



Devotion USA

973) 878-1860
1205 Atlantic Ave. #472585
Brooklyn, New York 11216
info@DevotionUSA.org
www.DevotionUSA.org

August 5, 2022

Re: Community Reinvestment Act Notice of Proposed Rulemaking

Federal Deposit Insurance Corporation

1776 F Street, NW,

Washington, DC 20006

FDIC RIN 3064-AF81

Federal Reserve System

20th Street and Constitution Avenue N.W.,

Washington, DC 20551

Federal Reserve Docket No. R-1769 and RIN 7100-AG29

Office of the Comptroller of the Currency

0400 7th St., SW

Suite 3E-218

Washington, DC 20219f

To Whom It May Concern,

Devotion USA appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) for the Community Reinvestment Act (CRA). This NPR represents the most significant changes to the CRA regulations and exams in 27 years.

Devotion USA is an economic and political advocacy organization and an independent compliance monitor. We operate according to a principle called Humanity-Based® Economics. This framework requires that institutions strive to do “good,” and to do no harm, in pursuit of profits. The objective is to encourage economic and business practices that put the wellbeing of human beings and the living earth first.

We currently represent 30 grass-roots organizations in New York, New Jersey, and Philadelphia. Our primary constituents are low and moderate income (LMI) -led and Black, Indigenous and People of Color (BIPOC) - led and managed businesses, nonprofit organizations. We have comments and suggestions regarding some of the agencies’ NPR related proposals.

Before going to our specific comments and suggestions, we will briefly contextualize the work agencies are doing with this NPR by highlighting some critical historical facts. We hope that policy makers, rule makers and examiners will keep these facts uppermost in their minds as they do this important work.

In her groundbreaking book, The Color of Money: Black Banks and the Racial Wealth Gap, Mehrsa Baradaran says, “Slavery, ‘America’s original sin,’ according to James Madison, created the foundation of American capitalism.” Ms. Baradaran continues by saying, “Between 1820 and the Civil war, banks across the South issued notes with images of slaves printed on their money. Slaves were not just the labor in slavery’s operations. Slavery modernized credit markets, creating complex new forms of financial instruments and trade networks through which slaves could be mortgaged, exchanged, and used as leverage to purchase more slaves. In highly profitable, speculation-based markets, many white men built fortunes trading in slave-backed securities. As is true of property ownership in any era, those who held slaves had the ability to grow exponentially richer because they could use their property to create more wealth.”

Ms. Baradaran also says is that the north, besides having its own burgeoning slave trade, was in a reciprocal arrangement with the south, to create supportive and ancillary industries based on slavery: The building of ships used to transport slaves, insurance companies to insure slaves, textile mills used to process cotton picked by slaves, and banks in the business of providing credit to slave owners and related slave-based industries. In fact, whole towns and cities, from Rhode Island and New Hampshire to New York and New Jersey in the northeast, were directly or indirectly generating tax revenues from the slave industry. In fact, members of most white households throughout the country were directly or indirectly benefiting from the slave industry, making slavery ubiquitous as an economic way of life. This is one of the larger historical reasons white households possess so much more capital and wealth than black households.

After the abolition of chattel slavery, the freed slaves had nothing and were given nothing, except their “freedom.” The freed slaves were promised forty acres of land and a mule as capital to restart their lives. It never happened because the white south and white north

renege on promises of economic Restoration for former slaves. Without any capital and resources, “freedom” was an empty word. This collaboration between the north and south led to the “Jim Crow” era.

“Jim Crow” was the name for the era after chattel slavery was abolished and the promise of Restoration was abandoned. The white south was allowed by the white north to create laws that effectively reestablished slavery without calling it slavery. Laws called the Black Codes were created to prevent blacks from benefiting from their talents and skills or accumulating capital. All economic, political and legal rights were legislated away or denied judicially, even by the Supreme Court. Government institutions created regulations on local, state and federal levels to insure the inferior economic and political status of blacks. This was done to limit blacks to the positions of low-wage laborers and sharecroppers working in the same cotton fields they worked as slaves. Blacks were prohibited from buying land, starting businesses, pursuing trades or suing whites in court, or even doing subsistence farming on the lands they sharecropped. Anything that blacks could do to uplift themselves economically was denied to them. Sharecropping and debt became the new slavery.

