

Message

From: Arnold Cohen [acohen@hcdnnj.org]
Sent: 8/5/2022 5:51:42 PM
To: Comments [comments@fdic.gov]
Subject: [EXTERNAL MESSAGE] RIN 3064-AF81

August 5, 2022

To:

Federal Reserve Board of Governors, Docket No. R-1769 and RIN 7100-AG29
Federal Deposit Insurance Corporation, RIN 3064-AF81
Office of the Comptroller of the Currency

From:

The Housing and Community Development of NJ

Re:

Regulations implementing the Community Reinvestment Act of 1977 (CRA),
Federal Reserve Board of Governors, Docket No. R-1769 and RIN 7100-AG29 and FDIC RIN 3064-AF81

The Housing & Community Development Network of NJ (The Network) appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) for the Community Reinvestment Act (CRA). The proposed rule is a marked improvement over the status quo. However, it doesn't do enough to make CRA the effective tool it could be to help the Network and our members achieve our goal of increasing housing choices and economic opportunities for LMI communities and residents

The Network is the statewide association of over 250 non-profit housing and community development corporations, private sector lenders and advocates who support the creation of affordable homes and economic opportunities for low- and moderate-income (LMI) residents. We have worked with most of the banks in New Jersey to help them meet their CRA obligations, and have developed CRA agreements with many of these lenders. Further, we maintain a CRA-focused Community Development Investment Advisory Board that includes many of these institutions.

We suggest the following changes to strengthen the Notice of Proposed Rulemaking (NPR):

1) The NPR should go further to consider race and ethnicity of bank customers and communities explicitly.

We are disappointed on the absence and focus on race in the proposed NPR. New Jersey has one the greatest racial wealth gaps in the nation with white families having \$322,500 in wealth compared to only \$17,700 for the state's Black families. Strong CRA regulations can help address the wealth gap, which is over \$300,000. A recent study showed continuing disparities in loan denials by race and when people of color received home loans, their equity accumulation was less.

The effects of redlining are still with us. A March 2022 study funded in part by the Environmental Protection Agency underscores the ongoing negative impacts of redlining. Researchers analyzed air quality data in over 200 cities where communities were redlined, dating back to the 1930s, and found consistently **elevated levels of pollution** in Black, Asian, and Latino communities

In the 2021 Advance Notice of Proposed Rulemaking (ANPR), regulators dedicated substantial space inquiring how race can be considered as part of CRA exams. Why does the NPR not comment on this issue? What reasons did regulators have for abandoning that path that inquiry? The Community Reinvestment Act was passed in direct response to racism in banking. It's an issue CRA has never fully addressed, and this NPR represents another major instance in the almost five decades of shortcomings. We ask regulators to please collect data

related to race in the retail and community development tests; make that data public; and use it consequentially in CRA exams.

Specifically, we ask regulators to:

- Add racial data to the list of factors considered when creating assessment areas.
- Compare lending data by race to peer-banks within assessment areas.
- Formally incorporate HMDA and 1071 data by race into an examination.
- Severely punish banks that are found to have violated civil rights, fair lending, or fair housing laws.
- Add an impact review factor to the community development finance test that considers investments made in historically redlined communities and areas in which the residents are predominantly people of color.

- 2) Change the asset categories from their proposed sizes (large, intermediate, small) so they do not reduce community development financing, particularly in rural areas and small cities.** The proposed bank asset sizes move about 900-1000 banks into a lower asset category than they would occupy under the status quo. Regulators have also chosen to reduce community development responsibilities for banks in smaller asset categories. Research from the National Community Reinvestment Coalition estimates that well over \$1 billion in community development financing could be lost as a result. If that estimate proves to be anywhere close to accurate, it would be a significant failure for the regulating agencies.
- 3) Ensure the newly formed “Retail Lending Assessment Areas” will be subject to a community development test.** The new retail lending assessment areas (RLAA) are intended to address the CRA responsibilities of banks operating largely through internet and other non-branch channels (as well as branch-based banks with internet operations). We strongly urge regulators to reconsider community development responsibilities in RLAA's. The NPR outlines how RLAA's would be formed in entire MSAs or the non-MSA area of a state. Those area sizable chunks of geography for which banks should have some level community development responsibility, even if only a version of the status quo community development test.
The RLAA's have loan production offices (LPO) which should also include a required community development test. LPO's are too often the only lending or banking-related presence in rural areas and small towns. The NPR gives banks the option to claim credit for banking services provided at their LPO's. Responsibilities should come with that opportunity.
- 4) Regulators should give more consideration and acknowledgement to banks that utilize effective, creative, and exemplary local community engagement strategies.** We propose that exemplary community engagement strategies in LMI areas be recognized as a standalone impact review factor when regulators are considering CRA credit for an eligible community development activity.
- 5) We encourage regulators to begin thinking *now* about how to roll out a new rule to stakeholders, in addition to banks.** The last set of CRA changes were implemented over 25 years ago. Regulators must make a significant effort to reach community based development nonprofit organizations and other stakeholders. This is particularly important because this process has become so complicated and technical that many community-based organizations currently feel ill-equipped to meaningfully participate.
- 6) The community development financing test for intermediate banks must be required, not optional.** Under the proposal, intermediate banks are subject to a status quo community development test or the option for the new community development finance test. The Network urges regulators to make all

intermediate banks subject to the community development finance test. Subjecting large and intermediate banks to the new test creates consistency among banks and examiners, and it provides others in the community development industry (non-bank investors, funders, community development nonprofits, public officials, researchers, and others) with a consistent understanding of how banks are regulated on their community development activity.

