HAC
Housing Assistance Council

We help build homes and communities across rural America.

August 5, 2022

The Honorable Michael Hsu, Comptroller
Office of the Comptroller of the Currency
Attention: Benjamin W. McDonough, Chief Counsel
Chief Counsel's Office
400 7th Street SW, Suite 3E–218
Washington, DC 20219
Re: Community Reinvestment Act, Docket ID OCC-2022-0002, RIN 1557-AF15

The Honorable Jerome Powell, Chairman
Board of Governors of the Federal Reserve System
Attention: Ann E. Misback, Secretary
20th Street and Constitution Avenue NW
Washington, DC 20551
Re: Community Reinvestment Act, Regulation BB, Docket No. R-1769, RIN 7100-AG29

The Honorable Martin Gruenberg, Acting Chair
Federal Deposit Insurance Corporation
Attention: James P. Sheesley, Assistant Executive Secretary
550 17th Street NW
Washington, DC 20429
Re: Community Reinvestment Act, RIN 3064-AF81

To Whom It May Concern:

The Housing Assistance Council (HAC) appreciates this opportunity to submit comments to the Board of Governors of the Federal Reserve System (Board)-Office of the Comptroller of the Currency (OCC)-Federal Depository Insurance Corporation (FDIC) Joint Notice of Proposed Rulemaking (NPR) regarding the Community Reinvestment Act (CRA). The Board-OCC-FDIC joint NPR is an impressive effort which would represent the first major overhaul of the CRA in decades. The NPR seeks to update the CRA, so it not only reflects modern banking practices, but it does so in such a way as that makes the CRA more broad-reaching and effective at encouraging investments in under-served communities while, at the same time, improving issues of regulatory clarity and consistency.

HAC is a national nonprofit organization that helps build homes and communities across rural America. Since 1971, HAC has provided below-

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market financing for affordable housing and community development, technical assistance and training, research and information, and policy formulation to enable solutions for rural communities across the country. In our work, HAC places a special focus on high-needs rural regions and populations – including the Mississippi Delta and the Black Belt, Central Appalachia, Native American Lands, the border Colonias, and farmworker communities.

BACKGROUND

First and foremost, the Housing Assistance Council unequivocally supports the Community Reinvestment Act and what it stands for. The Community Reinvestment Act is essential to communities across the nation. Through CRA, financial services have been made available to many neighborhoods that would otherwise be overlooked. In speaking of the importance of the CRA, Chairman Powell said, "The CRA plays a vital role in supporting economic opportunity in low-income and minority communities, in both rural and urban areas, and is a top priority for the Federal Reserve."[1] This NPR, and the many efforts which will follow, are critically important to ensure not only that current CRA-related activities and investments continue but that they expand to reach populations and communities for which access to affordable finance is still elusive.

In any effort to modernize CRA, it is imperative to fully consider the impact of those modifications and to ensure that CRA continues to build upon its unparalleled legacy of expanding access to financial products and services. Without CRA, many communities would lack access to capital, revitalization efforts would have not occurred, and disinvestment would be more common. CRA should build upon its established platform for improving communities' access to credit, and maintain the ethos, intent, and effectiveness of this vital institution.

HAC also knows that CRA does not work in rural America as well as it should. In 2016, HAC produced a comprehensive three-part research series entitled *The Community Reinvestment Act in Rural America*.[2] Below are some highlights of HAC's findings from that seminal work.

The Mortgage Marketplace Continues to Evolve in Rural. Changes in the financial and mortgage lending landscape over the last two decades have

[1] Jerome H. Powell, Statement, September 21, 2020, https://www.federalreserve.gov/newsevents/pressreleases/powell-statement-20200921.htm.
[2] Housing Assistance Council reports on CRA in rural areas can be found at https://ruralhome.org/rural-cra-resources/.

impacted rural communities. Over the last few decades, the banking industry has undergone considerable consolidation, with the number of lenders insured by the FDIC dropping from approximately 15,000 in 1990 to just over 7,000 in 2010. Between 2000 and 2010, the number of depository institutions based in rural areas declined by 21 percent.

Most Rural Institutions Receive the Small Bank CRA Examination. Banks in rural and small town communities constitute a majority of FDIC-insured lenders. More than half (52 percent) of FDIC-insured lenders were headquartered in rural areas or small towns in 2012. These rural-based institutions, despite their relatively large numbers, are generally small and contain only about 6 percent of all assets held by federally insured depository institutions. In contrast, the 20 largest lenders, all headquartered in urban and suburban communities, hold over half of all bank assets. Due to their small asset size, rural-based banks overwhelmingly (85 percent) receive the small bank CRA examination. Federal regulators conduct the small bank examination less frequently than the more detailed large bank examination.

The Vast Majority of Rural Mortgages are Made by Large Lenders. While three-quarters of rural banks are classified as small lenders under CRA, they originated only 13 percent of rural mortgages in 2012. Conversely, large, predominately urban-based banks made nearly 70 percent of mortgages in rural areas in 2012. In some rural areas, however, community-based banks still originate the majority of loans.

Rural CRA Ratings. Similar to ratings for banks nationally, approximately 99 percent of rural and small town lenders received either an "outstanding" or "satisfactory" CRA rating. Only 1 percent of rural institutions received a "needs to improve" or "substantial noncompliance" rating, which could adversely affect mergers or branch expansions. A smaller percentage of small bank lenders than large lenders earn an "outstanding" rating. Large asset lenders, which are much more common in urban areas, receive the more extensive large bank examination which may provide an opportunity for more detailed review and discovery of all lender activities, while a small bank test is more cursory, simply identifying adequate efforts.

CRA Assessment Areas for Rural Banks. CRA examinations are based on activities that occur within the area an institution designates as its service area, known as its CRA assessment area. While data are limited, an estimated one-quarter of all rural mortgages originated in 2012 were for properties outside the lenders' CRA assessment areas. These preliminary findings suggest that, at least in some cases, rural assessment areas do not entirely reflect where lender activities occur. At the same time, there has also been a call for increased CRA community development activities by large banks in rural communities that are typically outside their assessment areas.

CRA in Designated High Credit Need Rural Areas. CRA examinations incorporate a targeted approach that evaluates the degree to which lenders make credit available to all portions of their service area, particularly low- and moderate-income, distressed rural, and remote (underserved) rural census tracts. For community development activity to qualify for CRA consideration, it must occur in one of these "high credit need" areas. In 2012, federal regulators designated 6,814 rural and small town census tracts as having high credit needs. These census tracts are home to 25.4 million people, about 42 percent of rural and small town residents, but they received only roughly 29 percent of rural and small town mortgage originations in 2012. In addition, these high credit need rural and small town areas had high rates of loan denials and high interest rate lending.

Through this research and our more than 50 years of working in and with rural communities across the nation, HAC is uniquely positioned to comment on CRA's role in rural America and how the proposed changes might affect rural communities. HAC's comments in response to the proposed NPR are focused on making sure CRA fulfills its yet unrealized potential in rural communities currently, and in any modernization effort.

SUMMARY OF MAJOR ARGUMENTS

1. HAC applauds the Federal Reserve, FDIC, and OCC for moving jointly to propose important changes to the CRA regulations that have the potential to substantially expand bank retail lending and community development activities in rural America.

2. HAC believes a final rule could further increase CRA's impact on underserved rural communities if it:

    - includes activities in rural communities as an additional impact factor, informed by the most precise, density-based definitions already used by policymakers and the research community;

    - ensures uniform treatment of all Community Development Financial Institutions (CDFIs) and supports the most transformative CDFI activities in underserved rural communities;

- modifies the definition of affordable housing to enable housing providers to respond effectively to the unique income demographics and constraints on government capacity of rural communities;

- clarifies how consequential the impact factors can be for a bank's community development test performance and overall rating; and

- prevents banks with a substantial number of rural assessment areas from "gaming" the NPR's performance benchmarks under the retail lending test.

3. While several features of the NPR are well-designed to stimulate bank CRA community development and retail lending activities in rural areas, the modest positive impact of these features will be undermined by two other features of the proposed rule, which:

- exempts from a community development test an entire class of banks (with assets from $346 million to $600 million); and

- underweights community development in calculating the overall ratings of banks subject to a community development test.

4. HAC strongly urges that the final rule set the asset threshold for small and intermediate banks at lower levels and increase the percentage of a bank's overall rating based on community development financing and services to 50 percent.

5. HAC encourages the regulators to explicitly consider bank lending activity by race in the final rule.

RATIONALE FOR MAJOR ARGUMENTS

HAC applauds the Federal Reserve, FDIC, and OCC for moving jointly to propose important changes to the CRA regulations that have the potential to substantially expand bank retail lending and community development activities in rural America.

- The NPR avoids a "one size fits all" approach to bank performance measurement and evaluation, instead recognizing the unique credit needs of rural communities. In key respects, the NPR tailors its approach to reflect the special data quality and quantity, income demographics, local capacity, and other challenges rural communities pose to robust CRA implementation and oversight.

- The NPR modifies the regulators' approach to facility-based assessment areas in two important ways that should increase community development activities in rural areas.
    - Shifts from census tracts to counties as the defining geography for facility-based assessment areas.
    - Enhances CRA credit for bank community development activities outside of facility-based assessment areas (AAs).

- The NPR specifically designates as community development impact factors CRA activities:
    - in persistent poverty counties, Native Lands, and Colonias, all of which encompass disproportionately rural geographies; and
    - activities in partnership with minority depository institutions (MDIs), women's depository institutions (WDIs), and low-income credit unions (LICUs) – entities with deep experience and expertise in underserved rural communities.

HAC believes a final rule could further increase CRA's impact on underserved rural communities if it:

1. ***includes activities in rural communities as an additional impact factor, informed by the most precise, density-based definitions already used by policymakers and the research community;***

2. ***ensures uniform treatment of all CDFIs and supports the most transformative CDFI activities in underserved rural communities;***

3. ***modifies the definition of affordable housing to enable housing providers to respond effectively to the unique income demographics and constraints on government capacity of rural communities;***

4. ***clarifies how consequential the impact factors can be for a bank's community development test performance and overall rating; and***

5. ***prevents banks with a substantial number of rural assessment areas from "gaming" the NPR's performance benchmarks under the retail lending test.***

- Community development in rural communities is especially challenging. This is due to a number of factors, including limited public and private sector resources and capacity relative to urban and suburban areas; low household incomes; and difficulty reaching the scale that makes housing and economic development projects "pencil out." Accordingly, HAC believes community development activities in rural communities should be an additional community development impact factor to ensure banks are incented (and recognized) for their rural community development lending, investment, and services.

  HAC recommends, further, that this impact factor apply to community development activities in rural portions of MSAs whose economies and housing markets are truly rural. In refining this impact factor in the final rule, the regulators should draw on more precise, census-tract based definitions of "rural." For example, the Census Bureau estimated in 2016 that 54 percent of the rural population, under their classification of urban and rural census tracts, lived within MSAs. Other examples of more granular, rural-focused approaches include those used in FHFA's Duty to Serve rule[3] and HAC's definition of rural and small town census tracts.[4]

- HAC applauds the NPR's inclusion of naturally occurring affordable housing (NOAH) in the definition of affordable housing – a crucial source of affordable housing in rural America that merits CRA recognition. This definition, however, should be modified to include housing that is not receiving government support or undertaken as part as a government initiative so long as it meets an LMI affordability standard of 30 percent of 80 percent of area median income (AMI) and the owner-developer is either a nonprofit or has entered into a voluntary affordability commitment of at least five years. Public sector resources and capacity are often very constrained in rural communities, and CRA should provide credit to banks that support purely private housing stock that can be expected to maintain affordable rents due to type of owner-operator or a voluntary affordability commitment for a reasonable period.