The Black Codes were also the impetus for development of the prison industrial complex. Black men who were recently “freed” but without resources and capital to generate income were summarily jailed for vagrancy and other quality of life “crimes” and for actual crimes committed because of poverty. These black prisoners were then reenslaved to work the mining industry in the south. When these black prisoners completed their prison terms, they were summarily recharged and returned to prison with the complicity of the courts. This provided another slave system of free labor for new industries in the south when slavery was supposedly abolished.

At the same time, during America’s westward expansion, European immigrants were allowed to travel west and buy land at government subsidized prices. The government gave them access to subsidized capital to cultivate the land. They received free government training to help them be successful on that land. On the other hand, blacks, who were enslaved in America for 250 years, were not allowed to buy land in the west. They were needed to work in the cotton fields in the south to maintain the profitability of the cotton industry.

This pattern of economic and political subjugation continued, even during the New Deal. United States political representatives, governments, courts, and banks conspired to deny blacks home mortgages, businesses loans, and home improvement loans, even though blacks were depositors in those banks. This practice was called “Red Lining.” Red Lining continued to suppress black economic development on all levels. The 1977 Community Reinvestment Act was Senator William Proxmire’s legislative attempt to begin to right the economic wrongs in America’s past.

Proxmire’s intention was to remedy past “Jim Crow” economic discrimination by banks against black people. The law was intended to encourage banks to provide normal services and loans to black depositors within the banks’ territories. In return for the fair treatment of their black

depositors within their operational territories, banks would be rewarded by being allowed to purchase other banks and expand their operational assets. The opportunity to expand would be based on CRA-based tests that agencies are presently modifying.

We ask that agencies keep this history in mind as they go through rule making process. Data shows that CRA has been successful in a limited way in LMI and BIPOC communities. There are several factors that contribute to its limitations. They are:

1. The failure to identify and target the racial groups historically disenfranchised by bank red-lining.
2. The overreliance on and unbalanced weighting of gentrifying low and moderate income tracts as opposed to LMI and BIPOC individuals and households in bank CRA examinations.
3. A definition of “Community Reinvestment” that is not necessarily compatible with the service, financial and community development needs of LMI and BIPOC populations.
4. An overly liberal, overly generous CRA rating system that rewards banks for minimal community reinvestment activity.
5. The banking industry’s failure to work with LMI-led and BIPOC-led organizations and institutions to provide CRA related community development services to target populations.
6. Allowing banks to use mortgages purchased from nonbank originators for CRA ratings credit.

To address these issues, Devotion USA encourages agencies to do the following:

Special Purpose Credit Programs (SPCP)

The Community Reinvestment Act (CRA) regulations were enacted to address redlining and racialized patterns of non-service. CRA requires banks to serve the needs of all communities, including and especially LMI communities. CRA regulations are working in a very limited way because racialized patterns of noninvestment continue. Whether in banking deposit and withdrawal services, business loans or home loans, banks continue to fail, particularly in BIPOC communities. Social media platforms are replete with testimonials about a phenomenon called “Banking While Black.”

What some members of the black community call “Banking While Black” is when black people fail to receive bank services and products readily available to whites. There are several important issues related to “Banking while black.”

First, the deposit dollars of black people are the same as the deposit dollars of white people (Of course, whites have a larger amount of deposit dollars because of the generational resources they’ve acquired during slavery and Jim Crow). But black depositors and community members

continue to meet with patterns of economic racial discrimination by banks and other institutions. See “Banking While Black” instances [here](#), [here](#) and [here](#).

