LEGAL ASSISTANCE FOR SENIORS

Health Insurance Counseling & Advocacy Program (HICAP)

Ensuring the independence and dignity of seniors by protecting their legal rights through education, counseling and advocacy

August 5, 2022

OCC: https://www.regulations.gov/commenton/OCC-2022-0002-0001
FDIC Federal Deposit Insurance Corporation: comments@fdic.gov
Federal Reserve Board of Governors: regs.comments@federalreserve.gov

Re: CRA NPR Comments – OPPOSE UNLESS AMENDED
OCC Docket ID OCC–2022–0002;
FDIC RIN 3064-AF81;
Federal Reserve Docket No. R-1769 and RIN 7100-AG29

To Whom It May Concern:

Legal Assistance for Seniors thanks the OCC, FDIC, and Federal Reserve Board of Governors for requesting comments on a unified Community Reinvestment Act (CRA) rule that would keep the core ingredients of the CRA, update the parts that no longer apply due to new industry practices, and increase the CRA's ability to strengthen and fortify communities so that they may flourish.

Legal Assistance for Seniors was founded in 1976 in downtown Oakland with the goal of protecting seniors' legal rights. Legal Assistance for Seniors provides free legal services to seniors throughout Alameda County, including free legal advice and information, representation in court and administrative hearings, referrals to other community resources, and community education and training on legal issues. Over the last year, we provided legal services to 1,238 clients. We also reached 5,032 seniors, senior service providers, and caregivers through our community education efforts. The CRA is important to us because most of our clients live in majority Black, Indigenous, and people of color (BIPOC) communities or low and moderate income (LMI) communities that have been ravaged by disinvestment and displacement for decades. Oakland, CA, has some of the highest rents and most well-regarded restaurants in the country, yet it is also home to neighborhoods without banks, grocery stores, or pharmacies. Affordable housing is the biggest obstacle our clients currently face. Legal Assistance for Seniors can help a senior whose landlord is not providing her with a safe and habitable place to live, but our hands are largely tied when another senior comes to us after being displaced from his rent-controlled apartment and needs an affordable place to live.

The CRA's record in providing credit, financial services, and investments to California's underserved communities has had a tremendous impact on the lives of the people we serve at Legal Assistance for Seniors. As part of Community Benefits Agreements, our partners at the California Reinvestment Coalition and its members have negotiated over $75 billion in investments, loans, and financial services over the past two years for BIPOC and LMI communities in California. It is because the record and the promise of the CRA is so great that we must oppose your current proposal until the critical issues we outline below are addressed.

- Ensure that all CRA activities occur in majority BIPOC and LMI communities
- Evaluate banks based on how they meet the needs of BIPOC communities in addition to LMI communities
- Focus on low-income housing projects with deep affordability and long affordability timelines

333 Hegenberger Road, Suite 850, Oakland, CA 94621 (510) 832-3040 FAX (510) 842-1080 www.lashicap.org

- Downgrade CRA ratings when lending leads to displacement of BIPOC and LMI communities
- Center branch access by penalizing banks that fail to maintain and/or close branches in underserved areas
- Actively solicit comments and facilitate community involvement during CRA exams and proposed mergers

<u>Investing in communities</u>

The communities we serve in Alameda County that are the most in need of investment are BIPOC and LMI communities, all of which are currently facing brutal and accelerated gentrification. It makes sense that CRA credit should only be provided when the majority of beneficiaries are BIPOC and/or LMI. Community development activities should always be rooted in and identified by the BIPOC and LMI communities themselves, and CRA credit should not depend on association with government plans or entities. Asset thresholds should not be raised as this would result in less community development financing.

<u>Promoting racial equity and closing the racial wealth gap</u>

As the original purpose of the CRA was to address redlining by banks, it is imperative that any CRA reform include a focus on advancing racial equity and closing the racial wealth gap. LMI communities are not necessarily communities of color and vice versa. Similar to how banks are evaluated based on their performance meeting the credit needs of LMI communities, banks should be evaluated for how well they meet the credit needs of BIPOC communities. Maintaining bank branches, financing development (i.e. affordable housing, small businesses, etc.), and offering fairly priced credit in communities of color must be factored into a bank's CRA rating, or the CRA is failing at its purpose of preventing and addressing discrimination and redlining. Additionally, all HMDA data showing disparities in lending by race, ethnicity, gender, or neighborhood should be easily accessible to the public and factored into CRA ratings.