  Additionally, while HAC is deeply committed to targeting federal resources to the poorest households, we believe CRA incentives should apply to bank activities for housing affordable at 80 percent of AMI because in rural America:

[3] Federal Housing Finance Agency, Duty to Serve Data, July 19, 2022, https://www.fhfa.gov/DataTools/Downloads/Pages/Duty-to-Serve-Data.aspx.
[4] Housing Assistance Council, Defining Rural – Geographic Terms and Concepts, n.d., https://ruraldataportal.org/geoterms.aspx.

1) AMIs are extremely low relative to urban areas and to national poverty benchmarks (e.g., the federal poverty line); and

2) HAC's five decades of working to provide financial resources, technical assistance, and training in rural communities suggests that a 60 percent of AMI affordability standard will not lead to the regulators' intended result, namely, banks instead investing in rural housing at that affordability level. Rather HAC's and our local partners' hard-earned experience suggests this will lead to some rural projects not happening at all coupled with a migration of CRA-motivated bank funding to urban or suburban areas where greater public sector resources and capacity can support more such transactions.

- The final rule must clarify: 1) all CDFIs (loan funds, banks, and credit unions) qualify for CRA consideration regardless of whether they are located in a bank's assessment areas; and 2) CDFI banks are eligible for CRA consideration for the same range of activities in partnership with commercial banks as MDIs, WDIs, and LICUs. The regulators should also consider extending this presumption of CRA credit to nonprofit organizations holding a charter from NeighborWorks America.

  The regulators should also consider mechanisms to provide additional CRA consideration for CDFI activities that are most transformative for distressed rural communities, such as the Deep Impact Lending designation the Treasury Department has used when deploying capital to regulated entities (including CDFI banks and credit unions) to undertake community development lending to low-income people and places. In particular, HAC notes that Deep Impact Lending rewards deeply affordable housing (targeted to those below 30 percent of AMI). This additional incentive would more effectively spur banks to increase their efforts to meet the housing needs of the poorest households in rural communities than the threatened loss of any CRA credit for units serving households between 60-80 percent of AMI.

- While the NPR laudably includes the above-mentioned community development impact factors, it remains opaque on how much influence the factors will have in bank examinations and in the rating process. It is particularly critical for rural communities that this be resolved in the final rule. For example, will the factors carry sufficient weight to move a bank's community development test rating across a critical rating threshold, such as from Needs to Improve to Low Satisfactory, or from Satisfactory to Outstanding?

The volume/quantity of bank community development activities is typically much lower in rural markets and the need and capacity challenges they face are very steep, especially in the poorest regions. Consequently, it essential the CRA oversight regime that emerges in the final rule both captures the quality of bank community development activities and gives real heft to that element in the performance evaluation and overall ratings framework.

- HAC supports the NPR's requirement that under the retail lending test a bank must achieve a Satisfactory in 60 percent of its assessment areas overall to obtain a Satisfactory performance rating. However, this requirement on its own is not sufficient to incent bank lending in underserved rural communities. It may encourage banks to "cherry pick" a few relatively exclusive exurban areas from among their assessment areas, while leaving underserved areas with even less bank activity. It would also defeat the regulators' intent to move beyond the prior regime of limited/full scope reviews in which rural assessment areas received short shrift.

  Accordingly, HAC recommends that a lender with 10 or more rural assessment areas should be required to earn a Satisfactory in a majority of its rural assessment areas to achieve an overall rating of Satisfactory or Outstanding.

While several features of the NPR are well-designed to stimulate bank CRA community development and retail lending activities in rural areas, the modest positive impact of these features will be undermined by two other features of the proposed rule:

1. ***exempts from a community development test an entire class of banks (with assets from $346 million-$600 million); and***

2. ***underweights community development in calculating the overall rating of banks subject to a community development test;***

HAC strongly urges that the final rule set the asset threshold for small and intermediate banks at lower levels <u>and</u> increase the percentage of a bank's overall rating based on community development financing and services to 50 percent.

- Raising the proposed asset threshold for small banks to $600 million would hurt CRA oversight in rural and small-town communities. Under the NPR's approach, more banks headquartered in rural areas will fall under the small bank CRA examination which has fewer requirements – most importantly no community development test – and is less frequently undertaken. A review of asset data for FDIC-insured lenders finds that 1,861banks headquartered in rural areas fit in the current CRA small bank category, but that the NPR's proposed approach increases that number to 2,223 (a 19 percent increase). Meanwhile, the number of rural-headquartered banks currently subject to the large bank exam would drop from 114 to 63 (a 55 percent decrease). Fewer lenders would be subject to the primary and more comprehensive examination process which evaluates lenders on more facets of lending.

While the increase in lenders now falling under the small bank examination would occur at similar levels for all geographies, the impact from this policy would be felt disproportionately in rural areas because there are fewer lenders in these markets. In many of the rural markets in which HAC works, two or three lenders provide most of the access to financial services. If one of those lenders now fell under small bank threshold, this would have a far greater local impact on access to credit than in larger urban and suburban markets.

- The NPR's proposed approach to rating large banks, which control the majority of U.S. commercial banking assets and drive the overall community development financing market, gives the retail test a disproportionate weight on a bank's overall rating (60 percent). Banks could achieve a Satisfactory overall rating despite failing the combined community development and services tests (40 percent of overall rating).

  This could have devasting impacts on community development activities as most large banks cease to strive for the Outstanding rating that requires real effort on community development activities and instead "race to mediocrity" by focusing solely on achieving a Satisfactory on the retail lending test. While HAC strongly supports the NPR's efforts to "raise the bar" on bank CRA performance, we strongly believe that current approach has a high risk of backfiring. Accordingly, HAC joins many other organizations across the CRA stakeholder continuum in recommending that the community development test be increased to 50 percent of a large bank's overall rating[5] and that a bank be required to achieve a Low Satisfactory on this test in order to obtain an overall Satisfactory rating.

[5] HAC takes no position on the retention of the Services Test under an expanded community development test in the final rule, or on its weighting and elements if retained. HAC does, however, share the concern expressed by many groups that absent a separate investment test, an expanded community development test must be carefully designed to preserve the market for tax credits that are a vital source of equity investments in housing and community development nationwide.

HAC encourages the regulators to explicitly consider bank lending activity by race and ethnicity in the final rule.

- While HAC appreciates the legal landscape in which the regulators are promulgating this rule, the connection between bank lending and the nation's history of racial discrimination is too strong for the final CRA rule to touch on these factors only indirectly (e.g., through Special Purpose Credit Vehicles and HMDA data collection). HAC joins the National Community Reinvestment Coalition (NCRC) and a broad range of CRA stakeholders in calling for the regulators to make progress in rectifying the tragic legacy of "redlining" – and persistent racial and ethnic disparities in lending and household wealth – by incorporating race and ethnicity explicitly.

- To this end, HAC believes CRA could incorporate race were the final rule to:
  - Add performance measures and create benchmarks and metrics to assess lending, investing, and services to people of color and communities of color;
  - Provide CRA credit for banks that invest in CDFI products designed to address racial inequity;
  - Enforce anti-discriminatory activity across all elements of CRA, including avoiding arbitrarily excluding communities of color when banks designate assessment areas. This may also include incentives to invest in areas that meet certain criteria, like majority-minority census tracts, to explicitly support communities of color;
  - Require banks to collect and disclose comprehensive racial and demographic data as part of the CRA exam and allow banks to fail CRA exams if they are not lending to people of color or serving the needs of the community;
  - Include data collected under the Fair Lending Act, State Small Business Credit Initiative (SSBCI) program, and HMDA as part of the bank's evaluation;
  - Add racial demographics to the list of factors to consider when delineating assessment areas; and
  - Increase use of Special Purpose Credit Programs to meet the needs of communities of color.

- HAC also urges the agencies to review the extensive proposals developed by NCRC and Relman Colfax PLLC for incorporating race into exams without violating the Constitution and related existing legal standards.[6]

[6] NCRC Issues Initial Analysis Of Historic Community Reinvestment Act Overhaul Proposal, June 1, 2022, https://ncrc.org/ncrc-issues-initial-analysis-of-historic-community-reinvestment-act-overhaul-proposal/.

ANSWERS TO SPECIFIC QUESTIONS

Below are HAC's select responses to the specific questions in the NPR.

Question 1. Should the agencies consider partial consideration for any other community development activities (for example, financing broadband infrastructure, health care facilities, or other essential infrastructure and community facilities), or should partial consideration be limited to only affordable housing?

Yes, the agencies should give partial consideration for community development activities other than affordable housing if the activity has a primary purpose of community development. For too many communities, particularly those in high-need regions (Central Appalachia, Lower Mississippi Delta, Native American Lands, and the high poverty Southeast), poor infrastructure limits opportunities and quality of life. For example, one in five rural households lacks a broadband subscription.[7] This lack of basic infrastructure is often concentrated in certain areas — often so-called high-need regions. Along the U.S.-Mexico border (Colonias region), the lack of infrastructure (paved roads, streetlights, and water treatment facilities) in combination with substandard housing results in some of the poorest living conditions in the nation for hundreds of thousands of Americans (an estimated 500,000 in Texas alone).[8] Projects that improve these conditions are an important part of community development and worthy of CRA consideration.

Question 2. If partial consideration is extended to other types of community development activities with a primary purpose of community development, should there be a minimum percentage of the activity that serves low- or moderate-income individuals or geographies or small businesses and small farms, such as 25 percent? If partial consideration is provided for certain types of activities considered to have a primary purpose of community development, should the agencies require a minimum percentage standard greater than 51 percent to receive full consideration, such as a threshold between 60 percent and 90 percent?

Unless the project addresses a critical need in an underserved area, there should be a minimum percentage of the activity that serves low- or

[7] Housing Assistance Council tabulation of American Community Survey 2020 five-year estimates of broadband subscriptions using HAC's rural definition (explained in the response to Question 34 below).
[8] Dallas Federal Reserve Board, Las Colonias in the 21st Century, 2015, https://www.dallasfed.org/~/media/microsites/cd/colonias/index.html.

moderate-income individuals or geographies before a lender can receive either partial or full consideration. A threshold of 25 percent for partial consideration and greater than 50 percent for full consideration is reasonable.

An exception should be granted to projects that address a critical need in an underserved community (persistent poverty, high need, etc.) even if it cannot be shown to serve primarily low- or moderate-income areas (project may cover a larger area and many communities). For example, a 2015 USDA-EPA study classified communities in the Colonias region based on infrastructure need, giving each a rating.[9] Some of these communities are small, perhaps even just a few blocks in a town. In areas with infrastructure needs rated as critical, support of a project that addresses these needs could be awarded CRA credit even if it technically did not reach the 25 percent or 50 percent thresholds. A project which improves roadway flooding that includes the identified community would be working in an underserved area and addressing an identified critical need. These projects would still be prorated according to low- and moderate-income population impacted, but the point is to provide certainty for some CRA consideration. It is also likely that being in an underserved area will coincide with other impact factors that would result in more weight added to a project.