The agencies have proposed to use Home Mortgage Disclosure Act (HMDA) data to produce exam tables describing lending by race but have not incorporated those findings into banks’ CRA exam ratings. We are unclear about why that should be. We recommend that they be incorporated into CRA exams.

The National Community Reinvestment Coalition (NCRC) and Relman Colfax PLLC have taken the position that it is possible for changes to CRA to meet current legal standards if CRA lending by race and ethnicity takes place in geographical areas experiencing ongoing discrimination or exhibiting significant racial disparities in lending. NCRC also proposed including analyses of lending in underserved neighborhoods with low levels of lending, which are disproportionately communities of color. We support NCRC’s proposal.

Devotion USA also supports utilizing Consumer Financial Protection Bureau (CFPB) Section 1071 data to examine small business and farm lending data by race and gender on CRA exams when the Section 1071 data becomes available. The Section 1071 data should also be used as a screen for identifying when heightened fair lending reviews are needed. We also support for this change regarding CRA and race.

We believe that SPCP are compatible with Senator Proxmire’s original intent. SPCP could help unleash the long suppressed economic potential of LMI and BIPOC communities. We also think that intrinsic economic development within LMI BIPOC communities by LIM and BIPOC led organizations is critical to America’s global economic competitiveness. Devotion USA encourages agencies to create well-structured and consistent SPCP.

LMI and BIPOC- Led Organization Utilization Test

Devotion USA recommends that agencies establish a LMI and BIPOC-Led Organization Utilization Test. This test would encourage banks to work directly with LMI and BIPOC-led nonprofit organizations, business associations, capacity building organizations and advocacy groups that have grass roots anecdotal and empirical data about the community reinvestment needs of their communities. When bank officials fashion their CRA policies, they often do not speak with or work with BIPOC-led organizations. Instead, they communicate with organizations and institutions led, managed, and operated by white people, whose ostensible mission is to service black people.

Using white-led organizations and institutions to determine what BIPOC people need is paternalism at best or racism at worst, because those in leadership positions are middle and upper income whites who have a limited understanding of the community reinvestment priorities of LMI and BIPOC communities.

Leaders and representatives of white-led organizations sometimes state that they have been working in the field of CRA community development for many years and imply that they have more expertise in the area than LMI and BIPOC leaders and representatives. Of course, white-led organizations can provide services to LMI and BIPOC people. They also often have a deep level of knowledge and understanding of the technical aspects of CRA and its regulations. But the fundamental issue is that the expertise and experience of LMI and BIPOC people and leaders have about their communities' economic development needs are diminished, denigrated, or outright "appropriated" by the leaders of these white-led organizations.

As a result, BIPOC-led organizations and people are not allowed to determine the goals of community reinvestment in their own communities. During a recent meeting, a large bank's CRA officer, who claimed to have "27 years of experience," stated that the black community's economic problems were "intractable." This kind can be found at every level of the industry among bank executives, CRA officers, and even CRA advocacy organizations. The larger question is when people in these positions harbor these kinds of attitudes and ideas, how effective can they really be? The result of this kind of thinking is that even banks with years of "Outstanding" CRA grades from agencies are sitting in operational areas with little or no economic development by the people who live in those areas.

An additional result could be that 45 years after passage of the CRA, BIPOC communities could end up with another "40 acres and a mule" situation in which opportunities for real community reinvestment are lost because the people who were supposed to benefit from CRA are not involved in critical decision making and implementation. Banks should receive quantitative and qualitative CRA credit for direct work with LMI and BIPOC led and managed organizations and businesses. Quantitative credit for the number of LMI and BIPOC led organizations they work with, and qualitative credit based on size of projects and their economic impact. That includes:

Businesses created

Jobs generated

Diverse contractors utilized

Educational programs developed or supported

Homes purchased

Homes repaired

Finally, if BIPOC people in the United States ever receive the reparations they deserve, it would be best if these flaws in the nation's community reinvestment ecosystem are resolved. Otherwise, the perception around the country will be that, as one senior executive vice president of a large bank recently stated, we will be simply "throwing money at the problem" with no economic development from within LIM and BIPOC communities.

