LISC
LOCAL INITIATIVES SUPPORT CORPORATION

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Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
ATTN: Comment Processing

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley
Assistant Executive Secretary
ATTN: Comments RIN 3064-AF81
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

SUBJECT: Community Reinvestment Act Notice of Proposed Rulemaking
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The Local Initiatives Support Corporation (LISC) is pleased to offer comments in response to the Notice of Proposed Rulemaking pertaining to modernizing the Community Reinvestment Act.

BACKGROUND ON THE LOCAL INITIATIVES SUPPORT CORPORATION (LISC)

LISC is a non-profit housing and community development organization and certified Community Development Financial Institution (CDFI) with offices in 38 cities throughout the country, and a rural network encompassing 130 partners serving 49 different states and Puerto Rico. LISC's work supports a wide range of activities, including affordable housing, economic development, building family wealth and incomes, education, community safety, and community health. In 2021 alone, LISC raised and deployed over $2 billion of grants, loan and equity capital into distressed urban and rural communities. This included over $1.2 billion of equity capital deployed by our affiliates, the National Equity Fund (NEF) and the New Markets Support Company (NMSC), utilizing federal Low Income Housing Tax Credits (LIHTC) and New Markets Tax Credits (NMTC). In our experience, the Community Reinvestment Act (CRA) remains the primary driver of bank financing for our activities. Historically, approximately 80% of LISC's private capital is raised from CRA motivated investors.

OVERVIEW OF COMMENTS ON THE PROPOSED REGULATIONS

CRA has been a critical, if not the most critical, resource available to facilitate the flow of private capital into underinvested communities. It has been successful not only for the communities and community residents that have benefitted from these investments, but also for the banks – who have managed to find new and profitable investment opportunities that generally perform as well or better than other bank investments.

As successful as CRA has been, LISC agrees that improvements could be made. The banking industry has undergone significant changes since the CRA regulations were last updated, most notably in the rise of interstate banking, internet banks, mergers of institutions, and mobile banking. LISC therefore welcomes the agencies' solicitation of comments at this time on a joint proposed rule.

LISC is generally supportive of the direction the regulators have taken with this proposed rule. In particular, we appreciate that the metrics driven approach contemplated in this rulemaking will provide clarity to banks and community partners, and will likely lead to more consistency among reviews. We also believe that a listing of impact factors on the community development test will provide more clarity to banks and hopefully drive more investments into high impact projects and underserved communities; and that the flexibility to provide community development loans and investments outside of facilities based assessment areas will encourage more investments in underserved and underbanked markets.

However, LISC does have significant concerns with some of the proposals, and we've also identified areas where we believe the rules could be strengthened and clarified. Most notably, and as discussed further in the Section-By-Section comments below:

1. **Community development activities will likely be disfavored under the new evaluation standards.** As currently proposed, retail activities will encompass 60% of the total score, and community development activities 40%. In this scenario, banks have less incentive to pursue community development activities, particularly in instances where they may be struggling to meet the outstanding benchmarks of the retail tests. The agencies should: (i) provide equal weighting to the retail and community development tests; (ii) clarify that an outstanding score in community development coupled with a high satisfactory score in retail can elevate a bank to an outstanding overall rating; and (iii) clarify that a bank must receive no less than a low satisfactory rating in community development in order to receive an overall rating of satisfactory.

2. **Equity investments will likely be disfavored under the new evaluation standards.** Under the current review standards, for large bank institutions, 25% of the overall score is assigned to bank investments. LISC is concerned that, without a separate investment test for large banks, banks will have a diminished appetite for equity investments, including LIHTC and NMTC. Equity investments should be weighted more heavily under community development activities since they are critical to the community development finance ecosystem and, unlike loans, are not a regulator function of typical bank business.

   LISC therefore recommends that the regulators identify equity as a high impact scoring factor, and also incorporate an investment subtest under the community development test. The regulators should also consider establishing a peer review metric to reward institutions that engage in higher levels of equity investing than their peers, and reviewing an institution's historic level of equity investments versus those originated during its exam period to flag any large scale displacement of equity investments that may have taken place.

3. **The scoring metrics could potentially disfavor grant making.** Grants, particularly operating grants, are the lifeblood of community development organizations. Many banks make grants to CDCs and CDFIs to support both their programs and their operations. And while grants are identified as a high impact investment, it is not clear how they will be weighted when they are such a small part of a bank's total loan and investment activities. We recommend allowing operating grants to be included as an eligible activity under the community development services test, so that there is a clear pathway for rewarding these critical investments.

