan markets and financial markets generally? Has the Council observed any notable developments since its last meeting for loans in such categories as (a) small business, (b) home mortgage, (c) multifamily affordable housing, and (d) consumers? With respect to consumer loans, what is the Council's view on any changes in the risks and protections for consumers since its last meeting, particularly regarding credit access and transparency about loan terms and the cost of credit?*

Despite strong overall economic conditions and record low unemployment in black and other low-income communities of color, economic mobility continues to be stalled for the nation's most vulnerable. The numbers are improving, but there are still many people who are locked out—there is joblessness despite decreasing unemployment, and wages are also not increasing for vulnerable communities. The low overall unemployment rate can be misleading.

The situation is particularly dire for low-income people of color (who are disproportionately represented in the low-income population), whose prospects are further diminished by continued discrimination in labor, housing, and credit markets as well as by segregation and neighborhood inequality. Economic growth and prosperity is very uneven spatially, and many low-income communities of color continue to struggle with disinvestment, poverty, and lack of jobs and market activity. Others face the challenge of gentrification and displacement from neighborhoods experiencing reinvestment.

The fact that America is undergoing a historic demographic shift in which we will soon be a majority people of color nation (and many metropolitan regions have already surpassed that milestone) magnifies the significance and impact of these racial economic inequities. As communities of color grow as a share of the total population, their economic exclusion will weigh more heavily on the economies of their regions and the nation as a whole. The future of banking and housing depends on the financial well-being of the populace, and the strained financial conditions for the 100 million Americans who are living at or below 200 percent of the federal poverty line do not bode well for the health of our society or our economy.

Small Business

Small businesses in low-income communities and communities of color continue to suffer from lack of access to credit. In Seattle, for example, from 2010 to 2014, $7,200 was lent to small businesses per capita in higher income neighborhoods, while only $230 per capita was lent in low-income communities. As also described later under "Consumer Matters," research reveals ongoing barriers to small businesses accessing financial services in LMI communities and communities of color, hindering entrepreneurship and small business growth.

Banks appear to have developed a higher risk tolerance for some sectors over the past year, while risk tolerance continues to be lower for other sectors, especially business for loans under $500,000. This lack of access often leads these borrowers to fall prey to unregulated high-interest lenders, including subprime, nonbank, fintech, and payday lenders.

The Council notes a growing trend among small business owners getting into trouble with expensive online small business loans, such as merchant cash advances (MCA). Oftentimes, the pricing and structure of these loans is deliberately obscured, and small business owners take on debt burdens and fees that they are not able to sustain. Unless regulations are implemented to mandate more transparent pricing and terms, the Council fears that more and more small businesses will increasingly struggle with the burden of these loans, and even be forced to close. One example of such regulation was recently enacted in California, where SB 1235 makes it mandatory for small business lenders to make their rates and terms transparent to borrowers.

The types of capital for small businesses in rural communities tend to mirror what is available in urban centers. The need in rural, under-resourced communities is for more capacity-building resources, technical assistance and ecosystem development.

Research indicates that startup activity is inhibited by high levels of student debt. The percentage of people under age 30 who own their own businesses has fallen by 65 percent since the 1980s. Fewer than 2 percent of millennials are self-employed, although 60 percent of millennials consider themselves entrepreneurs. At $1.48 trillion, student debt is up more than 150 percent in the last decade. Forty-three percent of millennials believe that student debt is limiting their career options, and 19 percent of graduates say they have delayed starting a business because of loan debt. Approaches to better manage and limit student debt should yield results in accelerating startup activity.

There does seem to be momentum nationally around helping small businesses scale. Regions, cities, and some financial institutions are increasing focus on growing small businesses, especially those owned by people of color, through diverse initiatives such as the Advancing Cities Initiative, Living Cities City Accelerator program, and the Regional Growth Innovation Network. Each of these efforts offers new types of capital in the marketplace and recognizes the need to increase start-up, stay-up, and scale-up activity for businesses of color; highlights the need for pointed efforts at a regional/local level; and focuses on integrated ecosystem building to deliver targeted results. That is, any measures that can be exploited to encourage more flexible capital for small businesses and greater collaboration between different organizations should be leveraged aggressively.

