FLORIDA ALLIANCE FOR COMMUNITY SOLUTIONS
Creating Better Communities

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27 July 2022

To: Federal Deposit Insurance Corporation, RIN 3064-AF81

The Florida Alliance for Community Solutions, Inc. (Alliance) appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) regarding updating the Community Reinvestment Act (CRA).

The Alliance is a statewide membership organization with a mission to lead the field in shaping strategies that advance community prosperity. Our membership is composed of 65 nonprofit, community-based development organizations that work in lower-income communities across Florida. They are mission driven organizations with the goal of reducing poverty and increasing personal and community wealth.

CRA has been successful
CRA has successfully leveraged loans, investments and services. Between 2009 and 2020, banks have made more than $2.58 trillion in home loans to low- and moderate-income (LMI) borrowers or in LMI census tracts. They made $856 billion in loans to small businesses with revenues under $1 million. We need to build on this progress and address remaining disparities in lending through CRA reform.

The NPR does not go far enough to explicitly consider the race and ethnicity of bank customers and communities.
We were disappointed about the absence of a focus on race in the NPR. Regulators dedicated substantial space in the 2021 ANPR inquiring how race can be considered as part of CRA exams. The Community Reinvestment Act was passed in direct response to racism in banking so we are dismayed at a supposed reluctance to deal with it. IWe ask regulators to revisit this and require the collection of data related to race in the retail and community development tests; make that data public; and use it consequentially in CRA exams.

Specifically, we ask regulators to:
- Add racial data to the list of factors considered when creating assessment areas.
- Compare lending data by race to peer-banks within assessment areas.
- Formally incorporate HMDA and 1071 data by race into an examination.
- Severely punish banks that are found to have violated civil rights, fair lending, or fair housing laws.

- Add an impact review factor to the community development finance test that considers investments made in historically redlined communities and areas in which the residents are predominantly people of color.

The asset categories as proposed (large, intermediate, small) will notably reduce community development financing, particularly in rural areas and small cities. The proposed bank asset reclassifies 779 ISB banks as small banks, which would involve no longer holding these banks accountable for community development finance. In addition, the agencies propose to reclassify 217 large banks as ISB banks, eliminating their service test and accountability for placing branches in LMI communities. Research from NCRC estimates that well over $1b in community development financing could be lost as a result. These changes lack justification since these banks have been successfully performing these activities for several years. We urge the agencies to eliminate this aspect of the NPR since it would reduce reinvestment activity.

The newly formed "Retail Lending Assessment Areas" must be subject to a community development test. We strongly urge regulators to reconsider community development responsibilities in RLAAs. The NPR outlines how RLAAs would be formed in entire MSAs or the non-MSA area of a state. Those areas represent sizable chunks of geography for which banks should have some level community development responsibility, even if only a version of the status quo community development test.

We were also disappointed regulators chose not to delineate facility-based assessment areas (FBAAs) around loan production offices (LPOs). We ask regulators to reconsider. We maintain that loan production offices should automatically trigger at least one retail lending assessment area, which should also include a required community development test. LPOs are too often the only lending or banking-related presence in rural areas and small towns. The NPR gives banks the option to claim credit for banking services provided at their LPOs. Responsibilities should come with that opportunity.

Regulators should give more consideration and acknowledgement to banks that utilize effective, creative, and exemplary local community engagement strategies. In past CRA commenting opportunities, advocates have been very critical of how little attention regulating agencies have paid to the strategies banks employ to engage local community engagement. Without a strong and consistent level of engagement, how can banks identify community needs in their LMI service areas? We maintain that criticism and offer a potential solution that fits within the framework offered by the NPR. We propose that exemplary community engagement strategies in LMI areas be recognized as a standalone impact review factor when regulators are considering CRA credit for an eligible community development activity.

We encourage regulators to begin thinking *now* about how to roll out a new rule to stakeholders, in addition to banks. Few people in the community development field remember how the last set of CRA changes were implemented over 25 years ago. Regulators must make a significant effort to reach community-based development nonprofit organizations and other stakeholders. This is particularly important because the process has become so complicated and technical that many community-based organizations currently feel ill-equipped to meaningfully participate in the dialogue. We urge the regulators to work together with state and local nonprofit associations to hold regular online and in-person trainings on the new CRA regulations when they are finalized.

The community development financing and service tests for intermediate banks must be required, not optional. Under the proposal, intermediate banks are subject to a status quo community development test or the option for the new community development finance test. We urge regulators to make all intermediate banks subject to the community development finance and service tests. Subjecting large and intermediate banks to the new test creates consistency among banks and examiners, and it provides others such as non-bank investors, funders, community development nonprofits, public officials, researchers, and others with a consistent understanding of how banks are regulated on their community development activity.

The NPR does not do enough to clarify the role of community-based development organizations (CBDOs) in CRA. The NPR sometimes recognizes the important role CDCs and CBDOs play, such as in the eligible activities section in which a qualifying housing activity has a 'primary community development purpose,' if developed by one of these organizations.

A currently active federal definition of a CDC is offered in the Oand serviceffice of Community Services within HHS. We ask regulators to adapt and adopt this definition to identify organizations that qualify as a CDC for CRA purposes.

In addition, there are several places in the NPR in which the role of these organizations can be clarified and, at the same time, help regulators and banks achieve their stated CRA-related objectives. For example, a similar 'primary purpose' standard could be applied to economic development activities that include a CBDO.

Maximize the amount of data that will be publicly available as part of the CRA examination and pre-approval process. We appreciate the level of detail agencies propose to publish as part of CRA exams. We urge the agencies to make public all data associated with a CRA exam to further the agencies' stated goals of making CRA exams more consistent and transparent. This is particularly important for the gathering and publication of community development finance-related data. This type of data has the potential to be transformative for the community development field. And whenever possible, the agencies should use plain language in these publications to make the information accessible to community members. This information would benefit all stakeholders – fellow regulators, financial institutions, and community advocates.

In conclusion, the NPR is a good start. However, we urge the agencies to extend the rigor of the large bank lending test to the intermediate banks and, as much as possible, to the smaller banks as well. We also ask the agencies to incorporate race in CRA exams, expand the public reporting of their data collection proposals, bolster their assessment area proposal to make sure that smaller communities are not left out and refrain from reducing reinvestment requirements for any segment of banks.

If CRA is improved while maintaining public input and accountability, we believe the proposed rule could help reduce inequalities, disinvestment, and other disadvantages in America's overlooked communities.

Thank you again for the opportunity to comment on this important program.

Sincerely,

[redacted]

Terry Chelikowsky
Executive Director