Question 3. Is the proposed standard of government programs having a "stated purpose or bona fide intent" of providing affordable housing for low- or moderate-income (or, under the alternative discussed above, for low-, moderate- or middle-income) individuals appropriate, or is a different standard more appropriate for considering government programs that provide affordable housing? Should these activities be required to meet a specific affordability standard, such as rents not exceeding 30 percent of 80 percent of median income? Should these activities be required to include verification that at least most occupants of affordable units are low- or moderate-income individuals?

HAC supports the government program standard without additional requirements. Applying additional requirements would limit efforts and create undue burdens on lenders and groups involved in program operations. This approach should encourage lenders to use CRA activities in support of established efforts to address issues, such as affordable housing, for low- and/or moderate-income households. CRA activities by themselves represent a small number of investments in community development but leveraged with government efforts, they can make a big impact. For example, a

[9] U.S. Environmental Protection Agency and U.S. Department of Agriculture, U.S. Mexico Border Needs Assessment and Support Project Phase 1 Scoping Assessment Report, 2014, https://www.rd.usda.gov/files/RD_RUS_Phase1ResearchRpt.pdf.

relatively small dollar construction loan of $1 million in Fort Morgan, Colorado has a much bigger impact than it otherwise would because it is part of federal, state, and local efforts totaling $13.5 million to build a 50-unit affordable housing development for farm workers.[10]

The only exception to this would be if a program has a stated middle-income service population – see next question.

Question 4. In qualifying affordable rental housing activities in conjunction with a government program, should the agencies consider activities that provide affordable housing to middle-income individuals in high opportunity areas, in nonmetropolitan counties, or in other geographies?

HAC understands the need to increase investments in rural areas and we appreciate the NPR's efforts to ensure the CRA provides lenders with every opportunity necessary to do this. Broadening acceptability to include programs that also serve middle-income individuals could, as the NPR states, help develop affordable housing in conjunction with programs such as the U.S. Department of Agriculture Section 515 Rural Rental Housing or Multifamily Guaranteed Rural Rental Housing programs. Preservation of Section 515 multifamily housing is one of the most pressing rural housing issues as these properties represent a large share of affordable rental housing in many rural places. Section 515 properties have been leaving the program at a relatively rapid pace[11] over the last five to ten years and this trend will only accelerate in the coming decade as exponentially more properties are expected to leave the portfolio, threatening access to affordable rental housing in many rural markets.[12] As the timeline of maturing Section 515 home loans below shows, we are on the verge of a dramatic upturn in maturing loans and possibly lost affordable housing units. While USDA's Section 515 resources can assist residents with moderate incomes, the vast majority of these developments serve particularly low-income and vulnerable populations. The average household income of residents in USDA Section 515 properties is only $14,148 and tenants receiving rental assistance have average annual incomes of $12,235. Additionally, approximately two-thirds of Section 515 tenants are elderly or disabled.[13]

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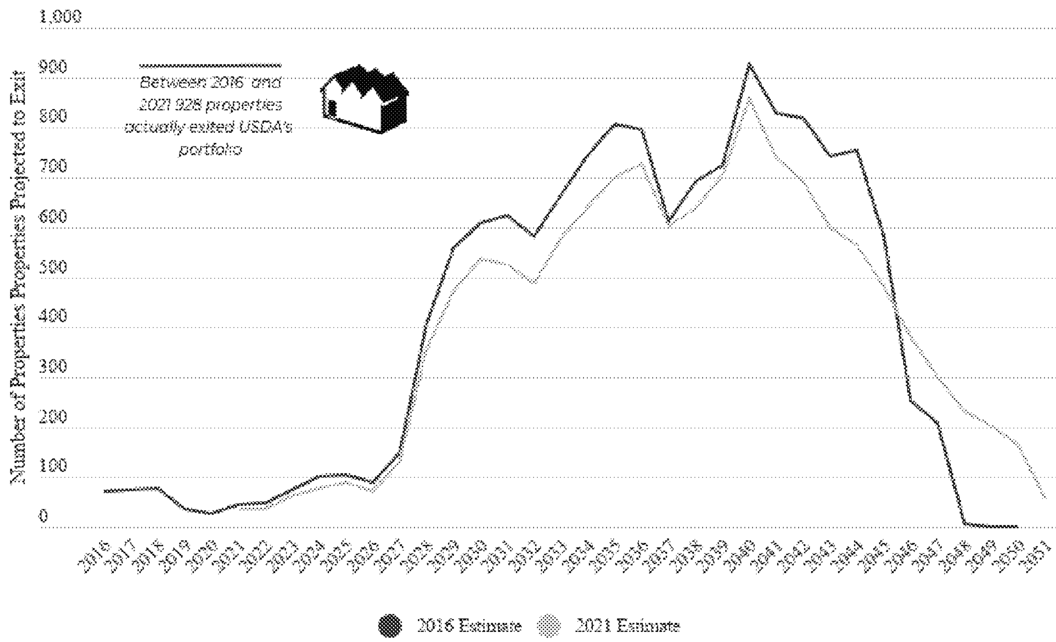
[10] Housing Assistance Council, Making CRA Work in Rural America: Partnerships and Opportunities for Rural Community Reinvestment, 2016, https://ruralhome.org/wp-content/uploads/storage/documents/publications/rrreports/rrr-making-cra-work-2016.pdf.
[11] Rural Research Brief: Rural America is Losing Affordable Rental Housing at an Alarming Rate, Housing Assistance Council, 2022, https://ruralhome.org/update-maturing-mortgages-usda-section-515-rural-rental-housing-program/.
[12] Ibid.
[13] Joaquin Altoro, USDA Rural Housing Service, Results of the 2021 Multi-Family Housing Annual Fair Housing Occupancy Report, May 12, 2022, https://www.rd.usda.gov/sites/default/files/RDUL-MFHreport_0.pdf.

Maturing USDA Section 515 Multifamily Loans
Estimated Loss of Properties to Loan Maturity - 2016 and 2021



HAC urges caution when expanding the CRA's focus to include efforts that also assist middle-income people. It is important that the regulation not weaken the CRA's commitment to insuring access to financial services for underserved areas, particularly for low- and moderate-income households. Recognizing this, the NPR posits restricting consideration to activities supporting a program that serves middle-income people/households to FHFA designated high opportunity areas. The FHFA's high opportunity census tracts, unfortunately, appear to reflect primarily suburban/urban areas (less than 15 percent of these tracts are rural) where the need for an extra incentive to support development seems less clear. Ultimately, HAC supports giving CRA consideration to activities that work with affordable housing programs that serve middle-income people, with some stipulations. For full credit, it should be a requirement that most of the people assisted are low- or moderate-income, and, if this is not the case, partial credit should be awarded for only the portion of the project that assists low- or moderate-income people.

Question 5. Are there alternative ways to ensure that naturally occurring affordable housing activities are targeted to properties where rents

remain affordable for low- and moderate-income individuals, including properties where a renovation is occurring?

HAC understands and agrees that households with the lowest incomes struggle the most with housing affordability. Many data sources consistently indicate that the lowest income households are overwhelming the most housing cost burdened. Expanding access to rental housing units affordable to the lowest-income households is important and we understand the proposed 30 percent of 60 percent threshold for naturally occurring affordable housing seeks to do this.

HAC believes, however, that an 80 percent of area median income threshold, like the one being used for subsidized affordable housing, would work best. This threshold would mean more opportunities for investment and, while some of these activities might not support projects with rents at the 30 percent of 60 percent threshold, the additional units that they provide to a local housing market should help alleviate the overall shortage in affordable housing To restrict consideration to the 30 percent of 60 percent rent threshold could greatly reduce these opportunities, particularly in markets where incomes are so low to begin with and/or construction costs are too high (rents at that level are not possible). Using an 80 percent of AMI threshold would also match the proposed threshold for affordable housing efforts that involve a government program, promoting consistency across the regulation.

HUD CHAS 2018 Data Households by AMI and DTS Rural

	All Households				
Category	**Rural**		**Non-Rural**		**Total**
Up to 80% of AMI (Moderate)	11,334,723	40.2%	36,861,000	39.8%	48,195,723
Up to 50% of AMI (Low)	6,526,358	23.1%	22,503,581	24.3%	29,029,939
Up to 30% of AMI (Very Low)	3,205,615	11.4%	12,121,257	13.1%	15,326,872
Total	28,226,980	100.0%	92,706,990	100.0%	120,933,970

The shift from a 60 percent to 80 percent AMI threshold, according to review of 2018 HUD Comprehensive Housing Affordability Strategy (CHAS) data, would substantially increase the number of people in the CRA eligible category. Although a 60 percent threshold is not included with HUD's 2018 CHAS data, a comparison of the 50 percent and 80 percent of AMI threshold (HUD accounting method) hints at the amount of change that would occur (see the table above). Changing from 50 percent of AMI to 80 percent of AMI would represent a 74 percent increase in the number of eligible households in Duty to Serve (DTS) designated rural census tracts compared to 64 percent in non-rural areas.

The added eligible households would be of relatively modest means, as a look at HUD AMIs shows. The median family income (three-person household) helps illustrate this point. In nearly a quarter of all 19,108 DTS rural census tracts (4,409), a 60 percent adjusted median family income corresponds to less than $30,000. A move to an 80 percent of AMI threshold increases these family incomes thresholds by an average of approximately $17,000 in each county or median incomes between $39,000 and $48,000.

Finally, an important point here is that there is uncertainty as to how the area median incomes are determined. The NPR notes,

> there is not a specified standard to determining when a property or unit is considered affordable to low- or moderate-income individuals...Stakeholders note the lack of a consistent standard for affordability... (pg. 33,893).

This is a problem that needs to be addressed and, depending on what approach is selected, it could dramatically change these eligibility issues. While HAC would recommend using the HUD area median fair market approach, the most important thing is that one standard is chosen and such information is made public.

Question 6. What approach would appropriately consider activities that support naturally occurring affordable housing that is most beneficial for low-or moderate-income individuals and communities? Should the proposed geographic criterion be expanded to include census tracts in which the median renter is low- or moderate-income, or in distressed and underserved census tracts, in order to encourage affordable housing in a wider range of communities, or would this expanded option risk crediting activities that do not benefit low- or moderate-income renters?

As discussed in our response to Question 5, we believe the income thresholds for activity occurring in CRA designated distressed census tracts could be raised, particularly if the proposed 30 percent of 60 percent threshold is adopted. In 2021, these 1,506 census tracts were home to 5.4 million people in 38 states and experienced extreme economic and/or demographic distress (20 percent poverty rate, 1.5 times national unemployment rate, or population loss of 5 percent or over the last 5 or 10 years). Yet the AMI measure is not effectively capturing need. Having a more inclusive AMI standard would be warranted in these communities.

Question 7. Should the proposed approach to considering naturally occurring affordable housing be broadened to include single-family rental housing that meets the eligibility criteria proposed for multifamily rental housing? If so, should consideration of single-family rental housing be limited to rural geographies, or eligible in all geographies, provided the eligibility criteria to ensure affordability are met?

Yes, single-family rental housing should be considered as naturally occurring affordable housing in rural areas. Approximately 44 percent of occupied rental units in DTS rural census tracts are single-family detached homes. Single-family detached homes, including manufactured homes, make up more than 50 percent of all rental units in 1,189 U.S. counties, 924 of which are outside metropolitan areas.

HAC understands the potential challenges that come with such a change. Including single-family activity in the community development/finance examination could result in double counting on the retail lending test. To limit this possibility, special considerations should be provided in markets where single-family units are the predominant form of rental housing, such as the 56 counties where 80 percent or more of rental homes are single-family detached units.