Access to Banking and Financial Inclusion

Banks and nonbank lenders are aggressively seeking out opportunities to finance retail, commercial, and/or industrial real estate activities of any kind. Whether it's a loan to buy or build, as long as there is reasonable evidence of cash-flow and value, lenders are competing for deals. If the financial information is compelling, commercial banks are making the loan. If the information is less than complete—a common occurrence among small businesses—the banks decline the loan, then the nonbank lenders step in, and at 8 percent or more above the prime rate, will make the loan with a lot less reliable financial information. When it comes to lending for business activities, with no real estate collateral, the banks are conspicuously absent, and the subprime nonbank lenders, including numerous fintech lenders, are everywhere. Rates of 30 percent and above are common, and the use of MCA systems are choking off cash to fledging small businesses.

LMI-owned, woman-owned, and minority-owned businesses continue to face barriers to accessing mainstream financial services and capital. Recent reports and ongoing research at national groups such as New America Foundation[3] document how banks still engage in discriminatory and deceptive practices that hinder economic progress for low-income people of color, entrepreneurs of color, and other disadvantaged businesses.

Increasing interest rates make it difficult for small businesses to grow, but even if they can access capital, rising interest rates make capital unaffordable. This creates the conundrum that small businesses cannot afford capital to grow, but if they don't grow they will not be able to afford capital.

Consumer Matters

The Council remains concerned about attempts to weaken the CFPB. After nearly seven months during which the CFPB only issued a handful of enforcement actions, in the last month, the agency finally has moved forward on several stalled enforcement actions that were initiated during the previous administration. However, there is continuing concern that these actions may end in settlements, which are often less favorable to consumers than rulings. Over the first six years of its existence, the CFPB returned $12.6 billion to consumers.

Additionally, the Financial CHOICE Act (H.R. 10) would roll back strong consumer protections and restrictions on some of the nation's largest financial institutions--rules passed as part of the Dodd-Frank Act in 2010 and designed to prevent another financial crisis. On a related issue, the National Credit Union Administration has proposed a payday alternative loan (PAL) II small-dollar loan for credit unions, with significantly fewer restrictions than the current PAL program. The new proposal includes increasing the interest rate from 18 percent to 28 percent, removing limits on how many loans can be taken out per year, and does not prevent credit unions from charging overdraft fees if they debit accounts for their own loans.

Banks charge consumers of color more to open and maintain entry-level bank accounts, and fees and screens are disproportionately higher and more onerous in black and Latino neighborhoods than in white neighborhoods. Recent qualitative research by PolicyLink and UnidosUS uncovered a series of additional barriers facing LMI consumers, particularly unbanked and underbanked consumers of color, including

- identification requirements pose significant barriers to accessing safe banking services, even across branches within the same financial institution;
- high fees and balance requirements are often prohibitive for LMI consumers looking to enter the mainstream financial system;
- fewer bank branches in LMI communities of color make it more difficult for underbanked and unbanked people to access banking services;
- language barriers are still a significant impediment for those whose first language is not English; and
- there is very little infrastructure to provide people with poor credit or no credit access to safer financial products that can enhance their banking and credit profiles.

[3] See https://www.newamerica.org/family-centered-social-policy/reports/racialized-costs-banking/overview/.

Home Mortgages

The leading barriers to homeownership and mortgage credit access are the lack of housing stock and increased home prices. Additionally, poor credit continues to be a significant barrier to a mortgage and other affordable credit products, highlighting the need for financial education programs. Freddie Mac reports that the rate for a 30-year mortgage was 4.54 percent in mid-July, up from 3.99 percent at the end of 2017. However, in most of the top 10 MSAs, most mortgage payments[4] are still below the peak in June 2006. Denver and San Francisco are the exceptions.

Home Improvement Lending

Another concern is the lack of financing for home improvement projects to existing homeowners (especially LMI borrowers), as well as loans to purchase existing homes and renovate them. For example, in Milwaukee, Home Mortgage Disclosure Act data shows that a total of only 2,115 home improvement loans were made in 2017 in the four-county Milwaukee MSA, and that of those loans, only 473 went to LMI borrowers.

Multifamily Affordable Housing

Some good news to report arises from Government Sponsored Enterprise (GSE) efforts to provide a mezzanine financing product for multifamily lending in rent-controlled situations. This program should be pushed from pilot to a scaled initiative. However, when it comes to financing affordable housing units, particularly multifamily rentals, affordable housing developers continue to closely monitor the impact of tax reform on Low-Income Housing Tax Credits (LIHTC) and Historic Tax Credits used to subsidize affordable housing development. LIHTC pricing has come down significantly since tax reform was enacted, making housing development more difficult.

