



August 5, 2022

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: Comments RIN 3064-AF81

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219
Attention: Comment Processing, Docket ID OCC—2022-0002

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Attention: Comments Docket R-1769; RIN 7100-AG29

RE: Joint Notice of Proposed Rulemaking – Community Reinvestment Act

Dear Sir or Madam:

I am writing you today on behalf of Centrant Community Capital (Centrant), a wholly-owned subsidiary of the North Carolina Bankers Association. Centrant is a mission-driven lending consortium, leveraging the resources of the banking industry to finance affordable multifamily housing. Since our creation in 1990, and with the financial support of nearly 100 member banks, we have provided over \$500 million in first-lien, permanent mortgage financing to create or preserve more than 25,000 affordable apartment units in six Southeastern states.

For more than three decades, our member banks have provided all funding capital behind our loans on a voluntary, loan-by-loan participation basis. Our membership roster is broad and diverse, with some of the largest commercial banks in the nation participating alongside small, highly localized thrift and mutual institutions. For many members, the ability to receive “positive CRA consideration” for their Centrant loan participations remains an important motivation behind their membership, and we are proud to serve as community development partners alongside these financial institutions.

We greatly appreciate the agencies' efforts to update, clarify and strengthen the rules implementing the Community Reinvestment Act (CRA). We share in the belief that CRA modernization is overdue and necessary, and are pleased to submit the following comments in response to the Joint Notice of Proposed Rulemaking.

Background

Our organization's financing is used most frequently to fill financing gaps for projects that have received a Low-Income Housing Tax Credit (Housing Credit) allocation. The Housing Credit is our nation's primary tool to produce and preserve affordable rental housing, having financed the development of 3.6 million affordable homes since its inception in 1986. While the Housing Credit finances virtually all new affordable housing, **CRA is the motivating factor behind most Housing Credit lending and investment activity.**

The effect of CRA on Housing Credit investment can be clearly seen in Housing Credit pricing, which determines the amount of equity invested into Housing Credit properties. Currently, Housing Credit pricing can vary by \$0.20 for each \$1.00 of Housing Credit between areas where CRA-driven demand is highest – that is, where several major banks must meet CRA Investment Test requirements – and areas outside of banks' assessment areas where CRA-driven demand is lowest. As a result, properties with the least CRA demand can receive 20% less equity for the same amount of Housing Credits as properties with the highest CRA demand. This reduction in equity, coupled with accompanying increased debt leverage, renders many properties in low CRA demand areas financially infeasible.

In Centrant's particular lending experience, we find that many of our member banks are willing and able to support the financing of affordable housing regardless of project location. **Our members recognize that financing affordable housing is a safe, prudent and highly impactful activity** that provides tangible benefits to local communities. However, there is no doubt that these banks often make the decision to refrain from doing so for fear of not receiving recognition of their efforts under the current CRA regulations and guidelines.

With such a significant portion of Housing Credit investment impacted by CRA, our nation's ability to address the growing affordable housing crisis is closely tied to CRA. As the affordable housing crisis continues to worsen, the regulations impacting the Housing Credit must be stronger than ever. **While we believe some elements of the NPR will strengthen Housing Credit investment and lending activities, we are concerned that on balance the NPR may substantially reduce the incentive that CRA currently provides to support the development of affordable housing, at a time when it is needed most.**

NPR Proposals that Strengthen and Support Affordable Housing

We enthusiastically support the Community Development (CD) test approach in general, which consolidates CD activity and separates it from retail activity. We also applaud the Agencies' recognition and banks' responsibility for CD activity at the institution level, including outside Assessment Areas (AAs), which we believe would bring more CD activity to more communities. As such, we believe that the NPR includes two key aspects that will benefit Housing Credit investment and lending activities, to facilitate the development of affordable housing:

1. Allowing consideration for the full amount of Housing Credit investments, regardless of the share of affordable units.

We agree this is the correct approach, in consideration of the important role of the Housing Credit in achieving the goals of CRA and the Housing Credit's strong statutory and regulatory restrictions, which make it unnecessary to issue additional CRA-specific guidance.

2. Allowing consideration of CD financing activities outside of assessment areas.

As many communities disproportionately lack affordable housing, the incentive to support the creation or preservation of affordable housing – via investments in the Housing Credit and/or associated community development lending activities – should be expanded to help support affordable housing production and preservation in all regions. We expect the NPR could have the effect of leveling Housing Credit investment pricing differentials and enhancing lending activities between areas with the highest and least CRA demand if there is sufficient motivation for banks to engage in these activities.

Primary Concerns and Recommendations

The interaction of three policies is likely to determine how motivated banks will be to maximize reinvestment.

1. Weighting between Retail and Community Development (CD).

We are concerned that retail test performance in the NPR would drive a bank's rating because the Retail Financing Test and the Retail Services and Products Test comprise 60 percent of a bank's overall rating. Unless a bank achieves Outstanding retail performance, its CD performance is highly unlikely to affect the bank's overall rating. A bank that is Satisfactory on retail is likely to receive an overall Satisfactory rating regardless of whether its CD performance is Outstanding or even Needs to improve. If a bank cannot reasonably expect to achieve an Outstanding retail performance, CRA will provide little motivation for CD activity. Especially because CRA drives so much CD activity, such an outcome would be a major setback. **We urge the Agencies to weight retail and CD activity equally** for large banks, so they are motivated to maximize performance on both. We note that, per the NPR, the rating for intermediate banks would be split equally between retail and CD.

