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RE: Regulation BB: Community Reinvestment Act, Advance Notice of Proposed Rulemaking, Docket Number R-1723, RIN 7100-AF94

Introduction

On behalf of the 1.4 million members of the National Association of REALTORS® (NAR), I submit this letter in response to your Advance Notice of Proposed Rulemaking (ANPR) to modernize the Community Reinvestment Act (CRA) regulations.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock, along with its availability to the widest range of potential homebuyers.

NAR thanks the Federal Reserve Board of Governors (FRB) for its effort to modernize and strengthen the CRA's core purpose of meeting the wide range of low and moderate income (LMI) banking needs and addressing inequities in financial services and credit access. As it is critical that the banking and financial institution regulators act together on reform of the CRA, we look forward to working with the FRB, as well as the Office of Comptroller of Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), on these issues together.

Summary of Notice

The Board seeks to more predictably delineate lender assessment areas for CRA around physical locations, such as bank branches, and to ensure that assessment areas are contiguous, do not reflect illegal discrimination, do not arbitrarily exclude low- and moderate-income (LMI) census tracts, and are tailored to bank size and performance context.



Additionally, the Board wants to propose a framework for evaluating large banks' CRA performance with a Retail Test and a Community Development Test. The Retail Test would include two subtests: A Retail Lending Subtest and a Retail Services Subtest. The Community Development Test would also include two subtests: A Community Development Financing Subtest and a Community Development Services Subtest. However, the Board would tailor the tests based on differences in bank asset size and business models. Small retail banks would have the option of continuing to be evaluated under the current CRA framework or be evaluated under the Retail Lending Subtest alone and could also elect to have their retail services and community development activities evaluated. Wholesale and limited purpose banks would be evaluated under the two community development subtests. Alternatively, any bank would have the option to be evaluated pursuant to an approved strategic plan.

Furthermore, the Board hopes to anchor a bank's overall rating on performance in all of its local communities by eliminating the designation of full- and limited-scope assessment areas in favor of the evaluation process' expanded use of metrics. Finally, the Board hopes to balance the benefits of the use of metrics with the burden of expanded need for data collection and reporting to implement such a system.

The ANPR seeks feedback on these approaches to modernizing the regulatory and supervisory framework for the CRA as well as commenters views on specific questions. The following comments outline NAR's feedback on several specific provisions in the ANPR.

Question 1. Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?

REALTORS® support communities all across the United States, including low and moderate-income Americans. NAR is committed to the availability of credit and investment opportunity in under-served communities, and to this end NAR supports the CRA. Furthermore, in order to refocus and improve lending to LMI areas, small businesses, and communities in need of financial services, NAR supports the modernization of the CRA regulations under these guidelines:

- Assessment Area definitions, used in the evaluation process, must be updated through collaboration between the regulators and the financial institution to reflect changes to geographic coverage, but also the nature of lending and the need for banking services.
- Methods of examinations should be consistent, transparent, and readily available. Any metric-based evaluation system should be holistic and must not diminish the analysis of the true needs of communities. Performance rating methods must support the mission, be clearly identified and defined, and be consistent over time and between examiners.
- The Performance Context, a research-based understanding of the credit and community development needs and opportunities, should be defined and updated in real time in conjunction with the supervised financial institution and used in the evaluation process as well as in the forward-looking strategic investment plan of the financial institution.
- Modernization efforts must enhance the ability of banks of any size to serve communities by providing access to credit for all neighborhoods. All banks have an obligation to serve their communities especially in their greatest areas of need and to provide fair access to financial services.

We applaud the FRB ANPR for attempting to address all of these issues.

Questions 2 and 3. In considering how the CRA's history and purpose relate to the nation's current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities? Given the CRA's purpose and its nexus with fair lending laws, what changes to Regulation BB would reaffirm the practice of ensuring that assessment areas do not reflect illegal discrimination and do not arbitrarily exclude LMI census tracts?

Congress enacted the CRA in 1977, primarily to address economic challenges in predominantly minority urban neighborhoods that had suffered from decades of disinvestment and other inequities. At one time, NAR contributed to this by allowing the exclusion of members based on race or sex. This discrimination was part of a systematic policy of residential racial segregation, led by the federal government and supported by America's banking system and real estate industry, and driven by practices like redlining. This legacy persists as, for example, the homeownership rate for African Americans in the fourth quarter of 2019, was lower than it was when the *Fair Housing Act* was passed in 1968.

NAR recently implemented its fair housing initiative, ACT, designed to highlight Accountability, Culture Change and Training in order to ensure REALTORS® lead in the fight against housing discrimination. NAR also continues its work alongside industry and community partners to address the persistent low rates of African-American homeownership.

Consequently, NAR hopes CRA modernization leads all banks to serve all communities, especially those in greatest need, and provide fair access to financial services.

Questions 14 and 18. Is the retail lending screen an appropriate metric or assessing the level of a bank's lending? How can the Board mitigate concerns that the threshold for a presumption of "satisfactory" could be set too low in communities underserved by all lenders?

The Board proposes to compare a lending institutions' retail lending, including mortgage lending, to the needs evidenced in its assessment areas (community benchmark) or to the level of lending by its competitors in that area (market benchmark). It would go on to establish that lender levels matching 65 percent for the community benchmark and 75 percent for the market benchmarks as presumptively "Satisfactory" under its CRA rating system.

As previously stated, NAR believes that methods of examinations should be consistent, transparent, and readily available and that a performance context should be defined and updated in real time in conjunction with the supervised financial institution and used in the evaluation process as well as in the forward-looking strategic investment plan of the financial institution. In that vein, the FRB proposal seems sound and worth pursuing.

However, NAR contends that the racial wealth gap is primarily a housing wealth gap, with lower homeownership rates leaving an impact on minority communities that can last generations. African Americans lost nearly \$200 billion in wealth between 2009 and 2012, largely due to homeownership losses. In short, we as a society must do more to improve access to credit for all communities. Consequently, it is concerning that a benchmark would allow a "satisfactory" grade for providing only a fraction of current service levels. We urge the FRB to pursue this cautiously.

Questions 38 and 39: Are there other alternatives that would promote liquidity by freeing up capital so that banks and other lenders, such as CDFIs, can make additional home mortgage loans to LMI individuals?

Churning of loans for CRA credit—the practice of lenders selling each other the same loan so that, when the regulator comes around, it looks like they're creating more homeowners but they're not—must be prevented. FRB suggests two options: 1) only credit home mortgage loans purchased directly from an originating lender (or affiliate); and, 2) have "an additional review to help exclude loan churning from the above-referenced retail lending screen and distribution metrics." NAR believes that credit for CRA lending should reflect the duration that the investment is on the books of the lender but that credit should diminish over time.

Conclusion

As our nation continues to struggle to provide credit to all communities, NAR appreciates the FRB's effort to modernize the CRA and strengthen its core purpose of meeting the wide range of LMI banking needs and addressing inequities in financial services and credit access. We urge the FRB to continue this work in conjunction with the OCC and the FDIC, and intend to continue to be a partner in this effort. NAR appreciates the opportunity to provide input and look forward to continuing to work together on these important issues. If you have any questions, please contact me or NAR Senior Policy Representatives, Bernard Fulton at BFulton@NAR.REALTOR, or Ken Fears at KFears@NAR.REALTOR.

Sincerely,



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2021 President, National Association of REALTORS®