Accountability for discrimination will increase but the agencies need to bolster their reviews concerning the quality of lending

The agencies proposed to include all activities and products, including deposit accounts in addition to credit, in anti-discrimination and consumer protection legal reviews. This is an important advance, but we agree with NCRC that agencies should expand their reviews to include the quality of lending. [Massachusetts CRA exams](#) include analysis of delinquency and defaults rates in home lending. Federal CRA exams should do likewise in all major product lines. Moreover, reviews of lending must include an affordability analysis and impose penalties when banks offer on their own or in partnerships with non-banks abusive, high-cost loans that exceed state usury caps and that exceed borrowers' abilities to repay. Finally, we are pleased that the agencies added the Military Lending Act in the list of laws to be included in the fair lending review, but we urge you to also add the Americans with Disability Act.

Community Development

We believe that the agencies proposed refinements to the definitions of affordable housing, economic development, climate resiliency and remediation, community facilities and infrastructure will more effectively target revitalization activities to communities such as persistent poverty counties and Native American communities.

The NPR clarified that financing health services qualifies under the definition of community support services. Essential community facilities now include hospitals and health centers. We advocate that "Health Services" be added to that definition. For example, Health Services" could include doula services, midwifery services and ancillary therapeutic services for LMI and BIPOC women who are amid a maternal health care crisis. Strengthening these types of essential facilities and services will help retain residents to the community. Providing CRA credit for these kinds of resources would boost financing of critical community infrastructure.

However, the community development finance test will include an impact review which must be further developed and include points and ratings like other subtests so that the test can be even more effective in stimulating responsive community development activities. Finally, we ask the agencies to reconsider their proposal to expand CRA consideration for financial literacy with no income limits; scarce counseling resources need to be targeted to LMI and other underserved populations.

For affordable housing projects for LMI, multifamily development construction loans, cooperative loans, with and without subsidies, or natural occurring affordable housing, banks should receive CRA ratings credit only when:

Rent does not exceed 30% of 60% of the area median income of and LMI census tract.

When the minimum number of affordable housing units is 40%.

When there are protections against displacement for 20 years post construction.

When there is a contractual commitment by the owners, developers and banks that the properties remain affordable for a minimum of 20 years post construction.

When there are written agreements from owners, developers and banks to protect tenants against illegal actions, mistreatment or harassment.

There is a contractual commitment by the owners, developers and banks that properties are properly maintained and free of extreme levels of deterioration for 20 years post construction.

In addition, for affordable housing projects for LMI, multifamily development construction loans, cooperative loans, with and without subsidies, or natural occurring affordable housing, banks should receive CRA ratings credit only when:

1. Owner commits to affordability for 20 years, and
2. Housing is located in a LMI tract, or
3. Financed by an BIPOC- led NPO, and
4. Banks provide documentation that the majority of tenants are LMI. Banks should receive CRA credit once for each project is financed, and
5. Loans in LMI income tracts, if 40% of the tenants are LMI and income limits of those tenants are no higher than 130% of the income tract's median income.
6. Of special note and consideration is that LMI and BIPOC led NPOs, investors and developers often require smaller loan amounts for development of affordable housing. Banks are often reluctant to make these smaller loans. Banks should receive CRA credit for making these smaller loans.

Retail Lending

Weight of Borrower Category as Compared to Census Tract Category

Agencies have proposed equally weighting lending to individual borrowers and lending within census tracts when evaluating industry CRA performance. Using current low and moderate income census tracts to determine whether banks are servicing and lending to low and moderate income consumers and borrowers is misleading. For years, high income borrowers have been moving into low and moderate income tracts, resulting in the gentrification of those communities and the displacement of low and moderate income community members.

If banks are allowed to receive CRA evaluation credit for lending to these high income borrowers who purchase homes and start businesses in low and moderate income tracts, the result will be increased gentrification and further displacement of LMI and BIPOC residents.