4. **There needs to be better quantification of how impact factors will be considered within the overall community development score.** The regulators are taking the correct approach in identifying certain types of investments and geographies that will be scored more favorably under the community development test. However, it is not clear how the regulators will be scoring this factor in the context of the community development metrics. We propose that the regulators develop a metric that measures the total dollar amount of high impact investments as a percentage of an institution's total community development loans and investments, and then use a peer comparator to identify high performing institutions.

5. **There needs to be more guidance and quantification of how responsiveness will be factored into the community development test.** While the proposed regulations indicate that regulators will also consider responsiveness of the community development products, it is not currently clear how the examiners are supposed to make these determinations and then factor them into a final score. The regulators should consider providing examples of more responsive investment products (e.g., an equity or equity-equivalent investment in a CDFI is more valuable than a short term loan), and also consider including responsiveness as a review factor under the community development services test – similar to what has been proposed under the retail services test.

GLOBAL COMMENTS ON RACIAL EQUITY AND CRA

LISC appreciated that the Federal Reserve Board's Advance Notice of Proposed Rulemaking on CRA asked a specific question regarding the role CRA can play in addressing ongoing systemic inequity in credit access for minority individuals and communities. As we noted in our response to that question, we believe that CRA can and should play a role in helping to address these issues, and we continue to call on the agencies to apply a racial equity lens to its CRA framework.

Structural racism, cultural racism and individual-level discrimination generate racial wealth health, and opportunity disparities that systematically undermine the success of Black, Indigenous, and people of color (BIPOC) households. Barriers to economic mobility and opportunity negatively impact wealth building among BIPOC families. White family wealth is nearly ten 10 times greater than Black family wealth and eight times greater than Hispanic family wealth—a divide that's wider than it was in 1963 and that is still growing. The gap in net worth between Black and white families is particularly pervasive—it persists at nearly every income level, meaning that even when Black and white households have similar income, the latter are likely to enjoy more overall wealth.

Unfortunately, with its long history of racially discriminatory practices, the banking industry has done more to exacerbate the racial wealth gap than to close it. The CRA was enacted in 1977 as a specific response to the industry's widespread practice of "redlining" – refusing to lend in minority communities. And while banks no longer engage in this practice as brazenly as they did decades ago, it is clear from recent scandals at major financial institutions that racially discriminatory practices are still in widespread use today – affecting everything from loan approvals to interest rates to servicing fees to branch closings. CRA may have been enacted to counter blatantly racist practices, but it has yet to completely neutralize them.

We believe that the agencies would advance the statutory intent of CRA by applying a stronger focus on racial equity as they consider additional CRA reforms and enhancements. The banking industry, perhaps more so than many other industries, is in the position to help close this racial wealth gap by providing home loans, small business loans, consumer loans and deposit accounts to BIPOC customers – provided that the products offered are transparent and fair. To this end, the agencies should consider:

(i) Collecting data from all of the bank's major business lines to ensure they are adequately addressing the needs of all of their customers, and using peer and geographic comparators as a means of determining whether an institution is significantly underserving certain populations;

(ii) Examining in the performance context review whether the bank is developing appropriate products for, and conducting appropriate outreach to, BIPOC populations;

(iii) Providing larger CRA impact scores for loans to BIPOC families and entrepreneurs, including those that don't reside in low income communities;

(iv) Encouraging bank investments in minority depository institutions and in CDFIs that primarily serve minority customers or majority-minority communities; and

(v) Continuing and adding additional transparency to the practice of providing downgrades to CRA scores for banks that violate fair lending laws.

RESPONSES TO THE QUESTIONS IN THE PROPOSED RULE

Section III: Community Development Definitions

Comments in Brief: The community development metric, unlike the retail lending metric, is based on a bank's dollar volume of loans and investments. As such, banks will likely gravitate towards the highest dollar investments that the regulators identify as qualifying as community development loans and investments. To this end, it is critical that the regulators try to limit, as best as possible, the community development definitions to those activities that bring direct benefits to low to moderate-income (LMI) income families and to residents of LMI communities. While consideration of impact factors and responsiveness will certainly encourage more impactful investments in communities, the current lack of clarity behind how these will ultimately factor into the final scores creates an even greater need for regulators to ensure that the general bucket of eligible community development activities is as targeted and focused as possible on true community development endeavors.

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

The agencies should not provide partial consideration for community development activities, particularly under the already broad category of community infrastructure. Many of these activities, such as wastewater, sewage and transportation financing will certainly impact LMI community residents, but usually as a consequence of broader municipal investments that aren't necessarily targeting these populations and communities with any intentionality. And given the size of these investments, even a small portion of credit being allotted could end up bolstering the numerator of the metric at the expense of smaller, more impactful community development investments.