<u>Affordable housing</u>

One of the top needs identified by seniors in Alameda County is affordable housing. According to the Senior Services Coalition of Alameda County, "The Bay Area's housing crisis is a senior crisis."[i] Alameda County is home to thousands of newly constructed, vacant luxury apartments as well as thousands of seniors on waiting lists for low-income senior apartments. Investment in affordable senior housing is a crucial step toward stemming the growing tide of senior homelessness in our country. Most seniors cannot hope to secure rental assistance or a rental subsidy as studies show that three out of four at-risk renters in our country who need rental assistance do not get it.[ii] 47.6% of senior renters in Alameda County spend more than 30% of their income on housing, which places them in the "housing cost burdened" category. 30% of Alameda County's senior renters spend over half their income on housing.[iii]

Unfortunately, your proposal to combine community development and community development investing has us worried that banks will back away from Low Income Housing Tax Credits (LIHTC), which are more complex and have a lower rate of return than community development lending. Less interest in LIHTC will likely mean fewer affordable housing projects. We ask you to retain separate evaluations for community development lending and community development investing. We also request that affordable housing projects with deeper affordability, projects that will be affordable for longer periods of time, and projects in higher opportunity areas be given positive impact points.

Ending displacement

What better way to stem the tide of rising senior homelessness than to keep seniors in the homes they currently occupy? Unfortunately, too many banks extend financing to landlords who purchase older buildings and work hard to displace BIPOC and low-income renters from their homes. Even cities with strong rent control and just cause eviction laws, such as Oakland, CA, are no match for these landlords, who excel at causing disruption through constant construction or by offering so-called "cash for keys" deals so that senior renters end up self-evicting (at which point their units are brought up to market rate). CRA credit should never be considered when a borrowing landlord intends to displace renters from their homes by violating tenant protection laws, ignoring health and safety codes, or violating the civil rights of tenants. Additionally, CRA credit should never be considered when banks lend to non-BIPOC, middle- and upper-income borrowing landlords investing in residential properties in LMI communities, as these transactions are what drive displacement and gentrification.

Banks should all sign on to the California Reinvestment Coalition's Anti-Displacement Code of Conduct as well as investigate whether landlord borrowers are harassing tenants, evicting tenants, or raising rents in the hopes that tenants will self-evict. As displacement financing tends to occur in gentrifying communities, where a landlord's actions will have a disparate impact on BIPOC tenants, the landlord's and bank's actions should be viewed through a discrimination and fair housing lens. Banks that fund displacement of BIPOC communities must be penalized for allowing it to happen with their money and on their watch. They should be subject to CRA ratings downgrades and, when applicable, enforcement actions.

Branch access

As seniors tend to prefer to do their banking in person[iv], branch access is an important issue to those we serve at Legal Assistance for Seniors. We ask that you keep branch access as one of the key components of the CRA and also strengthen this aspect of the CRA by centering the branch access needs of BIPOC, low-income, and rural communities. We are seeing branch closures happening with increased regularity in Alameda County, and with devastating consequences. Seniors, as well as younger consumers, will often turn to check cashers and payday lenders when that is the only option available to them. Low-income seniors living in precarious housing situations cannot afford to lose one penny to high-cost lenders. The CRA should take into account whether banks have limited numbers of bank branches in BIPOC, LMI, and rural communities, and it should penalize banks for closing branches in those same communities.

Community participation

Instead of paying lip service to community participation, as your current proposal does, the final CRA rule should actively encourage and value input from communities. Banks should be required to respond to all comments on their performance, then post those comments as well as their responses to those comments on their websites. The agencies should actively solicit public comment during CRA exams and bank mergers. All hearings on bank mergers should automatically be turned into public hearings, as this is the best way to capture the full input of the community. Making comments should be easy, with regulators and banks listing contact information for relevant staff on easily accessible websites. Bank merger applications must be scrutinized by regulators to makes sure the public benefits by having their community credit and convenience needs met. In addition to soliciting comments from community groups and the public at large regarding how a bank mitigates or perpetuates harms like discrimination, displacement, and climate degradation, the agencies should frequently review community comments and consumer complaints as well as review CFPB or other regulatory investigations during CRA exams and merger reviews.

Community Benefits Agreements (CBA) should be actively encouraged and used as proof that the community's credit and convenience needs can and will continue to be met. Regulators should regularly monitor CBAs, and they should approve mergers only on the condition that banks will comply with those CBAs.

Conclusion

Legal Assistance for Seniors thanks you for the opportunity to comment on these proposed CRA rules. Despite the positive aspects of the proposal, we do not support the proposal as it is currently written. We believe that only with significant changes will the final CRA rule meet the significant needs of BIPOC and LMI communities for whom the CRA is supposed to protect from redlining, discrimination, predatory financial products, displacement, and the effects of climate change. Only when banks are penalized for these harmful activities, and only when the voice of the community is actively solicited and listened to, will our communities be strengthened and the promise of the CRA be realized.

Thank you for considering our comments.

Sincerely,

James Treggiari
Executive Director
Legal Assistance for Seniors

---

[i] http://seniorservicescoalition.org/county-initiatives/affordable-housing-bond-measure/
[ii] www.cbpp.org/blog/interactive-graphic-highlighting-the-3-out-of-4-at-risk renters-who-dont-get-rental-assistance
[iii] http://seniorservicescoalition.org/county-initiatives/affordable-housing-bond-measure/
[iv] https://money.com/best-banks-for-seniors/