The Milwaukee County Board of Supervisors approved an amendment to the county's fair housing law that adds protection for people who receive rent assistance to the categories such as race, sex, sexual orientation, and disability, which are already protected. The law will now prohibit landlords from discriminating against potential tenants solely on the basis of their use of government-funded rental or other housing assistance vouchers.

In many strong-market cities there is an affordable housing crisis. In Seattle, the cost of building (recent new construction estimates are around $270/sq. ft.) and rehabbing has increased exponentially, and the homeless and housing burdened populations have increased as well. Even with the significant amount of public funds dedicated to affordable housing, the city can still not keep up with demand, and the rental and purchase costs continue to be far out of reach for most seeking housing.

Payday Loans

The Council remains deeply distressed about the continuing withering attacks on the Consumer Financial Protection Bureau, which was established to protect ordinary Americans from financial malpractice.

According to Pew Research, "the average payday loan borrower…[spends] an average of $520 in fees to repeatedly borrow $375" each year.[5] Between 2000 and 2011, the median net worth of the bottom quintile

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[4] See https://www.corelogic.com/downloadable-docs/marketpulse/the-marketpulse-vol-7-issue-7-july-2018-screen-072318.pdf.

[5] See http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/01/payday-loan-facts-and-the-cfpbs-impact.

of American households fell from -$905 to -$6,029 (in 2011 dollars),[6] which represents a decline of $466 per year. So for many low-income Americans, these exorbitant payday loan fees and interest payments literally represent the difference between losing wealth, and gradually gaining wealth, year by year.

The *New York Times* cites one story of Billie Aschmeller, who is disabled and lives on a small fixed income from Social Security.[7] Per the story, Ms. Aschmeller "said she had borrowed $1,000 to buy baby supplies for her pregnant daughter. She repaid $150 a month, she said, but those payments barely made a dent in the loan's principal. A year later, she still owed $800." The story continues: "'They loan you the money at these outrageous rates, and then they just bleed you,' Ms. Aschmeller said. She eventually paid off the loan by selling her car."

As the CFPB sides with payday loan industry trade groups against rules to curb some of the worst excesses of payday lending, the Council is unanimously and gravely concerned by the implications for consumers, particularly those who are low-income.

Payday loans can play a valuable role in enabling consumers to cope with unexpected financial shocks. However, when borrowers pay multiple times more in fees and interest payments than they borrow, these loans may be a poverty trap. The Federal Reserve should continue to discourage payday lending by its member banks.

3. Housing Markets: *How have house prices and rental rates changed since the May 2018 meeting? Have there been any new developments in housing activity for LMI communities in Council members' regions?*

Since our last meeting with the Board of Governors, little has changed on housing markets across the nation. Renters still face a toxic mix of rising rents and stagnant wages, both of which add up to an unprecedented affordability crisis. Fifty-one percent of renter households nationally continue to pay more than 30 percent of their income on rent and utilities. Low-income renters and renters of color, particularly women of color, are the most squeezed by this crisis; more than three-quarters of lower-income households pay too much for rent, and six in ten women of color, who are heads of households pay too much for rent, compared with four in ten white men.

The National Low Income Housing Coalition's 2018 *Out of Reach* report, which analyzes the gap between rental housing costs and wages across the U.S., found that "in no state, metropolitan area, or county can a worker earning the federal minimum wage or prevailing state minimum wage afford a two-bedroom rental home at fair market rent by working a standard 40-hour week."[8] In Massachusetts, for example, the report shows that while Fair Market Rent (FMR) for a two-bedroom apartment in the Lawrence metropolitan area is $1,187, an individual would need to earn an hourly wage of $22.83 ($47,480/year) to afford this rent without becoming housing-cost burdened. Yet, the report continues to show, the estimated mean renter wage in the Lawrence metro area is $14.03/hour ($29,182/year).[9] Accounts of area families doubling and tripling up in two- and three-bedroom units continue to surface.