Question 8. How should the agencies consider activities that support affordable low- or moderate-income homeownership in order to ensure that qualifying activities are affordable, sustainable, and beneficial for low- or moderate-income individuals and communities?

The NPR does a good job of clearly laying out how affordable housing is defined and measured. This is a considerable improvement over the current practices which are unclear and inconsistently applied. Promoting homeownership among low- or moderate-income people is an important part of these efforts. In addition to the many benefits associated with having a high-quality place to live, homeownership is an important wealth generator that helps families improve their financial status.

The NPR's example of homeownership assistance focuses on home purchases, particularly down-payment assistance. HAC supports such efforts if they are targeted to low- and moderate-income households. Ensuring these efforts are impactful is often difficult, but in the case of down payment assistance, impact can be measured in loans closed, with possible extra consideration given for first-time home buyers.

Lenders could also receive CRA credit for resolving clouds on title for low- and moderate-income people who already consider themselves homeowners and for supporting financial literacy efforts to avert the development of additional clouded titles. In rural communities, such issues can arise in at least two ways, both impacting communities of color and reducing the wealth-building potential of homeownership. Heirs' property is a problem, particularly among Black households in the Southeast,[14] when a landowner dies without a will so that multiple family members, sometimes over multiple generations, inherit legal interests in the property. "Contracts for deed" arrangements, used in the Colonias and elsewhere, require homebuyers to make payments to the seller, who retains ownership of the property until the final payment is made. Homeowners with such non-standard titles cannot use their property as security for loans and are vulnerable to unscrupulous tactics that may lead to losing their property. Lenders should be encouraged to provide financing to assist in resolution of heirs' property titles, to replace contracts for deed with standard mortgages, to remove other clouds on title, and to support financial literacy training regarding the need to avoid such problems.

Question 9. Should the proposed approach to considering mortgage-backed securities that finance affordable housing be modified to ensure that the activity is aligned with CRA's purpose of strengthening credit access for low- or moderate-income individuals? For example, should the agencies consider only the value of affordable loans in a qualifying mortgage-backed security, rather than the full value of the security? Should only the initial purchase of a mortgage-backed security be considered for affordable housing?

HAC believes the purchase of mortgage-backed securities can help increase liquidity in credit markets. We support giving CRA consideration to these purchases with restrictions to ensure that these purchases are primarily supporting lending to low- and moderate-income households. This means banks should get CRA consideration for only the initial purchase to avoid repeated sales/purchases (churning). Also, only the portion of the securities that involve loans to low- or moderate-income households should be counted. Ideally, the CRA could help support efforts such as the FHFA's Duty to Serve policy, which calls on the GSEs to increase market liquidity in certain high need markets such as the Border Colonias and Lower Mississippi Delta.

[14] Cassandra Johnson Gaither, "Have Not Our Weary Feet Come to the Place for Which Our Fathers Sighed?": Heirs' Property in the Southern United States, 2016, https://www.srs.fs.usda.gov/pubs/gtr/gtr_srs216.pdf.

Question 10. What changes, if any, should the agencies consider ensuring that the proposed affordable housing definition is clearly and appropriately inclusive of activities that support affordable housing for low- or moderate-income individuals, including activities that involve complex or novel solutions such as community land trusts, shared equity models, and manufactured housing?

HAC understands innovation is necessary to effectively address many housing problems. It is necessary to approach these problems differently and such work should be supported. The CRA should support financial institutions that get involved with efforts such as manufactured housing cooperatives. Rural areas have some of the most difficult housing problems. For example, how can home financing be done on tribal lands, where the land cannot be used as collateral, and how can low appraisal values be overcome so they do not stymie the development of new housing? In addition to providing a list of items that would or have been counted as innovative to illustrate what can be done, it might also be beneficial to identify challenges for which innovative solutions are necessary.

Question 14. Should any or all place-based definition activities be required to be conducted in conjunction with a government plan, program, or initiative and include an explicit focus of benefitting the targeted census tract(s)? If so, are there appropriate standards for plans, programs, or initiatives? Are there alternative options for determining whether place-based definition activities meet identified community needs?

While it would be desirable for place-based activities to be coordinated with a government plan or program, this is not always possible. Small towns and rural areas may not have such plans or programs, and efforts like Consolidated Plans developed at the state level often do not target rural areas at the census tract level. If such a requirement is adopted, it should include an alternative that allows an effort to qualify if it is found to meet a specific need and target community residents. In all cases, the activity should benefit the targeted census tracts populations with a focus on low- and moderate-income households.

Question 18. Should the agencies consider any additional criteria to ensure that recovery of disaster areas benefits low- or moderate-income individuals and communities?

HAC agrees with the NPR that recovery activities in designated disaster areas can benefit the entire community; however, the degree to which they benefit low- and moderate-income populations should be specifically factored into a project's value. That is, if a project helps more low- and moderate-income residents, it should score higher. We understand that this may be difficult to determine. For example, if assistance was provided to support business retention, a determination would be needed on how to evaluate it if some of the aid was used for local jobs and some was not. Approaches used for program evaluation should help in making these determinations.

Question 19. Does the disaster preparedness and climate resiliency definition appropriately define qualifying activities as those that assist individuals and communities to prepare for, adapt to, and withstand natural disasters, weather-related disasters, or climate-related risks? How should these activities be tailored to directly benefit low- or moderate-income communities and distressed or underserved nonmetropolitan middle-income areas? Are other criteria needed to ensure these activities benefit low- or moderate-income individuals and communities?

HAC agrees with the NPR to limit disaster preparedness to "geographic areas with more limited resources to prepare for, adapt to, and withstand natural disasters." The NPR asks whether the disaster preparedness definition should include a special prong focused on low- or moderate-income individuals and such activities as weatherization improvements. We support efforts to help people with the fewest resources upgrade their homes and prepare for future disasters. For example, targeting efforts at improving road drainage on streets in low- and moderate-income border Colonia communities can mitigate problems associated with flooding. Similarly, efforts to help households use less water could help mitigate the risk of future droughts. Focusing on low- and moderate-income populations is important because they often do not have the resources to make such improvements without assistance.

It is important here, as covered in HAC's response to Question 14, to allow for circumstances where a government plan is not involved but the results meet CRA community services goals. For example, it might be that an already accepted approach to energy generation and storage is being undertaken by a local cooperative and energy company – a system for generating and storing solar energy that lowers resident energy costs and protects against power outages. A lender's support of those efforts should be given CRA consideration even though no government plan was involved. We think this will be rare, but it should be allowed if all other criteria are met.

Question 28. To what extent is the proposed definition of Native Land Areas inclusive of geographic areas with Native and tribal community development needs?

Again, HAC applauds efforts by the agencies to ensure CRA consideration is provided to activities on Native American Lands and which serve Native American communities. Accurately and comprehensively identifying Native American Lands is extremely difficult to do. Beyond the additional micro definitional problems associated with allotment and the checkerboarding of federal trust lands (very difficult to address), there is the issue, related to land ownership, of community members living nearby but outside of tribal lands. Another definitional challenge occurs because the boundaries for Native American Lands, particularly tribal trust lands, do not fit within other census geographies like census tracts and counties. It is then difficult to relate these areas to other census geographies which can inhibit data-related efforts such as assessing impact.

The NPR provides a relatively comprehensive list of defined Native American lands. HAC agrees the final definition should contain all these areas and, if possible, there should be a single source file (shapefile format) made available once the definition is agreed upon. It is important to make it as easy as possible to confirm that an activity is in a CRA defined Native American Land. The USDA has such a website for determining program eligibility: https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do?pageAction=sfpd. HAC suggests that, to make evaluations more certain and easier to perform, the defined Native American Lands should be connected to census geographies. That is, for example, create a corresponding census tract (census block) file that is linked to the underlying Native American Lands. The problem with this is that converting Native American Lands to census tracts would expand the area they cover (Native American Lands and census tract boundaries intersect). If possible, one could use census blocks, but there is not the same level of data available at the block level.

Question 29. In addition to the proposed criteria, should the agencies consider additional eligibility requirements for activities in Native Land Areas to ensure a community development activity benefits low- or moderate-income residents who reside in Native Land Areas?

We understand the concern that additional eligibility requirements might be necessary to ensure activities primarily assist low- or moderate-income residents, but, given the dearth of investment in these communities, it is advisable to impose fewer requirements to encourage investments in community facilities, infrastructure, and disaster preparedness/climate readiness. Also, by their nature, these investments are intended to impact entire communities. A possible check to ensure this approach works would be to review, several years from now, qualifying community facilities, infrastructure, and disaster preparedness/climate readiness activities in Native American Lands. The review could examine what activities were undertaken, where they occurred, and what populations benefited. This regulation could be viewed as a test case, to see if the reduction in requirements stimulates investment in chronically underserved areas and what the result looks like. If there are problems with the regulation, appropriate alterations could be made. Ultimately, the aspects of this approach that work could be used to help stimulate development in other hard to serve areas.

Question 34. For the proposed impact review factors for activities serving geographic areas with high community development needs, should the agencies include persistent poverty counties, high poverty census tracts, or areas with low levels of community development financing? Should all geographic designations be included or some combination? What considerations should the agencies take in defining these categories and updating a list of geographies for these categories?

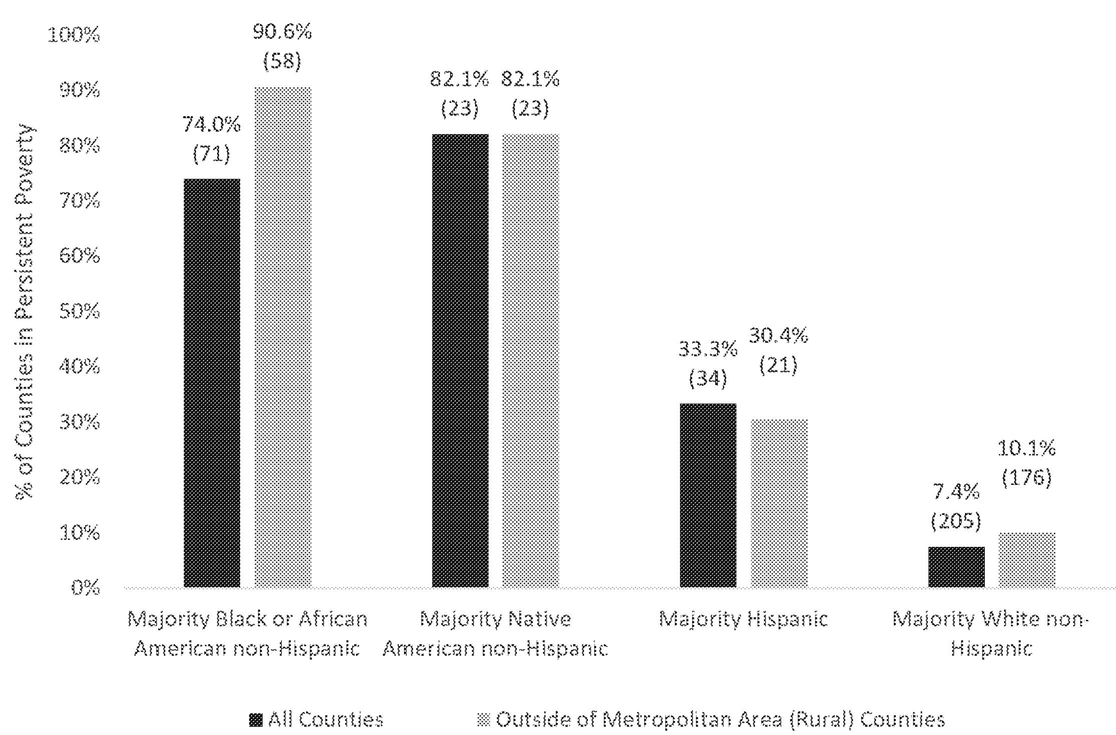
HAC believes impact factors are an important way that the agencies can help incentivize activities, particularly those involving community development and investment, in often overlooked communities. Targeting persistent poverty areas is important to help those communities, many of which are rural, overcome limited resources and years of neglect. In addition, we believe that for efforts to help rural areas, they need to be accurately defined. We propose using a census tract definition that allows for refinements that are overlooked with the OMB metropolitan area approach used in the NPR. The following discussion will focus on both these issues in more detail.
HAC strongly supports giving special consideration to persistent poverty counties, high poverty census tracts, and areas with low levels of financing/services during the impact review of community development activities. The factors should be organized into high/chronic poverty (either county or census tract measure) and low levels of community development financing activity. Each factor should be considered separately so that the presence of both essentially generates a double weighting. There should be considerable overlap between high/chronic poverty rates (county and/or census tract level) and limited community development financing, hence the need for impact review consideration. A challenge will be in creating a definition that is easy to follow and relatively stable.