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%? 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 greater than 51% to receive full consideration, such as a threshold between 60 and 90 percent?

LISC recommends that for community facilities and essential infrastructure to qualify, the Board should require that the primary beneficiaries of the project are LMI persons or residents of LMI communities.

This means that at least 50% of the customers, clients or users of the project should be LMI persons or residents of LMI communities. There should be no partial investment credit given for projects in which only a portion of the benefits are derived by these populations – though exceptions could potentially be made for projects that serve rural communities.

For example, broadband in rural communities stands apart as a place-based activity that should be supported under CRA. The 2016 Q&A CRA guidance found broadband "meets the 'primary purpose' definition of the CRA" and the OCC's Illustrative List of Qualifying Activities in the 2020 draft update to the CRA remain in effect, including: grant making to support LMI internet access, low-cost computer access, digital literacy training and investment in a cooperatively-owned broadband as qualifying activities. The agencies should acknowledge in the final rule that community-based organizations are creating financial tools to support equitable broadband outcomes, and should incentivize banks of all sizes through CRA to participate in achieving universal access to broadband.

Lastly, regulators should also consider the extent to which a community facility or infrastructure project would not likely have received bank financing through typical bank channels. Banks should be rewarded under CRA for making loans or investments that would not normally be undertaken. By contrast, most infrastructure and many community facility investments are public finance projects that are backed by municipalities, often with strong bond ratings. Banks are likely to seek out these investments anyhow, and they should not be allowed to crowd out other more valuable community development activities. The regulators should also give examples of projects that by their nature will automatically qualify for full credit based on federal or state designations of primarily serving low-income families (e.g., a federally qualified health care center, title I schools, etc.).

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 a majority of occupants of affordable units are low- or moderate-income individuals?

These proposed definitional standards are appropriate, as is the federal standard of rental affordability set at 30% of 80% of the area median income. In order to get credit for the entire project, at least 50% of the units should meet this affordability standard. In order to get partial credit for the affordable units, at least 20% of the units should be affordable.

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?

Regulators should look to the population served by the NOAH housing, rather than the census tract. In order to be considered for credit, the property should at a minimum have 20% of the units affordable to families making less than 80% of area median family income. The bank can then get proportionate credit for all affordable units, and credit for the entire property if more than 50% of the total units are affordable. Additionally, because there are no affordability requirements set by a governmental entity, it is incumbent on the bank to demonstrate and certify, on an annual basis for the entire life of the loan, that the property was underwritten to meet the affordability thresholds and continues to meet them through occupancy. Lastly, in the case of refinancing of properties owned by for profit entities, the bank should only get credit for the portion of the loan proceeds that will be utilized to invest in property improvements or in additional affordable housing properties. In too many instances, as demonstrated by recent research by LISC and others, property owners are using rising property values to secure debt to invest in unrelated activities – often to the detriment of the properties and the low-income tenants.

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?

As noted in the comments provided by the National Association of Affordable Housing Lenders (NAAHL), financing the construction or rehabilitation of owner-occupied homes (including condominiums or cooperatives) should receive CRA consideration if: (1) the homes are located in a LMI CT or a distressed or underserved middle-income non-metropolitan CT; and (2) the sales price does not exceed four times the AMI. Financing the rehabilitation or reconstruction of an already owner-occupied home (so no sale is involved) should qualify if the owner is either LMI or middle-income. These specifications will be essential to ensuring the success of the proposed Neighborhood Homes Investment Act, which has significant bi-partisan support in Congress and has a reasonable likelihood of being enacted prior to, or in the period shortly after, these regulations are implemented.

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?

The agencies should only give credit to the portion of a MBS portfolio that consists of loans in LMI communities or to LMI borrowers. In addition, the agencies must guard against churning of MBS products in order to satisfy CRA requirements. They could do this by only giving credit for the initial purchase of a portfolio, or else by requiring that the MBS be held on balance sheet for a minimum amount of time (e.g., for at least two years) in order to get any credit. In addition, MBS purchases should be capped at no more than 25% of the bank's total community development metric.

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 being part of a government plan, program or initiative is often a good proxy for community support for a project, it is not a good idea to require banks to limit their pipeline of activities only to those projects that satisfy this requirement. Doing so will complicate bank and regulator compliance, and may lead to many otherwise worthwhile projects not getting funded. Instead, as noted earlier, we believe that the best measure of whether a project should receive CRA credit is whether it is principally serving LMI populations and LMI community residents.