[6] See https://census.gov/content/dam/Census/library/working-papers/2011/demo/wealth-distribution-2000-to-2011.pdf.
[7] See https://www.nytimes.com/2017/10/05/business/payday-loans-cfpb.html.
[8] See National Low Income Housing Coalition, *Out of Reach: The High Cost of Housing* (Washington, D.C., 2018), http://nlihc.org/sites/default/files/oor/OOR_2018.pdf.
[9] National Low Income Housing Coalition, *Out of Reach*, p.119.

Nationally, rents continue to increase, but the pace has slowed over the past year compared with the two previous years, according to an analysis from Apartment List. In the month of July, for example, rents increased in 62 of the largest 100 cities, while in June rents increased in 85 cities. The slowdown in rent appreciation overall is a hopeful sign given the continued rental affordability crisis, which continues to negatively affect low-income renters. A new Zillow analysis of its rental listings found that just 42 percent of the listings were affordable for the median U.S. household in terms of income, and just 16 percent were available for the median black household and 27 percent for the median Latino household.[10]

Rise in Investor Landlords

In the wake of the foreclosure crisis, many large investors moved aggressively into the rapidly growing single-family rental market, purchasing an estimated 350,000 homes between 2011 and 2013 alone.[11] While these large-investor-owned properties represent only a small fraction of the national single-family rental market, they are concentrated in certain targeted metro areas, such as Atlanta and Nashville, in some instances with financing from government-sponsored enterprises (GSEs).[12]

Investor landlords file evictions at a significantly higher rate than small landlords in the same county, even when controlling for neighborhood characteristics.[13] Protected by single-family exemptions from rent control policies, corporate landlords have been allowed to raise rents and thus engage in tenant harassment tactics that compel residents to move out of homes, as reported in Los Angeles and elsewhere.[14] Various community organizations have proposed policies to stem destabilizing activities by large investor landlords.[15] And in Los Angeles, the County Board of Supervisors recently passed a moratorium on rental increases in unincorporated areas, limiting such increases to 3 percent for the next 12 months.

Impact of Loan Terms on Rising Displacement

Rising rents in previously low-rent neighborhoods have driven a surge in multifamily bank lending. The terms of these loans may encourage the displacement of LMI families. Under the terms of certain loan contracts, property owners may be required to get the bank's permission to charge rents that are below market rates. If the owners fail to get the bank's consent, then they must set rents at market rates. In high-cost real estate markets such as the San Francisco Bay Area, where average rents have increased 16 percent over the last three years,[16] this creates a strong incentive to increase rents on existing tenants, often causing displacement.

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[10] See https://www.zillow.com/research/rentals-race-affordability-20700/.

[11] Elora Raymond et al., "Corporate Landlords, Institutional Investors, and Displacement: Eviction Rates in Single Family Rentals" Community & Economic Development Discussion Paper No. 04-16, December 2016, Federal Reserve Bank of Atlanta, https://www.frbatlanta.org/-/media/documents/community-development/publications/discussion-papers/2016/04-corporate-landlords-institutional-investors-and-displacement-2016-12-21.pdf.

[12] See https://www.wsj.com/articles/meet-your-new-landlord-wall-street-1500647417.

[13] Raymond et al., "Corporate Landlords."

[14] See http://www.laweekly.com/news/invitation-homes-and-other-corporate-landlords-are-squeezing-tenants-with-rent-increases-8901051.

[15] For a full list of recommendations, see https://d3n8a8pro7vhmx.cloudfront.net/acceinstitute/pages/100/attachments/original/1516388955/WallstreetLandlordsFinalReport.pdf?1516388955.

[16] See https://www.rentcafe.com/blog/rental-market/apartment-rent-report/san-francisco-bay-area-2017-rent-retrospect/.

The California Reinvestment Coalition has written an anti-displacement code of conduct[17] that banks and equity investors should adopt. While some banks are voluntarily revising their underwriting policies, changes at the policy level are needed. CRA compliance, for example, could include an evaluation of how multifamily loans impact lower-income residents.

Homelessness

The Council continues to be distressed by the increase in homelessness in the country. Homelessness data is aggregated annually by HUD, and the most recent report from December 2017 shows that nationally, the number of homeless people has not decreased despite significant expenditures from state and local governments and a booming national economy.[18] However, some urban centers have experienced drastic increases.

Home Values

The S&P CoreLogic Case-Shiller National Home Price Index, which measures average home prices in major metropolitan areas, rose 6.4 percent in May, identical to the year-over-year increase reported in April. This year-to-year measure has exceeded 5 percent each month since August 2016.