Increasing access to high quality affordable housing in the hardest to serve rural communities, which are often persistent poverty communities, is at the core of HAC's mission. Community development efforts are critical to these areas which lack strong local markets and sufficient resources and capacity to effectively address their chronic economic distress solely from within. Similarly, these issues cannot be addressed with the increased provision of retail lending products alone (safe and sound lending opportunities are likely limited). Investments are necessary to build up community capabilities and markets to where equal access to affordable financial products and services is sufficient to maintain a vibrant and economically growing community. HAC hopes the impact factors can provide that extra boost lenders need to stimulate these efforts.

The inclusion of an impact factor for persistent poverty counties (369) and high poverty census tracts (3007) also indirectly gets at the issue of racial/ethnic economic inequities.[15] Persistent poverty counties, for example, are usually rural (82 percent), concentrated in so-called high need regions (82 percent), and with relatively large non-white non-Hispanic populations (63 percent). Three-quarters of counties with majority Black non-Hispanic populations and 80 percent of majority Native American non-Hispanic counties are persistently poor compared to 7 percent of majority White non-Hispanic counties (see figure below). Counter to often held beliefs, many of these majority non-White non-Hispanic counties are rural.[16] Because of this relationship, efforts to promote community development in persistent poverty counties often address racial/ethnicity economic inequality. The inclusion of high poverty census tracts, as noted in the NPR, ensures urban/suburban areas are not overlooked. The smaller census tract is a more appropriate geographic unit in more densely populated areas. We recommend treating persistent poverty counties and high poverty census tracts as one impact factor for poverty.

[15] Analysis based on a HAC tabulation of decennial 2000 and 2010 and ACS 2019 (5-year) survey data. We removed Puerto Rico from the analysis. The numbers and discussion that follow are based on this analysis.
[16] Two-thirds of majority Black and Hispanic population counties are outside of metropolitan areas (rural). All majority Native American population counties are rural.

Persistent Poverty Counties by Majority Population and Residence



Notes: Persistent poverty defined as 20% or higher poverty rate Decennial Census 2000, 2010 & American Community Survey (ACS) 2019 5-year estimates. HAC tabulation of data. Numbers in parenthesis are counts of peristent poverty counties.

Community development finance data that is strongly related to chronic/high poverty areas is limited at best. Having this criterion as a special factor seems easiest to administer. If a community has more than one factor, the impact review should reflect that (additive), as would likely be the case for efforts in persistent poverty communities. Keeping it separate will also mean that a dearth of community development activity in an area is still important even if a poverty threshold is not met. An important consideration here will be to make the process of community development finance data collection clearly understood and the information publicly available. Currently such data, when it is available, is only found in CRA examination reports. Making this information public can both help to promote a better understanding of the CRA for those directly involved (lenders can see what they are being measured against) and it promotes a public understanding of the role CRA plays in communities, which is important.

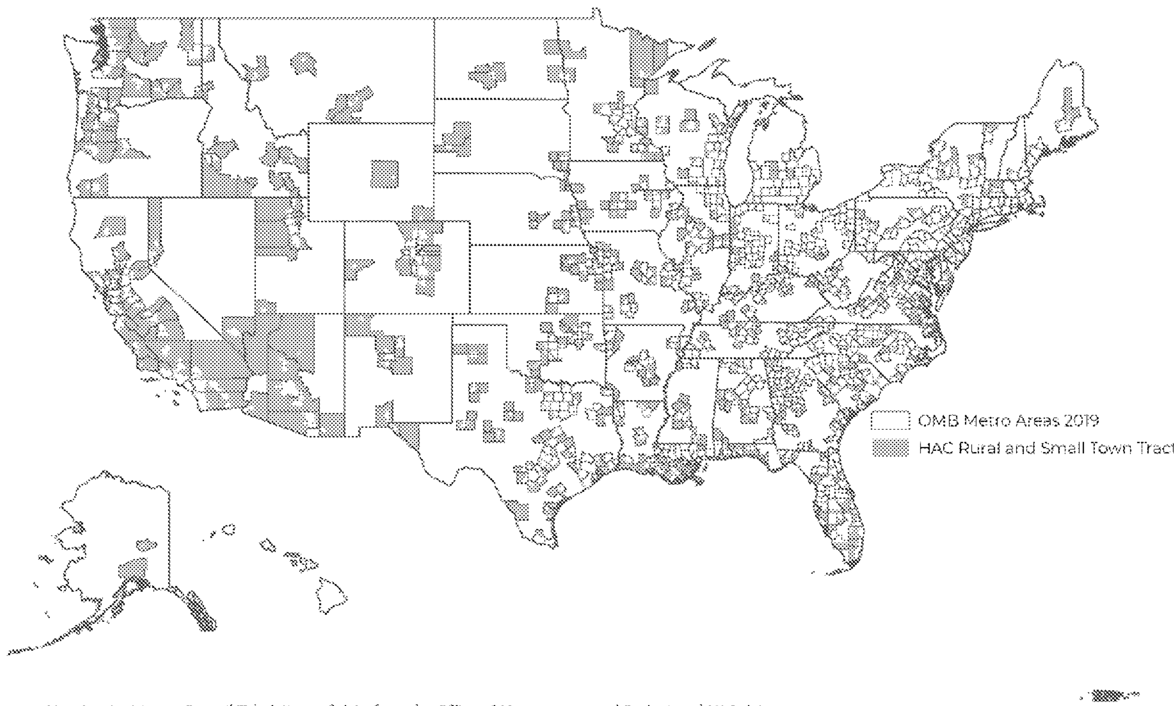
Finally, in response to the question of what considerations the agencies should take in defining these categories and updating a list of geographies, HAC wishes to reiterate the importance of geography for delineating rural communities and impact factors, discussed in our "Rationale For Major Arguments" in the introductory portion of this letter. Specifically, geography is an important – yet often overlooked – element to financial access in the United States. Similarly, CRA access and success are also highly contingent on geography and particularly the "rurality" of a community. The Office of Management and Budget (OMB) Metropolitan Area classification – which is proposed frequently in this NPR – has significant constraints, especially in relation to rural communities. OMB's Metropolitan Areas designation is increasingly a bad proxy for defining "rural" people and places in the United States, and HAC strongly recommends the agencies adopt a different approach.

Policymakers frequently view the concept of rural through an urban-centric lens. OMB's Metropolitan Area classification suffers from this fault by contextualizing rural communities in a residual or "everything else" framework. As such, Metropolitan Areas are clearly defined, and all other territory is classified as "Outside Metropolitan" by default. This type of residual classification relegates rural areas and populations to the background and treats them as secondary.

OMB's classification is also still largely premised on a binary or dichotomous structure. Territory and population are simply classified as Metropolitan or Outside Metropolitan. While such dual classification schemes are simple, easy to understand and incorporate, they typically overlook important settlement and population patterns common across much of the United States. Most notable is the frequent omission of suburban and exurban communities that are often socially and economically distinct from both rural and urban areas. Approximately half of all Americans live in suburban settings. But suburban populations and communities are frequently appropriated into both rural and urban area definitions, skewing the actual characteristics of these communities and overlooking this important dynamic.

Political and economic geography is an important consideration when determining the population and residential patterns of an area. The county is a commonly used unit of geography and is at the core of OMB's Metropolitan Area designations. In many rural areas, the county is often identified within political, social, and economic contexts. However, county-based designations are not the optimum criteria on which to base a geographic definition. Large counties, particularly in the Western United States, may dilute or mask rural population given their geographic size and influence.

Rural & Small Town Tracts in Metropolitan Areas, 2019



Source: Housing Assistance Council Tabulations of data from the Office of Management and Budget and HAC data

San Bernardino County, California presents a prime example of this incongruity. With more than 20,000 square miles, San Bernardino is one of the largest counties in the continental United States and is larger in land area than several states. San Bernardino is classified as a Metropolitan Area by OMB, and under such criteria, the entire county is considered "urban" by proxy under this classification. The county does contain a large population center in and around the cities of San Bernardino and Riverside, but 98 percent of the county's land mass would arguably be considered rural by almost any measure. In fact, the Mojave Desert located in San Bernardino County is considered "Metropolitan" under OMB's scheme. There are numerous instances across the nation like San Bernardino where large counties have substantial portions of their landmass classified as urban in nature under OMB Metropolitan criteria, when in fact they are largely rural in landmass. St. Louis County, Minnesota, Coconino County, Arizona and Kern County, California are just a few counties similar to San Bernardino in this discrepancy between rural classifications. Sub-county units of geography such as census tracts or block groups are often more precise and uniform indicators of rurality than counties.

Finally, OMB's classification still relies on basic – or total – population counts in its definition. Increasingly, researchers, demographers, and practitioners are utilizing density-based measures, such as population per square mile, to more accurately classify population and territory. For example, FHFA utilizes a measure of housing density in its Duty to Serve definition[17] as does HAC's definition of Rural and Small Town tracts[18] on which the FHFA definition is based. Similarly, the U.S. Census Bureau also adopted housing density as the core measure of its rural and urban definition for the 2020 Census.[19]

These density-based measures – with either population or housing metrics – provide for more accurate accounting of residential patterns in communities and the agencies should consider these geographic approaches for targeting and determining impact factors – especially in rural communities.

Question 38. For the proposed factor to designate activities benefitting or serving Native communities, should the factor be defined to include activities benefitting Native and tribal communities that are not located in Native Land Areas? If so, how should the agencies consider defining activities that benefit Native and tribal communities outside of Native Land Areas?

We support consideration of activities that benefit Native American communities. In addition, activities occurring outside of the defined Native Land Areas should be accepted if they are in a recognized Native American community. A group like the National Congress of American Indians can be consulted to identify such communities.

Question 39. Should both small and intermediate banks continue to have the option of delineating partial counties, or should they be required to delineate whole counties as facility-based assessment areas to increase consistency across banks?