There are some banking officials and even some advocacy groups who promote this evaluation method as a way to “increase integration” in low and moderate income communities. There are several reasons that this rationale is flawed. First, as mentioned above, using income tracts is an outdated and misleading approach to determine whether banks are lending to low and moderate income people because high income people are moving into those low and moderate income tracts. Second, lending to higher income earners in those income tracts will not promote integration but will promote gentrification. Finally, there is nothing in the CRA that says that integration is a goal and no data from BIPOC communities that says they want integration to be a goal.

We believe that this proposal for giving banks CRA evaluation credit for lending to high income earners living in low and moderate income tracts would undermine the intent and spirit of the Community Reinvestment Act. Therefore, borrower and income tract data should not be weighted equally. In fact, only borrower information (LMI and BIPOC) should be used because it is the only way to assure that resources are being directed to those who have historically been denied it, as was the intent of CRA.

We propose an alternative that would allow banks to receive CRA credit loans given based on LMI income tract when the loans are made to those who earn no more than 130% of the tract’s median income. Using a 130% of median income limit will allow banks could receive CRA ratings credit for loans while preventing gentrification and displacement.

Mortgage Lending

Large banks have abandoned the Federal Housing Administration (F.H.A.) home loan programs. Many prospective LIM and BIPOC home buyers depend on F.H.A. and similar programs to buy homes, especially first time buyers. As large banks retreated from the F.H.A. market, most did not replace those products with similar conventional products of their own. Research shows that large bank CRA performance declined between 2017 and 2019, in large part because of this retreat.

Some banks have created mortgage products that are equivalent to F.H.A. products. That includes programs with lower down payments, lower credit scores requirements, down payment assistance, assistance with closing costs, and flexibility in regard to using gifts for down payments and closing costs, etc. These banks also support prospective home buyers with referrals to intensive pre-purchase counseling and provide systematic and structured post-purchase support, especially if the home buyer experiences financial or other hardships. Banks should receive CRA credit for these kinds of products.

Allowing banks to use mortgages purchased from nonbank originators for CRA ratings credit should be stopped. While banks that create specialized products for LMI and BIPOC home buyers should be applauded and receive CRA ratings that reflect their creative efforts.

Small Business

We propose using Consumer Financial Protection Bureau Section 1071 data to determine bank CRA ratings small business lending for business generating revenues of less than \$5 Million per year.

Small Farm Lending

We propose using Consumer Financial Protection Bureau Section 1071 data to determine bank CRA ratings small farm lending for farms generating revenues of less than \$5 Million per year.

Economic Development

Helping intermediaries that help small businesses. Agencies should give CRA credit to banks present data that demonstrates that they are working directly with organizations and institutions led and managed by members of the LMI and BIPOC communities. Our recommendation applies to the following areas, as defined by the agencies:

1. Economic Development/Small Business

Use Consumer Financial Protection Bureau Section 1071 data, for business generating revenues of less than \$5 Million.

2. Economic Development/Jobs and Workforce Development

Job development and retention should remain part of the CRA credit to banks. Banks could cite the total number of jobs their activity created. The quality of the jobs created should be given credit.

3. Economic Development/ Community Supportive Services

Childcare, Health Services, Housing Services, Job Training Programs, Workforce Development and Job Training, transportation, recovery facilities, disaster preparedness and environmental resilience.

4. Economic Essential Community Infrastructure

Communications systems, civic infrastructure, and financial education.

We cannot overstate the importance of requiring that banks present data that demonstrates that they are working directly with organizations and institutions led and managed by members of LMI and BIPOC communities.

Expansion of Online Lending Geographical Areas On CRA Exams

Agencies have proposed that assessment areas be expanded to include online lending but performance in smaller areas needs to be considered more carefully. For several years, advocates have urged the agencies to examine lending that occurs online. The agencies proposed to create retail assessment areas where a large bank does not have branches in an area when that bank has issued 100 home loans or 250 small business loans in that area. This proposal would result in the great majority of total lending being incorporated on exams and would therefore hold non-traditional banks more accountable for serving LMI communities.