Quarterly data from the Housing Vacancy Survey reveal that homeownership rates overall (64.3 percent) are up slightly from 2017, with a slight increase for white households but flat for households of color.[19] Homeownership rates have increased slightly for households below median income but are unchanged for households above median income. A small decrease in rental vacancy rates (6.8 percent) appears to be driven by lower vacancy rates in the suburbs (6.2 percent). Vacancy rates within cities (6.8 percent) and outside of metropolitan areas (9.2 percent) have not changed significantly since 2017.

According to Zillow, Massachusetts home values have increased 7.0 percent over the past year and are projected to rise 7.7 percent over the next year. The median price of homes currently listed in Massachusetts is $450,000, while the median rent price in Massachusetts is $2,650. These prices severely limit housing opportunities for LMI families. Further, there are concerns of foreclosures looming, as the state's foreclosure rate is almost four times the national average (6.0 versus 1.6 per 10,000).[20]

In Southeast Michigan, Zillow shows that the median home value in the Detroit-Warren-Dearborn metro is $154,900. Home values in the region have gone up 9.7 percent over the past year, and Zillow predicts they will rise 9.0 percent within the next year. The median list price of homes currently listed in Detroit-Warren-Dearborn metro is $219,000, while the median rent price is $1,150, which is the same as the Michigan median of $1,150.

Despite healthy growth in the region, housing prices and rental rates have experienced much more volatility in the urban core. The median list price of homes currently listed in Detroit is $36,000, and the median rent price in Detroit is $800. The percent of delinquent mortgages in the city of Detroit is 3.0 percent, which is nearly twice the national value of 1.6 percent. Meanwhile, the ratio of Detroit homeowners who are underwater on their mortgage is 36.2 percent, which is higher than Detroit metro at 11.4 percent.

In Milwaukee, the demand for homes costing $300,000 or less continues to grow, and there is a short supply of existing homes under that price threshold. But the *Milwaukee Journal Sentinel* reported that

[17] See https://drive.google.com/file/d/1M9fYNOKyfSETEHxuO5fqHEIWxB_4XKmG/view.
[18] See https://www.hudexchange.info/resources/documents/2017-AHAR-Part-1.pdf.
[19] See https://www.census.gov/housing/hvs/files/currenthvspress.pdf.
[20] See https://www.zillow.com/ma/home-values/.

builders are not rushing to address that market opportunity. A shortage of skilled workers, combined with higher prices and restrictions on lots as well as the increased cost of Canadian lumber (due in part to tariffs imposed last year) make it more logical and profitable for builders to construct fewer, more expensive houses. Through the first five months of 2018, in the four counties of the Milwaukee MSA, the average home being constructed was 2,933 square feet, with an average value of $396,662. That compares with 2,772 square feet and $292,282 in the same period in metro Milwaukee in 2013.

Facilitating Affordable Housing through HUD Grants

HUD's Choice Neighborhoods program represents a significant step in the right direction in terms of increasing housing affordability by driving public and private dollars to support locally driven strategies that address struggling neighborhoods. The program transforms neighborhoods by revitalizing severely distressed public and/or assisted housing. Most recently, five communities around the country received up to $30 million to invest in "transformation plans." Awardees for the most recent round included Baltimore, Maryland; Flint, Michigan; Phoenix, Arizona; Shreveport, Louisiana; and Tulsa, Oklahoma. These grants are particularly innovative because they not only provide access to better housing, but also require partnership with education, workforce, health care, and social service providers to promote economic mobility. While significant, more support of this nature is needed to facilitate housing in difficult markets.

4. Labor Markets: *How have the labor markets in which Council members operate changed since the May 2018 meeting? To what extent is a tight labor market leading employers that Council members are in contact with to scope in applicants who would not have been considered a few years ago? To what extent have employers adjusted by expanding training?*

Overall, labor markets are continuing to see increased hiring and a growing shortage of experienced workers. Very few employers feel they have enough trained and qualified workers to meet future needs. During a period of historically low unemployment, people of color, people with limited resources, and many rural Americans have not experienced an increase in income or participation in health insurance and retirement plans. For example, unemployment rates in central Appalachia, rural Mississippi, and rural Alabama for June 2018 range from 8 percent to 15 percent. There is also a population that remains outside the workforce that is not included in the unemployment numbers.