HAC believes it would be preferable for small and intermediate banks to delineate entire county assessment areas. This would promote consistency

[17] Federal Housing Finance Agency, Duty to Serve Data, July 19, 2022, https://www.fhfa.gov/DataTools/Downloads/Pages/Duty-to-Serve-Data.aspx.
[18] Housing Assistance Council, Defining Rural – Geographic Terms and Concepts, n.d., https://ruraldataportal.org/geoterms.aspx.
[19] U.S. Census Bureau, Urban Area Criteria for the 2020 Census – Final Criteria, Federal Register vol. 87, pp. 16706-15, March 24, 2022, https://www.federalregister.gov/documents/2022/03/24/2022-06180/urban-area-criteria-for-the-2020-census-final-criteria.

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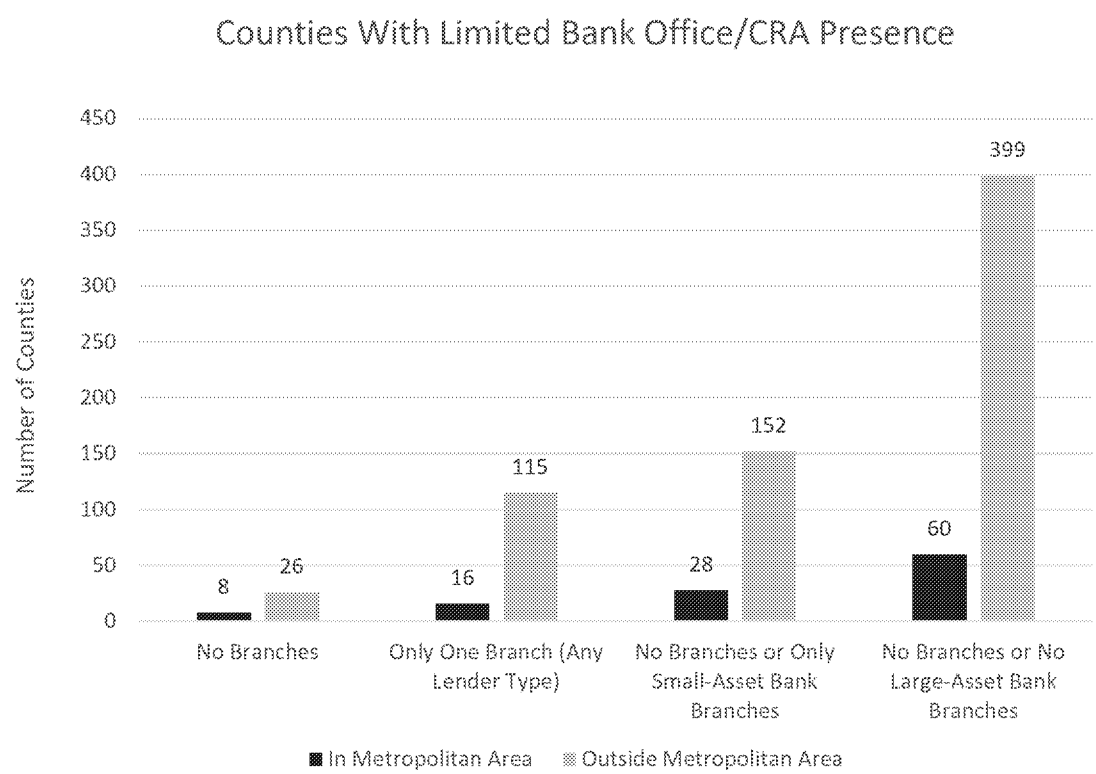
across banks, as the NPR suggests, and it would also go a long way toward ensuring facility-based assessment areas fully capture a lender's service area. This is a particularly important issue for rural areas where small and intermediate size banks play a larger role in local markets. Eighty-two percent of lenders headquartered in rural areas are small and intermediate banks (more than seven out of ten are small-asset banks). Neary 400 outside metropolitan area counties lack a large asset lender bank branch, although only 26 of these counties lack any bank branch at all (most contain small and intermediate bank branches). It is important for CRA coverage in these more than 300 counties that lender assessment areas are not geographically limited as is the case when the smaller census tract is used over the county geography.



Source: Housing Assistance Council (HAC) tabulation of FDIC Summary of Deposit data on bank branch location and assets for 2020 and 2021 (ending period June 30th each year). We used the 2022 CRA examination asset thresholds to categorize each FDIC-insured bank with a reported office. We aggregate branch information to the county geography. We used no restrictions to identify active bank offices.

Question 43. If a bank's retail lending assessment area is located in the same MSA (or state non-MSA area) where a smaller facility-based assessment area is located, should the bank be required to expand its

facility-based assessment area to the whole MSA (or non-MSA area) or should it have the option to designate the portion of the MSA that excludes the facility-based assessment area as a new retail lending assessment area?

The new proposal calls on each bank to delineate for its residential lending test both a facility-based assessment area and a retail lending assessment area. In layman's terms, the facility-based assessment area is based on the current lender branch-based assessment area (counties that contain deposit taking branches). This remains important because many customers like having access to a physical branch. Banking activity is increasingly done online, however, and banks maintain fewer branches, so the link between bank branches and lending activity/services is no longer as strong as it once was.

In response, for the residential lending test, the NPR calls on large bank lenders to create "residential" assessment areas that consist of counties which are not part of a facility assessment area but reach a threshold amount of lending activity. These residential assessment areas are organized by MSA or outside metropolitan area state designation. Residential activity would be evaluated in both facility-based and residential assessment areas.

HAC supports creation of these new assessment areas in order to capture service areas for banks that conduct significant lending activity outside of facility-based areas. This approach provides a way to include rural areas that are not part of a facility-based assessment area but rely on a particular bank.

Question 45. The agencies' proposals for delineating retail lending assessment areas and evaluating remaining outside lending at the institution level for large banks are intended to meet the objectives of reflecting changes in banking over time while retaining a local focus to CRA evaluations. What alternative methods should the agencies consider for evaluating outside lending that would preserve a bank's obligation to meet the needs of its local communities?

The NPR does a good job of addressing the need for lender assessment areas to reflect all the communities where a lender does business. Given the changes in lending practices over the last two decades, with the move to mobile banking, assessment areas based solely on bank branch locations are an increasingly inadequate reflection of where a lender does business. The concept of retail lending assessment areas (for large banks only) operationalizes what is a significant amount of lending and then sets rules for including places where the thresholds have been met as additional assessment areas.

It is also positive that for certain large banks and some intermediate banks the proposal includes lending activity that occurs outside of facility-based and retail lending assessment areas. Currently, such activity is considered only at the discretion of the examiner. Because the volume of lender activity in rural areas is often relatively small for most lenders and not does not occur in assessment areas, rural activity is often not being considered on CRA examinations.

HAC believes that outside assessment area activity should be evaluated in all intermediate bank CRA exams, not just those where outside assessment area activity exceeds 50 percent of all retail activity. Given that intermediate banks would not be required to identify retail lending assessment areas, it is important that activity outside of facility-based assessment get some CRA oversight. Considering this activity in aggregate with an outside assessment area review ensures it is not ignored.

Question 46. The proposed approach for delineating retail lending assessment areas would apply to all large banks with the goal of providing an equitable framework for banks with different business models. Should a large bank with a significant majority of its retail loans inside of its facility-based assessment areas be exempted from delineating retail lending assessment areas? If so, how should an exemption be defined for a large bank that lends primarily inside its facility-based assessment area?

HAC does not support exempting lenders from delineating retail lending assessment areas even if a significant majority of a bank's retail loans are made inside its facility-based assessment area. While the amount of retail lending that occurs outside of a lenders facility-based assessment area may be proportionally small, that lending could still be substantial for the area where it is made.

The NPR identifies "substantial" as the average number of loans lenders reported in facility-based assessment areas. This is a solid approach and essentially operationalizes the requirement that assessment areas represent where a lender does business. As the NPR notes, the inclusion of residential lending assessment areas will increase the degree to which lending activity is covered in assessments. For rural communities, this has been a long-term concern.

One possible compromise, if a partial exemption from designating retail lending assessment areas is deemed to be necessary, would be to consider not only the volume of lending in potential retail lending assessment areas, but also the role that lending plays in those areas. First, a significant majority (89 to 90 percent, according to the NPR) of a bank's retail lending activity would have to occur in its facility-based assessment areas. If this threshold is met, then the lender would establish retail lending assessment areas only where the lender's activity meets both the loan count total and represents a significant percentage of the local market. This would ensure a lender was assessed on activity in areas for which they were a significant lender. The challenge with such an approach is determining where to set the significant market share threshold and the possible confusion that could arise.

Question 47. The agencies propose to give CRA consideration for community development financing activities that are outside of facility-based assessment areas. What alternative approaches would encourage banks that choose to do so to conduct effective community development activities outside of their facility-based assessment areas? For example, should banks be required to delineate specific geographies where they will focus their outside facility-based assessment area community development financing activity?

HAC agrees that lenders should receive CRA consideration for community development financing activities that occur outside of facility-based assessment areas. Restricting community development activities to facility-based assessment areas would mean communities with limited bank presence, often economically distressed and rural areas, would receive few investments.

The challenge is to incentivize lenders to build upon their efforts in facility-based assessment areas and engage in community development efforts in other markets particularly in underserved and distressed communities. Being able to get credit for serving an area alone will not necessarily mean more activity is done there. This is particularly the case when it comes to underserved communities because lenders often have limited contact or experience in working in these areas. There must be value to lenders in undertaking these activities.

An option, which might also work as a requirement, is for banks to identify target geographies/populations for their outside facility-based assessment areas based on impact factor geographies like persistent poverty counties or Native American Lands. This way lenders could receive extra impact factor consideration for their efforts. If lenders work with regulators in identifying the target area and develop a plan to coordinate their activities, this could streamline the examination process, helping to ensure activities will receive CRA consideration and examiners know what to expect. Depending on the weight given to the impact factors, this approach might become a preferred way for lenders to earn an outstanding rating and it would come with the extra benefit of providing an example of how a lender's work can make a difference in a community in need.

Question 48. Should all banks have the option to have community development activities outside of facility-based assessment areas considered, including all intermediate banks, small banks, and banks that elect to be evaluated under a strategic plan?

Yes, all lenders should have the option to get credit for community development activity if it would otherwise qualify for CRA consideration. Getting banks to engage in activities outside of their facility-based assessment areas is critical to increasing the reach of community development activity, particularly to underserved areas. Rural areas understand this better than others because these are often the communities where large bank presence is most limited.

In addition, it might be that a small-asset lender is best positioned to engage in an activity. That is, they may be nearby, better understand the market or just have a specialty that fits community development in an area. Larger banks may not have that connection to this activity and it would not occur otherwise. Again, a key here is that such an activity would have to meet all other CRA requirements to receive consideration.

