



March 30, 2020

Submitted via email to Comments@fdic.gov

Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Community Reinvestment Act Regulations, RIN 3064–AF22

To Whom It May Concern:

Thank you for the opportunity to comment on the Community Reinvestment Act Regulations Notice of Proposed Rulemaking (NPRM) from the Federal Deposit Insurance Corporation (FDIC). The National Disability Rights Network (NDRN) writes in opposition to the proposed rule and recommends that the NPRM be revised to address the financial and economic needs of low and moderate-income people with disabilities.

NDRN is the non-profit membership association of Protection and Advocacy (P&A) agencies that are located in all 50 States, the District of Columbia, Puerto Rico, and the United States Territories. In addition, there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo and San Juan Southern Paiute Nations in the Four Corners region of the Southwest. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A Network comprises the nation's largest provider of legally-based advocacy services for persons with disabilities, including advocacy on accessible ATMs and the accessibility of websites hosted by financial institutions in order to ensure people with disabilities who want access to financial services can do so.

People with disabilities are more likely to be low or moderate-income (LMI) than those without disabilities. People with disabilities are often excluded from mainstream financial services and are less likely to be banked or have access to mainstream credit. If revised with attention to the comments below, the proposed rule changes to the CRA have the potential to address the needs of this underserved population.

It is important to understand the context of people with disabilities in America at the time the CRA was signed into law, some 40 years ago.

- Children with disabilities, based on a new federal law, were first allowed to attend their neighborhood schools, ending historical patterns of exclusion.
- Individuals with disabilities who had committed no crime were incarcerated in state and regional institutions. There was no articulated or constitutionally-protected right to humane care and treatment.
- There was no discussion or expectation of community life and participation in the

workforce or the financial mainstream.

As Congress made clear through the Americans with Disabilities Act (ADA), “physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated attitudes, or the failure to remove societal and institutional barriers”.

In that vein, NDRN is particularly concerned about the following four omissions in the NPRM:

- Qualified Activities, as defined in the NPRM, contain no examples of LMI people with disabilities benefitting from investments, lending and/or service activities. This omission offers regulated financial institutions no specific ways to meet the needs of this underserved population.
- The qualifying CRA activities list has eliminated the possibility for banks to receive CRA credit for investment in economic and workforce development activities including apprenticeships, internships, on-the-job skills training, and skill certifications that are vitally important to many LMI populations, including those with disabilities.
- The NPRM does not require banks to disaggregate reporting data by gender/race/ethnicity or disability, thereby failing to compel banks to address the historical lack of access and equitable treatment of sub-populations of the LMI community.
- The NPRM discusses the applicability of seven other relevant laws that address discrimination but fails to include the ADA. This oversight continues the lack of attention to this most economically vulnerable population and their financial and economic needs. Since the passage of the ADA, financial institutions have been sued for violating the ADA for having inaccessible ATMs, having inaccessible websites, and for discriminating practices regarding access to credit including discrimination against people with disabilities who receive Social Security disability benefits.

Vibrant communities are best supported when economic opportunities are inclusive of LMI populations, including people with disabilities. Unless the challenges of LMI people with disabilities are intentionally addressed, people with disabilities will be unintentionally excluded from the financial system and overlooked as a target of community development activities.

The FDIC needs to revise the NPRM and offer a set of rules that maintains the intent of the CRA and includes LMI people, including those with disabilities.

Please contact Cyrus Huncharek, Public Policy Analyst, at cyrus.huncharek@ndrn.org should you have any questions or concerns with these comments.

Sincerely,

A black rectangular redaction box covering the signature of Curtis L. Decker.

Curtis L. Decker
Executive Director