Workers are responding to weak wage growth by supplementing their incomes with short-term, on-demand employment. A recent analysis[21] of Social Security data by the Economic Policy Institute shows that 11.7 percent of all wage earners had some income from self-employment in 2015 (the most recent data), and that this income was largely supplemental to their main job. While this is not a significant increase from 2010, when 11.5 percent of earners had income from self-employment, it is notable that even in this tight labor market, more than one in 10 workers is seeking supplemental income. Wage stagnation is further evidenced by data from the National Equity Atlas that show negative income growth[22] for low- and middle-wage full-time workers.

In California, unemployment continues to decrease, even with the entrance into the low-wage markets of young adults, long-time unemployed, older workers, disabled workers, and applicants with other challenges. While a helpful trend to certain populations, the lack of wage growth is increasing the population of "working poor." More training is being provided to young adults entering the job market

[21] See https://www.epi.org/blog/social-security-data-confirm-same-old-pattern-self-employment-headcount-has-risen-but-economic-impact-remains-small/.

[22] See http://nationalequityatlas.org/indicators/Income_growth.

and looking for technical training to support the tech industries, but less effort to provide retraining to the long-term unemployed.

In northeast Massachusetts, Lawrence Community Works continues to receive great collaboration and interest from banks and credit unions in its Banking and Finance job training program. However, lack of English language proficiency and customer service experience continue to be significant barriers to employment. Banking partners continue to work collaboratively to adjust curricula and provide support in the program delivery. The organization and some partners are now considering expanding the program to set up a nontraditional banking apprenticeship program through the state's Division of Apprenticeship Standards.

In Everett, Massachusetts, a casino will be opening its doors in mid-2019. The project has generated over 4,000 construction jobs and is expected to generate approximately 4,500 permanent jobs once open. With a tight labor market in the Metropolitan Boston area, the casino is facing challenges in recruiting and training for these positions. It is partnering with local community colleges and organizations to assist in identifying LMI individuals who can be hired, trained, and prepared for the opening next year.

Foxconn, a Taiwanese technology firm establishing its North American headquarters in Wisconsin, will hire thousands of engineers for its new manufacturing complex in Racine County, just south of Milwaukee. In a partnership with the University of Wisconsin-Milwaukee, engineering students will have a chance to work and study in Taiwan. Building-trade publications report that a shortage of labor will remain a pressing concern, and high land and construction costs may complicate plans to build apartments and houses nearby.

There is a lot of concern in Wisconsin about tariffs and the administration's trade policy. Harley Davidson (headquartered in Milwaukee) workers are concerned after the company announced on June 25 that it plans to move production of motorcycles destined for the European Union outside the U.S., in response to new EU tariffs. New tariffs on dairy products and cranberries (both critical to the state's economy) are also raising deep concern.

Wisconsin ranks in the top 10 states in sales of new powerboats, engines, and accessories, but boat manufacturers say the escalating trade dispute with China could scuttle sales of aluminum boats popular in Wisconsin. U.S. automotive parts suppliers are worried about trade wars that could raise their costs and drive up car and truck prices.

Labor shortages are a major focus in Minnesota's Twin Cities. One creative solution for the construction-market labor pipeline has been the creation of a nonprofit, "Construct Tomorrow," where volunteers, including the various unions, reach out to high school students statewide through large interactive events. Students get to learn about the different trades and do hands-on activities to generate interest, and the organization offers mentorships to those choosing construction as a career.

Manufacturing also struggles with labor shortages. According to the Minnesota Manufacturing Association's latest survey, recruitment and retention continue to be the biggest issue facing 50 percent of respondents. Some factory officials are asking workers who are eligible to retire to stay on the job a few additional years or take on part-time hours as companies work to hire new employees. The continuing cost of health care is also a prime concern. Small rural areas in western Wisconsin, which customarily face a job shortage, are struggling to even find unskilled labor. The labor shortage has resulted in bidding wars for workers, which drastically impacts smaller firms' ability to compete. Material supply manufacturers are facing similar labor shortages. Many employers are hiring and training unskilled workers for skilled positions.