We ask the agencies to expand upon their proposal to include partnerships with banks and non-banks for retail lending. When a bank partners with more than one non-bank, the lending of all the non-banks needs to be totaled together for calculating if the threshold is exceeded for purposes of creating assessment areas.

To ensure that banks serve smaller metropolitan areas and rural counties, the agencies proposed requiring that banks with 10 or more assessment areas must receive at least a Low Satisfactory rating in 60% of the assessment areas in order to pass overall. This still may not be an adequate solution since the smaller areas could represent a minority of areas, allowing a bank to pass the 60% threshold by focusing on the larger areas. We suggest that the NPR require banks to achieve at least a Low Satisfactory rating of 60% in each of its large metropolitan, small metropolitan and rural assessment areas.

More data to scrutinize bank performance

The agencies correctly proposed to include new data collecting requirements for deposits, community development activities and automobile lending. Some of this data such as deposit and automobile lending would not be publicly available, which limits the extent to which the public can hold banks accountable for reaching underserved communities.

We ask the agencies to reconsider this decision, and also expand data collection to all large banks instead of just banks with assets of more than \$10 billion in the case of deposits and

automobile lending. Finally, CRA exams should not only analyze access to deposits accounts for LMI and BIPOC communities but also affordability by comparing and refining, if necessary, fee information collected in all report data. This should be possible since data collection methods are much more advanced than in 1977 and 1995.

Bank Asset Threshold Modifications

The agencies proposed to raise the small asset bank threshold from \$346 million to \$600 million. Likewise, the intermediate small bank (ISB) asset threshold would be adjusted and would range from \$600 million to \$2 billion. Currently, the ISB asset thresholds range from \$346 million to \$1.384 billion. We strongly disagree with this proposed change. This would represent a significant reduction in CRA responsibility for 20% of all banks. The concrete result would be a drastic reduction in the amount of CRA resources that would be available for grassroots economic development in LMI and BIPOC communities.

By adjusting asset thresholds for qualifying for various CRA exams, the agencies proposed to reclassify 779 ISB banks as small banks, which would involve no longer holding these banks accountable for community development finance. In addition, the agencies proposed to reclassify 217 large banks as ISB banks, eliminating their service test and accountability for placing branches in LMI communities. 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.

Diversity Equity and Inclusion Tests

We would like to propose that agencies include a Diversity, Equity and Inclusion (D.E.I.) test. The development of D.E.I. processes within banks is a low cost, low to moderate risk, way for banks to support their overall CRA efforts and contribute to the economic development of target LMI and BIPOC communities. This can be done through internal D.E.I. processes and external D.E.I. processes.

Internal D.E.I. processes include periodically and regularly training employees to avoid the effects of racial, gender, sexual and other biases when providing products and services to customers. Employees are gate keepers to a bank's products and services. Helping employees recognize and manage their own biases is the first step in the prevention of discrimination in the industry.

Science has proven that intelligence, stupidity, morality, immorality, industriousness, sloth and all other human qualities are evenly distributed throughout humankind. The problem in all life endeavors is when people in positions of power, because of personal bias or culturally accepted stereotypes, assign specific human qualities to people based on perceived differences. These biases are what often prevent LMI and BIPOC communities from getting equal access to bank

services and products. Antibias training is critical in helping employees in all fields of endeavor overcome their biases to serve LMI and BIPOC clients. This has been proven in [study](#), after [study](#), after [study](#). The abovementioned “Banking While Black” anecdotes demonstrate this truth.

External D.E.I. processes involve banks creating a supplier diversity system to service their operational needs. A bank contracting with qualified LMI tract and BIPOC suppliers can be an effective way to help those communities develop and prosper economically. It creates a multiplier effect that can help contractor businesses to grow, creates jobs and, as a result, creates wealth in targeted communities.