2. Retail Lending Test performance thresholds.

The risk that CD could become incidental to a rating is greater because the Retail Lending Test's Outstanding market metric performance threshold is so high (125 percent of median industry performance) that the Agencies project no banks with assets >\$50 billion would current achieve it. Retail Financing Test performance is critical because it accounts for 75 percent of retail performance and 45 percent of overall performance. It would be rational for a bank to determine that an overall Outstanding rating is beyond reach on this basis. **We therefore urge the Agencies to lower the Outstanding threshold to a point where it is more realistically achievable** and therefore worth striving for.

In addition, the High Satisfactory market metric performance threshold (110 percent of median industry performance) means about 60 percent of banking assets will be in banks with Low Satisfactory (or lower) performance. Achieving even a High Satisfactory

performance will be challenging. It is counter-intuitive that a bank should out-perform its competitors and still be Low Satisfactory. We urge the Agencies to consider lowering this threshold.

It bears noting that these performance distributions are unlikely to change much, regardless of whether overall industry performance rises or falls, since the market performance benchmark moves along with the overall industry performance. Only if the community benchmarks become binding at some point would this dynamic change.

3. Differentiating between High Satisfactory and Low Satisfactory performance scores.

The NPR would assign 10 points for Outstanding performance, 7 for High Satisfactory, 6 for Low Satisfactory, and 3 for Needs to Improve. Because this system minimizes the difference between High Satisfactory and Low Satisfactory performance, it is unlikely to motivate High Satisfactory performance. Because perhaps 80 percent of all banks are likely to receive Satisfactory ratings, it is essential to differentiate performance among this vast majority. High Satisfactory performance should tell a bank it can reach the Outstanding level if it stretches more, and a Low Satisfactory performance should concern a bank that it risks slipping into a Needs to Improve. Instead, a bank might reasonably infer that, under the proposed points system, whether a bank is in the 15th percentile of industry performance or the 85th percentile will be of little consequence. The risk to community reinvestment is that enough banks will aim for the former instead of the latter, and thereby pull overall industry performance down rather than up, resulting in lower performance standards. **We urge the Agencies to widen the point spread substantially between High Satisfactory and Low Satisfactory performance.**

Taken together, these issues as presented in the NPR pose a significant risk that reinvestment might not rise, as we hope, and it could well decline. We recommend the following changes be incorporated into the final CRA framework to help ensure that CRA modernization does not negatively impact the nation's ability to produce and preserve affordable housing.

Key Recommendations to Mitigate Potential Negative Impacts

In addition to increasing the weight of CD in ratings, as discussed above, several other changes are important for CD to reach its potential.

1. Eliminate the CD Services Test

The NPR cites three main CD service activities, but two – financial literacy and small business technical assistance – properly belong on the Retail Services and Products Test because they serve consumers and small businesses, respectively. While service on nonprofit boards is a legitimate CD service, it does not warrant a separate test worth 10 percent of the entire rating. We propose that true CD services be considered qualitatively on a consolidated CD Test.

2. Affordable housing

We appreciate the Agencies' recognition of naturally occurring affordable housing (NOAH) and their setting a clear standard for qualifying it. However, we believe distinguishing between government supported housing and NOAH is misconstrued. Some government

programs, including FHA's flagship production program, Section 221(d)(4), have a stated purpose of affordability but do not require affordability and are accordingly often used for non-affordable housing. Instead, we propose a uniform performance-based approach for all affordable rental housing, except for Housing Credit properties. Key elements include: (1) rent affordability at 80 percent of AMI, or the HUD Fair Market Rent standard in the few most unaffordable markets where it is higher; (2) at least one other qualifying factor chosen from a menu similar to the NPR's proposal for NOAH; and (3) periodic confirmation that the standard is being maintained as a condition of continuing to confer CRA credit for financing provided in prior years.

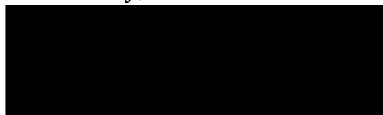
3. Include the Housing Credit as an impact review factor.

A key feature of the Housing Credit is the allocation of Housing Credits to state and local allocating agencies, which distribute Housing Credits through a highly competitive process to only the most impactful properties that best address the state or locality's affordable housing needs. Considering the responsiveness of the Housing Credit in addressing community needs, we strongly urge that the Housing Credit be named as an impact review factor.

In summary, we believe that the CRA is vital to the economic health of our nation's Low- to Moderate-Income (LMI) communities and people, and that a clearly outlined and consistently applied CRA can be an important component of the business plans of the nation's banks. Our experience has also shown that the nation's banks are willing to serve these communities for a host of reasons beyond simple regulatory compliance. As this conversation continues, we are optimistic that there is a path to CRA reform that is clear, modernized and mutually beneficial for banks and the communities they serve.

Thank you again for the opportunity to provide these comments. If I may be of additional assistance, or provide additional supporting information, please do not hesitate to contact me directly.

Sincerely,

A large black rectangular redaction box covering the signature area.

David R. Bennett
President