While the labor market is at "full employment," in northeast Massachusetts, well-paying jobs are still inaccessible to LMI individuals. Opportunities for job training still draw significant demand from the labor force. In Lawrence, Massachusetts, the Lawrence Working Families Initiative, a collaborative community partnership, launched in September a year-long comprehensive paraprofessional training program that includes a paid internship. Despite high English proficiency eligibility and other screening criteria as well as the intensive 25-hour per week year-long curriculum, 63 individuals applied for the program, by far exceeding the partnership's expectations and leaving 34 individuals on a waiting list.

Unions utilizing recruitment, apprenticeship programs, and collective bargaining agreements can be a mechanism to start fixing labor problems that the Council has been highlighting. Nationally, Bureau of Labor Statistics data show that among full-time wage and salary workers, union members had median usual weekly earnings of $1,041 in 2017, while those who were not union members had median weekly earnings of $829; black workers remained more likely to be union members than white, Asian, or Hispanic workers.[23] Ninety-four percent of union workers had access to employer-provided medical care benefits in March 2017, compared with 67 percent of non-union workers.[24] The gender wage gap is significantly smaller among both white and black unionized workers than their non-union counterparts.[25] Organized labor is not perfect and still struggles with diversity and inclusion, but these data offer sound justification to embrace unions as a means to address labor, benefits, and income inequities.

The focus of labor unions is training the next generation of workers, ensuring wage equality for all members, and requiring safe working conditions. Unfortunately, their resources are being used to push back on antiworker legislation. The value of organized labor can be found in a quote from a difficult period in America's history:

> "The labor movement was the principal force that transformed misery and despair into hope and progress. Out of its bold struggles, economic and social reform gave birth to unemployment insurance, old age pensions, government relief for the destitute and above all new wage levels that meant not mere survival, but a tolerable life. The captains of industry did not lead this transformation; they resisted it until they were overcome. When in the thirties the wave of union organization crested over our nation, it carried to secure shores not only itself but the whole society." *–Martin Luther King Jr., Illinois AFL-CIO Convention, October 1965*

5. Additional Matters: *Have any other matters affecting consumers and communities emerged from the work of the Council members that they want to present at this time?*

Discrimination in the Maintenance and Marketing of REO Properties

Recently, the Metropolitan Milwaukee Fair Housing Council (MMFHC), the National Fair Housing Alliance (NFHA), 18 other fair housing organizations, and two homeowners in Maryland filed a federal Fair Housing Act lawsuit against a major bank and its affiliate alleging that the defendants intentionally failed to provide routine exterior maintenance and marketing at their properties in working- and middle-class African American and Latino neighborhoods in 37 metropolitan areas, while they consistently maintained similar bank-owned homes in comparable white neighborhoods. The bank took possession of these homes after it foreclosed on the properties and became the owner of record and, as owner of these homes, is responsible for routine exterior maintenance on its properties.

[23] See https://www.bls.gov/news.release/pdf/union2.pdf.

[24] See https://www.bls.gov/opub/ted/2017/94-percent-of-union-workers-had-access-to-medical-care-benefits-in-march-2017.htm.

[25] See https://www.epi.org/blog/unions-help-narrow-the-gender-wage-gap/.

The data presented in the federal lawsuit, which is supported by substantial photographic evidence, shows a glaring pattern of discriminatory conduct by the bank. In neighborhoods of color, plaintiffs found evidence of consistently poor exterior maintenance, such as wildly overgrown grass and weeds, unsecured doors and windows, damaged steps and handrails, accumulated trash and debris, unsecured pools, graffiti, and even dead animals decaying in yards. In the Milwaukee metropolitan area, MMFHC investigated 134 REO properties, of which only 31 properties were located in predominantly white neighborhoods, which fully supported the claim of significant disparities in the maintenance and marketing practices between homes in white versus neighborhoods of color.

OCC Bulletin Regarding Fintechs

On July 31, the OCC announced it will begin accepting applications for national bank charters from nondepository fintech companies engaged in the business of banking. The Council recommends several steps to ensure that these charters meet the needs of consumers, including providing opportunities for public comment; requiring that applications include a robust community-wide financial inclusion plan; and efforts to confirm that lending algorithms are nondiscriminatory and do not support predatory lending practices.