- 7) The NPR must do more to clarify the role of community-based development organizations (CBDOs) in CRA.** The NPR sometimes recognizes the important role CDCs and CBDOs play, such as in the eligible activities section in which a qualifying housing activity has a ‘primary community development purpose,’ if developed by one of these organizations.

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

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

- 8) Maximize the amount of data that will be publicly available as part of the CRA examination and pre-approval process.** We appreciate the level of detail agencies propose to publish as part of CRA exams. We also urge transparency and published determinations as part of the bank-accessible pre-approval process proposed.

We urge the agencies to also make public all data associated with a CRA exam to further the agencies’ stated goals of making CRA exams more consistent and transparent. This is particularly important for the gathering and publication of community development finance-related data. This type of data has the potential to be transformative for the community development field. We encourage regulators to play a leadership role in this regard.

And whenever possible, the agencies should use plain language in these publications to make the information accessible to community members. This information would benefit all stakeholders – fellow regulators, financial institutions, and community advocates.

- 9) We recommend that the final rule specifically recognize lender fee-for-service payments for housing counseling services as an eligible activity under the Community Reinvestment Act.** Housing counseling is a proven tool that helps consumers get mortgage-ready through financial education, pre-purchase counseling, reverse mortgage counseling, and credit history counseling. This eligible activity would make a difference for low-moderate income earners. While lenders recognize the value of housing counseling agencies in addressing the troubling and persistent gaps in access to homeownership, there is a needed clarification in what form that support can take. Lender fee-for-service payments for housing counseling services is an important avenue for supporting housing counseling and a clear statement in the rule that these payments are considered eligible supports under the CRA will provide the necessary clarity.

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

Sincerely,

Staci Berger,
Housing and Community Development Network of
NJ
Affordable Housing Alliance

Bergen County's United Way

Black Human Rights Campaign-Newark

Bridges Outreach, Inc.

Camden Community Development Association
Catholic Charities, Diocese of Metuchen

Central Jersey Housing Resources Center

Coastal Habitat for Humanity

Coming Home of Middlesex County

Community Affairs and Resource Center

Consumer Credit and Budget Counseling, Inc.

Cumberland County Habitat for Humanity

Elizabeth Coalition to House the Homeless

Epic Community Development Corporation

Fair Share Housing Center

Financial Wellness Institute

Gateway Community Action Partnership

Habitat for Humanity Cape May County

Habitat for Humanity of Salem County

HANDS, Inc.

HomeFront

Homes for All

Housing Partnership NeighborWorks
HomeOwnership Center
Jewish Community Housing Corporation of
Metropolitan NJ

AC Devco

Belmont Homes

Better Community Housing of Trenton, Inc.

Brick Faith and Mortar

Camden Coalition of Healthcare Providers

Camden Lutheran Housing, Inc.
Catholic Charities, Diocese of Trenton

Clinton Hill Community Action

Collaborative Supportive Programs of NJ

Community Access Unlimited, Inc.

Community Hope, Inc.

Corporation for Supportive Housing

East Brunswick Community Housing Corporation

Elizabeth Development Company

Essex Community Land Trust

Family Promise of Union County

Garden State Episcopal Community Development
Corporation

Gloucester County Habitat for Humanity

Habitat for Humanity of Bergen County

Habitat for Humanity of South Central NJ

Holly City Development Corporation

Homeless Solutions

Housing Alliance of Morris County

Isles, Inc.

Jewish Family Service of Atlantic & Cape May
Counties

Jewish Renaissance Foundation	La Casa de Don Pedro
Lincoln Park Coast Cultural District	Lutherans Engaging in Advocacy NJ
Mission First Housing Group	Monarch Housing Associates
Moorestown Ecumenical Neighborhood Development Inc.	Morris Canal Community Development Corporation
Morris Habitat for Humanity	New Brunswick Tomorrow
New Community Corporation	NJ Citizen Action
NJ Community Capital	NJ Community Development Corporation
NJ HIV Housing Collaborative	NewBridge Services, Inc.
Neighborhood Housing Services of Staten Island	Northern Ocean Habitat for Humanity
Northwest NJ Community Action Program	Operation HOPE Inc.
Parkside Business and Community in Partnership	Passaic Affordable Housing Coalition
Paterson Habitat for Humanity	Paterson Task Force
PennReach	Premier Community Development Corporation
Princeton Affordable Housing Board	Princeton Community Housing
Project Freedom Inc.	Project Live, Inc.
Puerto Rican Association for Human Development, Inc.	Raritan Valley Habitat for Humanity
Reformed Church of Highland Park Affordable Housing Corporation	Region Nine Housing Corporation
Rescue Mission of Trenton	Saint Joseph's Carpenter Society
Sierra House	Stand Up for Salem, Inc.
The Community Builders, Inc.	The Community Preservation Corporation
The Heart of Camden, Inc.	The Supportive Housing Association of NJ
The Waterfront Project, Inc.	Town Clock Community Development Corporation
Triple C Housing	United Vailsburg Services Organization
Urban League of Essex County	Visions and Pathways
Women Rising Inc.	York Street Project

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