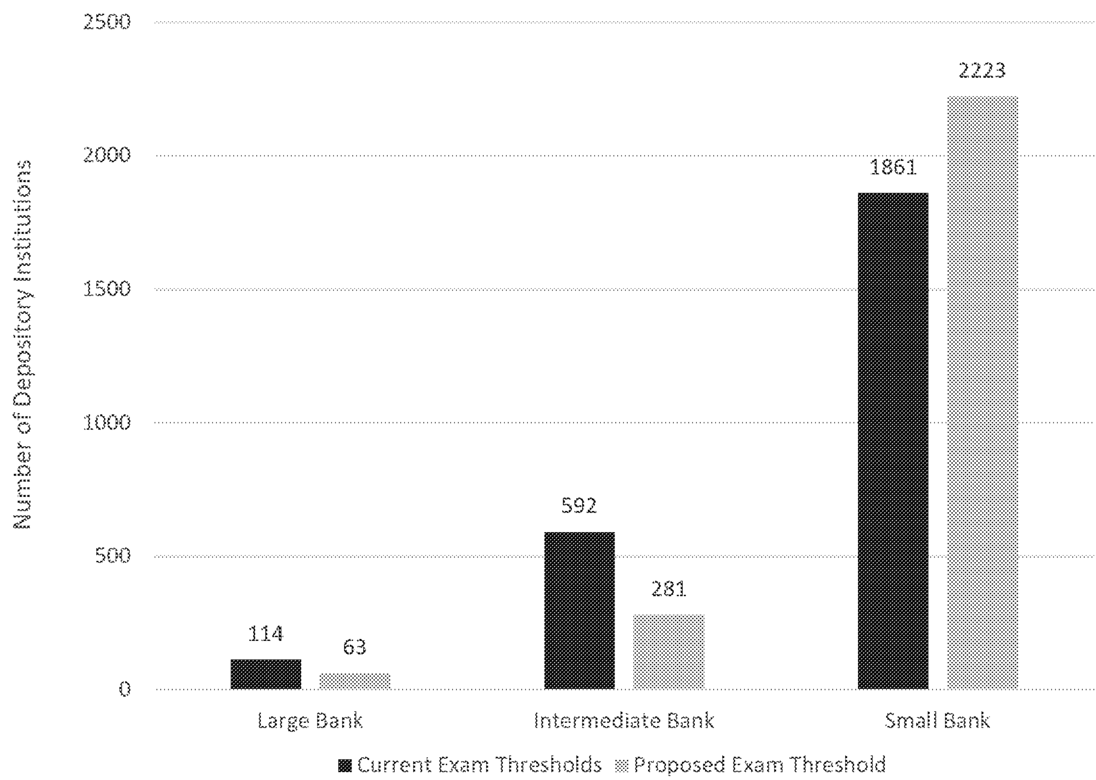
Finally, if all banks have the option of engaging in community development activities, and engaging these activities makes earning an outstanding rating possible, this may create a dynamic situation where lenders strive to be outstanding. Given that only 13 percent of all lenders are required to be involved in community development activity, limiting options for the other 85 percent would limit the CRA's potential to build up communities.

Question 51. Should the agencies adopt an asset threshold for small banks that differs from the SBA's size standards of $750 million for purposes of CRA regulations? Is the proposed asset threshold of $600 million appropriate?

HAC opposes increasing bank asset thresholds because we fear it will limit CRA-related activity in rural areas where many smaller banks are headquartered. We estimate that at the current asset thresholds, 2,624 lenders are small banks, 1,261 are intermediate banks, and 577 are large banks. Using the proposed $600 million small bank and $2 billion large bank asset thresholds, there would be a significant (36 percent) reduction in the number of intermediate and large banks and a large increase (25 percent) in the number of small banks. For rural headquartered lenders the numbers are considerably worse: the proposed threshold change would reduce the number of intermediate and large banks bank by 51 percent, as shown in the figure below.

This is important because small banks do not have to engage in as much CRA-related work. In particular, small banks are not evaluated on community development activities (unless they request it). Because most banks headquartered in rural areas are already small-asset institutions (using the current standard, 72 percent), the CRA's reach is often limited particularly when it comes to those lenders that know the community best. The proposed change in asset thresholds would mean 87 percent of rural headquartered lenders would be small-asset banks. The number of rural headquartered large lenders, the institutions with the most CRA obligations, would drop from 114 to just 63.

Rural Headquartered Lenders by Bank Asset Size and Proposed CRA Examination Threshold



Source: HAC tabulation of FDIC-insured lender data 2021 and 2020 applying the current 2022 CRA asset thresholds compared to NPR proposed thresholds.

HAC understands the need to limit burden and obligations on smaller institutions. Certainly, a bank with $50 million in assets cannot provide the same types of services/investments as one with $100 billion in assets. However, the geography of banking concentrates these lenders in rural areas making it a problem in general for CRA effectiveness and one that we believe would be worsened with the proposed asset thresholds.

Question 56. Should the agencies aggregate closed-end home mortgage loans of all purposes? Or should the agencies evaluate loans with different purposes separately given that the factors driving demand for home purchase, home refinance, and other purpose home mortgage loans vary over time and meet different credit needs?

We prefer the agencies to identify loans by category/purpose (home purchase, refinance, and home improvement) – since it can be important to consider how loans vary – interest rates increase and refinancing declines. A home purchase loan is much different from a home refinance loan and looking at them together can obscure important differences. Similarly, other factors, like property type, could be considered by an examiner if they are raised as important considerations. The problem is that in areas with limited loan volume splitting out loans might not be possible. This is a challenge for applying the CRA metrics to rural areas. Pooling activity (combining loan types) can help address this issue, but it tends to obscure important differences. The retail lending loan threshold (set at 100 close-end loans for mortgage lending activity) should also help with this problem, but it will be important that regulators review the implementation of any final regulations to make sure there is enough loan activity for a complete/accurate assessment particularly when it comes to loan categories like home purchase, refinance, etc.

Question 57. Should the agencies exclude home improvement and other purpose closed-end home mortgage loans from the closed-end home mortgage loan product category to emphasize home purchase and refinance lending? If so, should home improvement and other purpose closed-end home mortgage loans be evaluated under the Retail Lending Test as a distinct product category or qualitatively under the Retail Services and Products Test?

Home improvement, reverse mortgage and other purpose closed-end home mortgage loans make up a small part of HMDA reported mortgage loan activity. These loans should be removed from a review of home purchase and refinance activity since they are clearly different products. This does not mean, however, that home improvement loans should be excluded from review entirely. If they represent a certain volume of activity, these products should be treated separately or in aggregate as a retail lending product line.

Question 60. Should multifamily lending be evaluated under the Retail Lending Test and the Community Development Financing Test (or the Community Development Test for Wholesale or Limited Purpose Banks)? Or should multifamily lending be instead evaluated only under the Community Development Financing Test?

HAC believes it is useful to include multifamily lending in both the retail lending and community development tests. This is like considering certain single-family housing (rental) both in the retail lending test and community development test. Whereas it might be possible and preferrable to restrict consideration of single-family loans to one test, in the case of multifamily property, it probably is not necessary to do so. The community development test looks at qualitative elements of a project while the retail lending test looks at quantitative measures.

Question 66. Do the benefits of evaluating automobile lending under the metrics-based Retail Lending Test outweigh the potential downsides, particularly related to data collection and reporting burden? In the alternative, should the agencies adopt a qualitative approach to evaluate automobile lending for all banks under the proposed Retail Lending Test?

With the spatial and geographic dynamics of most rural communities, access to an automobile is critical. Without a reliable automobile, most rural residents cannot access basic services such as food and health care. HAC understands the need for affordable automobile financing, and we applaud the NPR's efforts to include it in the retail lending test. Currently, such activities can be included in a lender's CRA examination if it is determined that these products represent a substantial majority of a lender's business. The NPR spells out in more detail how automobile lending is to be considered.

HAC believes that including (clearly spelling out how) automobile lending as part of the CRA retail lending test is useful, particularly if this type of lending is a substantial product line for lenders. We do have several areas of concern, however. First, automobile loans often come with relatively high interest rates and terms. There would have to be some assurances that these lending activities represent an affordable product. The CRA should not be supporting activities that jeopardize a household's financial health.

Question 67. Should credit cards be included in CRA evaluations? If so, when credit card loans constitute a major project line, should they be evaluated quantitatively under the proposed Retail Lending Test or qualitatively under the proposed Retail Services and Products Test?

HAC views the inclusion of credit card lending like automobile lending. We understand why it is included in the CRA proposal. This type of lending is currently covered if it is deemed to represent a significant part of a lender's business. To exclude it from CRA consideration would mean to provide a less than thorough review of a lender's work.

The CRA should not, however, support lending that may be harmful to households. Also, as more and more products are counted in the retail lending exam they could water down other important financial services, like small business and farm lending. As suggested in the response to Question 66, the impact of this change should be carefully evaluated.

Question 69. Should the agencies adopt a qualitative approach to evaluate consumer loans? Should qualitative evaluation be limited to certain consumer loan categories or types?

No, the agencies should not adopt a qualitative approach to consumer lending. Qualitative factors should be considered but at the heart of the retail lending test is quantitative measures where the process is spelled out and the results duplicatable. This should produce certainty and clarity, something that all involved parties will appreciate. It might take some time to perfect the measures, but this is still the preferrable approach. Qualitative consideration is more important for the community development/investment test.

Question 70. Should the agencies use a different standard for determining when to evaluate closed-end home mortgage, open-end home mortgage, multifamily, small business, and small farm lending? If so, what methodology should the agencies use and why? Should the agencies use a different standard for determining when to evaluate automobile loans?

Determining at what level to set the threshold for determining consideration on a lender's CRA retail examination is important. After all, this determines whether there will be a review of a lender's activities involving that product. This can be an issue of particular importance when it comes to rural areas because a small volume of lending (particularly when considering dollar amounts) can still represent a significant amount of lending. This is like the rationale for using a count of automobile loans rather than a dollar amount threshold (much smaller loan amounts).

HAC would prefer a count of loans, as is proposed for automobile lending, be used instead of a dollar amount. This would be beneficial for rural parts of an assessment area where loans often involve lower dollar amounts.

It might be best to have a simple count of loans baseline, set relatively low, for inclusion of home lending and small business and farm activity in a lender's retail lending test. This would make sure home and small business lending are always included, helping address concerns that activities might get left out. Then the dollar amount or loan count thresholds would be applied to other lending activity.

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Another consideration is the role a lender's activity plays in a market. To ensure products that may serve an important role in each market are not overlooked by a value threshold, consideration should be given to the proportion of lending that a lender's activity represents in its market. For example, home purchase loans may only represent 12 percent of the loans a bank engages in for a particular assessment area but a third of the home purchase loans originated in that market. To not review this lending, then, would miss an important part of a local credit market. Establishing an overarching rule could address this concern. For example, if a product line represents 20 percent of an assessment area market, then it could be included in the retail examination even if the 15 percent threshold is not reached. This approach might also be relegated for use in markets with a limited volume of retail lending.

Question 71. Should the agencies use a different standard for determining when to evaluate multifamily loans under the Retail Lending Test? If so, should the standard be dependent on whether the lender is a monoline multifamily lender or is predominantly a multifamily lender within the geographic area? Relatedly, what should a "predominantly" standard be for determining whether multifamily loans constitute a major product line entail?

It may be necessary to consider different standards for evaluating multifamily loans. A monoline multifamily lender is different from lenders who engage in some multifamily loans, but do not focus solely on them. A standard set based on multifamily lenders would be skewed toward those with the highest volume of activity and this in turn might mean that the predominant originator of multifamily loans in a given area is not evaluated on this lending. It should be possible to set a higher standard for lenders whose activity focuses on multifamily properties and all other lenders who engage in the business but not at a primary line of business level. This should mean that lenders engaging in multifamily homes loans in rural markets are not overlooked.

Question 74. Should the geographic distribution evaluations of banks with few or no low- and moderate-income census tracts in their assessment areas include the distribution of lending to distressed and underserved census tracts? Alternatively, should the distribution of lending in distressed and underserved census tracts be considered qualitatively?