Supplier Diversity is developing into an important tool for encouraging economic growth in LMI and BIPOC communities. The City of Jersey City, New Jersey commissioned a four year study of supplier diversity in 2018. [See it here](#). Companies are actively pursuing supplier diversity to improve supply chains and contribute to the economic development of their territories, including [The Hershey Company](#), [AT&T](#), [Burger King Holdings](#), and [Chrysler Holdings LLC](#), to name a few.

CRA ratings inflation

We agree with the NCRC that about 98% of banks pass their CRA exams on an annual basis with just less than 10% receiving an Outstanding rating and almost 90% of them receiving a rating of Satisfactory. CRA has successfully leveraged more loans, investments and services for LMI communities, but it would be more effective in doing so if the ratings system more accurately revealed distinctions in performance. More banks would be identified as significantly lagging their peers, which would motivate them to improve their ratings and increase their reinvestment activity.

The agencies bolstered the rigor on the large bank retail lending test by introducing performance ranges for comparisons among a banks’ lending and demographic and market benchmarks. This quantitative approach would decrease ratings inflation and result in more failing and low satisfactory ratings on the lending test. As a result of this proposed reform, several banks would likely respond by boosting their retail lending to underserved communities.

The agencies proposed improvements to the other subtests of the large bank exam but did not establish as many guidelines for the performance measures, which could contribute to inflation on the subtests. The community development finance test, for example, will consist of a quantitative measure of a bank’s ratio of community development finance divided by deposits. The bank’s ratio will be compared to a local and national ratio. The agencies, however, did not provide enough guidelines to examiners for comparing the bank’s ratio to either the local or

national ratio, making it possible for an examiner to inflate a rating by choosing the lowest comparator ratio.

The possibilities of misplaced examiner discretion can also occur on the retail services test and the community development services test. The retail services test contains quantitative measures comparing a bank's branch distribution to market and demographic benchmarks but does not provide enough instructions to examiners about how to weigh these benchmarks.

We believe that it is possible for the agencies to further develop guidelines for how to use the performance measures on the community development and services subtests of the large bank exam in order to produce a uniformly rigorous CRA exam and guard against ratings inflation.

Public Input Mechanisms: Agencies Propose Improvements

The agencies propose to continue the recent practice of publishing 60 days in advance of each calendar quarter the schedule of CRA exams for the next two quarters, which will help provide ample opportunities for the public to comment on exams. In addition, the agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites. We applaud all of these public input mechanisms but would like to encourage the addition of Off-Schedule CRA Comments.

Off-Schedule CRA Comments would be those outside the normal CRA exam schedule. Off-Schedule CRA Comments would allow individuals and LMI and BIPOC led organizations to communicate in real time commendations, recommendations, and criticisms of bank CRA related activities. These comments can also be sent to banks to encourage continuation of successful CRA activities or discourage activities detrimental to a bank's future CRA grade.

Since CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments regarding the extent to which banks meet local needs. The agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites.

Posting comments on agency websites will establish accountability on the part of examiners to consider them. In addition, these comments can be referenced during future merger applications to determine if the banks addressed significant concerns of the public. Also, the agencies should establish a public registry that community organizations can use to sign up if they want to be contacted about community needs and bank CRA performance.

Furthermore, we request that the agencies start to publish which organizations they consult with to understand local community needs, commit to collecting input from a diverse range of organizations that includes organizations led by people of color and women, follow up on needs

identified and detail how community input was factored into the results of CRA performance evaluations.

We also agree with Acting Comptroller Hsu that the agencies must hold frequent public hearings on large bank mergers. CRA exams, if they are made more rigorous by a final rule, will help hold merging banks accountable. However, merging banks must also submit a community benefits plan as part of their merger applications which could include community benefits agreements negotiated with community organizations. As further described in recent comments we agree with NCRC that an outstanding CRA rating must not be considered evidence that merging banks have satisfied the public benefits legal requirement.

Thank for your time and attention,

Michael West

President