Immigration and Financial Inclusion

The government's policy of separating families has exacerbated the already existing fear and stress in LMI communities with a high number of immigrants as well as among employers and small businesses. The Council is troubled by the inclusion of the question regarding citizenship in the 2020 Census, which could lead to inaccurate counts and possibly a reduction of federal funding for LMI communities. In addition, several banks have recently been cited as having frozen savings and checking accounts, and in some cases, closed accounts of individuals who could not show proof of U.S. residency. The work of the Federal Reserve to encourage immigrant participation in mainstream financial institutions is now being actively diluted by those same institutions.

Supporting the Economic Recovery of Puerto Rico and U.S. Territories

Last September, the Federal Reserve Bank of New York issued two reports on the performance and financing experiences of small businesses in Puerto Rico. The reports show that after temporary business closings, most businesses were able to reopen after Hurricanes Irma and Maria. Additionally, the reports identified an increase in micro-enterprises on the island, demonstrating that the business community is alive and well. Earlier in 2018, the Federal Reserve Bank along with other regulatory agencies issued a statement that gives favorable CRA consideration to financial institutions located anywhere in the U.S. that offer products and activities to stimulate economic development and support the recovery of Puerto Rico and the U.S. Virgin Islands.

In addition, the Council believes that the proposed bill, "U.S. Territorial Relief Act of 2018," which provides comprehensive debt relief for Puerto Rico and other hurricane-ravaged U.S. territories, will have a positive impact on their economies. The legislation would give Puerto Rico and other U.S. territories the choice to terminate non-pension debt loads if they meet "certain stringent criteria." It includes an allocation of federal funds for Puerto Rican creditors, whose debt was terminated, "including Puerto Rican residents, banks and credit unions that did business solely in Puerto Rico, the island's unions and public pension plans, and businesses with a principal place of business in Puerto Rico." It also includes an allocation for mainland creditors whose debt was terminated.

Matters Impacting Rural America

Given the affordable housing crisis and labor shortage in large urban markets, rural places should be promoting their relatively affordable housing stock and open labor pool broadly, while also advocating for increased access to high-speed broadband as the infrastructure necessary to attract business. Key elements that can advance rural development include

- identifying jobs that are not location sensitive;
- determining what factors entice people to move from urban to rural rather than continuing the outmigration from rural communities; and
- assessing how creative investments like redefining the CRA, student loan debt relief, creative approaches to rural development, or simply the need for clean water, could incentivize rebalancing population density across the nation.

Opportunity Zones

The Opportunity Zone designation presents significant opportunities and potential challenges for local leaders seeking to advance equitable economic development. The new initiative is expected to bring trillions of dollars of investment capital into some of the nation's poorest neighborhoods. If invested in the right type of projects, this new capital infusion could spark catalytic development that creates economic opportunity and improves neighborhoods. But if the resources are deployed without a focus on improving opportunities and outcomes for the residents living inside the zones, these investments could lead to displacement of low-income people and communities of color in addition to the loss of community assets and land. The current absence of any regulatory guidance on impact requirements from these investments is an issue that merits the engagement of the Federal Reserve.

To ensure that Opportunity Zones achieve their intended purpose, the Council supports the following recommendations from PolicyLink:

- Allow local and state governments to establish additional guidelines for opportunity zones to advance equitable growth, development without displacement, rural development and healthy communities of opportunity.
- Require investors, states, and cities to use data disaggregated by race to assess economic benefits and displacement risks.
- Set performance measures for Opportunity Zones such as living-wage jobs created, number of affordable housing units (50 percent of AMI or less) created or preserved, and investments in minority/disadvantaged/women-owned businesses.
- Specifically define "abuse" in the regulations in ways that prevent evictions, rent increases, or the loss of deed restricted or naturally occurring affordable housing in places.
- Require declaration of intent by Opportunity Funds regarding investment intentions and achievement of specific community benefit outcomes as a condition of certification.

Promoting Inclusive Leadership at the Federal Reserve System

The Federal Reserve Board of Governors, and the leadership across the System, should aim to increase diversity and representativeness in terms of race, gender, and perspective (given that few leaders come from outside of Wall Street). Increasing diversity is essential to the System's future. While representation does not always equal expertise, as society grows more diverse, leaders who come from groups that have experienced marginalization and discrimination can bring valuable knowledge and insight into the system that can lead to better decisions and economic outcomes. Given the need for racial and gender diversity within the Federal Reserve, the Council recommends that future search committees focus specifically on recruiting women and people of color into its leadership positions.