Yes, in the absence of low- or moderate-income census tracts a bank should be evaluated on activity that occurs in distressed and underserved census tracts. There are several thousand distressed and underserved census tracts which need improved access to financial services, but the low/moderate income approach does not capture this need. It is likely that where low- and moderate-income census tract are not present, primarily rural communities, that there are distressed and underserved tracts. Treating the evaluation of these tracts like low- or moderate-income tracts would be preferrable rather than undertaking a qualitative review. The challenge here is determining a threshold for "few" so that considering low- or moderate-income census tracts is not replaced by consideration for distressed and underserved census tracts.

Question 76. Should the community benchmarks be set using the most recent data available at the time of the examination? Would an alternative method that establishes benchmarks earlier be preferable?

For sake of clarity and consistency, the benchmarks should be established based on the year before the examination begins. This way the data can be a known and it should match up with much of the lender data being provided. In the event, though, that circumstances have dramatically changed, such as a global pandemic, a CRA examiner may request that other data be used, such as more updated information.

Question 84. Should the agencies use loan count in conjunction with, or in place of, dollar volume in weighting product line conclusions to determine the overall Retail Lending Test conclusion in an assessment area?

HAC favors the use of loan counts rather than dollar volume, which tends to give less impact to activity in rural areas where home loans are of lower value.

Question 85. Would identifying underperforming markets appropriately counter the possibility that the market benchmarks might be set too low in some assessment areas? If so, what data points should be used to set expectations for the market benchmark? How far below this expectation should an observed market benchmark be allowed to fall before the market is designated as underperforming?

HAC supports efforts to identify underperforming markets. It is best to identify these areas so that regulators can work with lenders and possibly even adjust impact factors to increase lender activities in these markets.

Question 87. Should all large banks have their retail lending in their outside retail lending areas evaluated? Should the agencies exempt

banks that make more than a certain percentage, such as 80 percent, of their retail loans within facility-based assessment areas and retail lending assessment areas? At what percentage should this exemption threshold be set?

While HAC understands the inclusion of outside retail lending areas in the CRA evaluation process may increase lender obligations, this is an important change that means previously overlooked lending activity will finally receive consideration. Given that much of this activity is likely to be dispersed and in rural areas, which in the past would have at best often been subject to a limited scope review, HAC supports the NPR's efforts here.

A loan threshold does at first seem like a reasonable solution, since if 80 percent of a lender's activity occurs in its assessment areas that is a clear majority. However, if one considers that the other 20 percent could amount to a thousand loans (these are large asset lenders) and represent a sizeable share of a market, a loan threshold becomes problematic. It would be best to not use a threshold and rely on the fact that the weighting of such activity, used during the rating calculations, would check any undue influence being given to this lending. It is more likely that the weighting might overly diminish the outside assessment area examination's influence on a lender's rating.

Question 89. Should assessment area and outside retail lending area conclusions be weighted by the average of a bank's percentage of loans and deposits there? Is the proposed approach for using FDIC's Summary of Deposits data for banks that do not collect and maintain deposits data appropriate? Should the agencies use another method for choosing weights?

This is a reasonable approach for weighting lender activity. While rural areas do not often factor well with such weighting because there are fewer deposits and less lending activity in such communities, a lender's rating should reflect its service area, as deposits and lending activity do.
A possible check to see if a certain population, like rural, is being overlooked would be to pull a random sample of rural assessment area and outside assessment area census tracts and, using the CRA compiled data, generate a CRA rating. If the results are unsatisfactory then a closer inspection of the data could be undertaken.

Question 92. How should geographies be divided to appropriately identify different distance thresholds? Should they be divided according to those in the proposed approach of urban, suburban, and rural areas; those in

the alternative approach of central counties, outlying counties, and nonmetropolitan counties; or some other delineation?

As explained in the response to Question 34, counties are not accurate indicators of the distribution or characteristics of populations or markets. HAC recommends distance thresholds be based on census tracts.

Question 139. The agencies request feedback on whether it would be more appropriate to weight retail lending activity 60 percent and community development activity 40 percent in deriving the overall rating at the state, multistate MSA or institution level for an intermediate bank in order to maintain the CRA's focus on meeting community credit needs through small business loans, small farm loans, and home mortgage loans.

To meet CRA's intentions, it is essential that community development activity is properly considered and incentivized. CRA-related community development activities must reach underserved communities to enable them to develop financially vibrant economies. To date, CRA has not provided an adequate incentive to meet the community development needs of too many rural areas, particularly those in high need regions like Native American Lands, the Lower Mississippi Delta, Border Colonias, and Central Appalachia. If the community development portion of the exam receives even less importance, this underservice will not improve. Community development should account for half of a lender's CRA score and retail lending the other half. This should be the case for the state, MSA, and institutional level ratings.

Question 140. What are the advantages and disadvantages of the proposal to limit the state, multistate MSA, and institution-level ratings to at most a "Needs to Improve" for large banks with ten or more assessment areas unless 60 percent or more of the bank's assessment areas at that level have an overall performance of at least "Low Satisfactory"? Should this limitation apply to all assessment areas, or only facility-based assessment areas? Is ten assessment areas the right threshold number to prompt this limitation, and is 60 percent the right threshold number to pass it? If not, what should that number be? Importantly, what impact would this proposal have on branch closures?

HAC agrees there should be a threshold requiring a lender to receive a passing score on most of its assessment areas. HAC is concerned, however, that rural areas could still be overlooked. That is, a lender could earn a failing rating in most of their rural assessment areas, yet pass the exam. In fact, this seems likely since rural areas may well represent a small number of assessment areas for most large lenders. One possible way to guard against such systematic poor performance would be to require lenders to also meet the same 60 percent threshold for rural assessment areas. We are not necessarily against such an approach but the problem with this is that the number of rural assessment areas is likely small (possibly often below 10) and much rural lending will end up in the overarching "outside of assessment area" rating.

A possible solution would be pulling a random sample of rural census tracts from all of a lender's assessment areas and performing an abbreviated CRA evaluation on activity occurring in them (using the data already compiled). If a lender fails this test, then further examination might be necessary to determine whether systematic problems might be occurring.

Question 141. The agencies propose to continue to evaluate small banks under the current framework in order to tailor the evaluation approach according to a bank's size and business model. What are other ways of tailoring the performance evaluation for small banks?

As explained in response to Question 51, HAC strongly advises against changing the asset threshold for determining small banks. The NPR's proposed increase from $324 million to $600 million would increase the number of small banks for whom there are fewer CRA requirements.
It would also be helpful to apply a retail lending test on small bank and intermediate small banks like the one being proposed for the large asset lenders. Small lenders could remain exempt from designating retail lender assessment areas and use only county-based facility assessment areas, but use similar calculations to rate assessment area activity. This would create more uniformity in examinations.

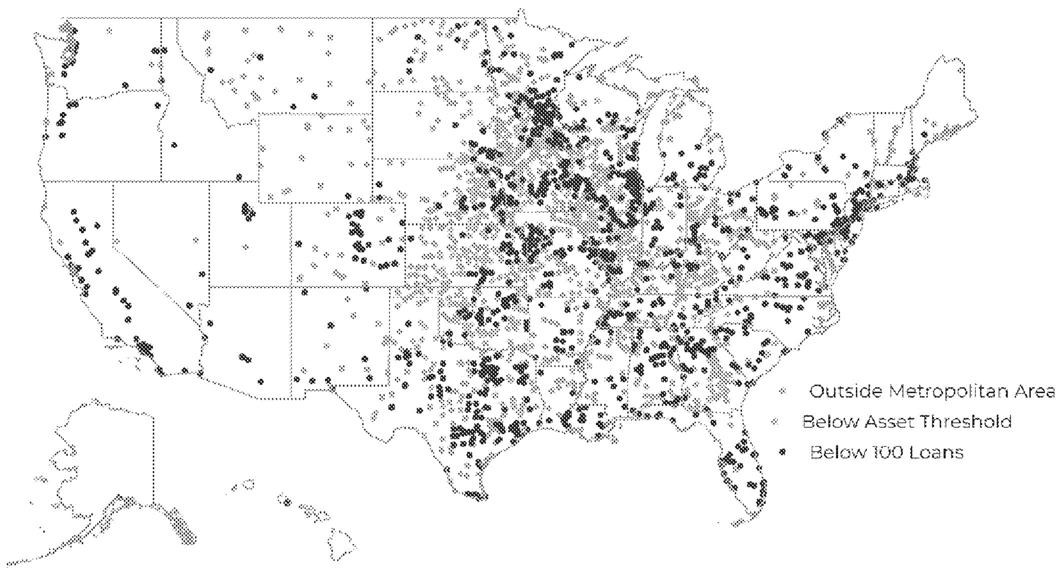
Question 142. Should additional consideration be provided to small banks that conduct activities that would be considered under the Retail Services and Products Test, Community Development Financing Test, or Community Development Services Test when determining the bank's overall institution rating?

Yes, small banks should be able to engage in activities outside of those on which they would be evaluated under the lending test alone. Allowing banks to engage in such activities as a way of possibly increasing their CRA rating from a satisfactory to an outstanding is important. As noted earlier, nearly three-quarters of rural headquartered banks are small-asset lenders. Policies that will possibly encourage these lenders to engage in more financial services activities are a way to leverage their expertise in a community. A goal should be to encourage more banks to engage in these efforts.

Question 157. Would the benefits of requiring home mortgage data collection by non-HMDA reporter large banks that engage in a minimum volume of mortgage lending outweigh the burden associated with such data collection? Does the further benefit of requiring this data to be reported outweigh the additional burden of reporting?

Yes. The benefits of requiring large banks to collect and provide mortgage activity data would outweigh any burden. Instead, this information would enhance CRA's effectiveness in rural market and help to ameliorate some of the "blind spots" within HMDA's outdated and biased reporting criteria. HMDA currently excludes rural activity through several reporting exemptions that limit coverage. Reporting exemptions exist for extremely small asset lenders ($46 million in 2019) and lenders that do not operate a bank office or branch in an OMB designated Metropolitan Area. As such, many smaller banks that operate in rural areas do not report home lending data to HMDA. This exemption calls into question the thoroughness of HMDA data for some small markets. Recent changes that have exempted even more lenders from reporting have further exacerbated the problem of data coverage, particularly for small rural areas, making it impossible to evaluate mortgage lending performance in rural places.

Non-HMDA Reporting Financial Institutions, Estimate of FDIC Insured Banks



Source: HAC Tabulations of 2017 FDIC and HMDA data.

Using financial institution data such as all FDIC insured lenders, HAC estimates that over 1,200 lenders qualify for a HMDA reporting exemption. The figure below illustrates an estimate of non-reporting institutions by HMDA exemption.

Question 173. Should the agencies disclose HMDA data by race and ethnicity in large bank CRA performance evaluations?

Yes, the agencies should disclose HMDA data by race and ethnicity for large bank CRA performance evaluations. HAC would prefer that such data was disclosed for all performance evaluations, regardless of lender size, but at the very least it should be done for large asset lenders. These types of disclosures could help focus on serving communities that have been overlooked for too long. Race was at the center of why Congress established the CRA, due to practices such as redlining that made financial services unavailable in non-White non-Hispanic communities. Making loan data by race publicly available is an important part of efforts to rectify these wrongs.

CONCLUSION

Thank you for your consideration of these comments. Please do not hesitate to contact me if you need additional information.

Sincerely,

[redacted]

David Lipsetz
President & CEO