Question 15. How should the proposals for place-based definitions focus on benefitting residents in targeted census tracts and also ensure that the activities benefit low- or moderate-income residents? How should considerations about whether an activity would displace or exclude low- or moderate-income residents be reflected in the proposed definitions?

As noted above, the benefits that will come to LMI borrowers or LMI community residents should be the initial screen for project eligibility. In the case of community facilities, banks must be able to document the percentage of customers that LMI community residents or LMI families; though the agencies should also provide a list of projects that will be deemed to automatically qualify (e.g., Title I schools, FQHCs).

LISC also supports the comments provided by the National Children Facilities Network (NCFN), recommending that the agencies ensure high-quality early care and education (ECE) facilities are incorporated as an essential element of place-based activities; and recommendations from the National Community Reinvestment Coalition that ECE facilities be specifically listed as an essential community facility.

Access to affordable child care allows parents to reliably participate in the workforce, improves child health and development, and can foster a gathering place where neighborhood families build community. However, across the country there is a severe shortage of affordable, accessible, and high-quality places for families to access reliable care – with low-income families being disproportionately likely to live in an area without access to child care. Increasing low- and moderate-income residents' access to affordable child care should be a core element of place-based activities, and clearly satisfies the definition of an essential community facility.

Question 16. Should the agencies include certain housing activities as eligible revitalization activities? If so, should housing activities be considered in all, or only certain, targeted geographies, and should there be additional eligibility requirements for these activities?

Yes. As provided under our response to Question 8, financing the construction or rehabilitation of owner-occupied homes (including condominiums and cooperatives) should receive CRA consideration. Right now, there is a significant disconnect between how the proposed CRA regulations treat loans for homeownership (which qualify if the home is owned by a LMI borrower OR if the home is located in a

LMI community) vs loans for the construction or rehabilitation of homes (which would only qualify if the home is to be owned by a LMI borrower). On this issue, we concur with comments submitted by the National Association of Affordable Housing Lenders:

> *"We are concerned that this latter approach fails to recognize the importance of home construction and rehabilitation to community stabilization and revitalization. Single-family homes comprise the primary land use in most LMI CTs, but many or most existing homes in these neighborhoods are old or in need of improvement, and empty lots (sometimes where dilapidated homes were demolished) are common. These communities typically have relatively low rates of homeownership and little chance of attracting or retaining homeowners unless quality homes can be built or rehabilitated. While many of these prospective homeowners may be middle-income, not LMI, they are important to sustaining the diversity of incomes that neighborhoods need to support retail activity and community institutions ranging from youth sports leagues to churches. In a rural context, we often hear that it is hard to keep or attract growing businesses because quality affordable homes are simply not available. Revitalizing both urban and rural communities is very difficult unless these problems can be addressed. CRA is needed and well justified to support the construction and rehabilitation of owner-occupied homes."*

Question 17. Should the agencies consider additional requirements for essential community infrastructure projects and essential community facilities to ensure that activities include a benefit to low- or moderate-income residents in the communities served by these projects?

Yes. It is important to monitor essential community infrastructure more closely than other activities because these are often relatively safe investments to make (e.g., municipal bonds) that may not necessarily be directly targeted to LMI communities or LMI persons; and yet they would likely qualify precisely because they are connected to a government initiative. These tend to be large dollar transactions that could potentially comprise a significant portion of a bank's community development finance metric numerator. We recommend elsewhere that banks should not be given partial credit for these activities (with the exception of rural communities and cities with low bond ratings), but agencies may also want to consider putting some kind of percentage cap on the volume of essential community infrastructure that can be included in the metric; and/or consider the overall balance of their activities (housing vs community facilities vs infrastructure) that comprise their portfolio to ensure that a significant portion of the bank's activities are truly targeting places and populations of high need with products that are not otherwise likely to be offered by the bank.

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?

Defining Qualifying Activities: Qualifying activities should include a more explicit requirement that impacted areas take holistic community development into account when preparing for, adapting to, and withstanding natural disasters. There is ample scientific evidence that carbon emissions contribute to the increasing potency of natural and weather-related disasters. As such, mitigation activities should include reducing the carbon footprint of the built environment. Qualifying activities should not be seen as a zero sum game between affordable housing, small business and economic development supports, and infrastructure hardening. All of these activities are necessary to create climate- and weather- resilient communities.

To equitably provide resiliency measures to LMI communities, we need to support the inclusion of energy efficiency measures in disaster preparedness activities. This includes supporting not only the installation of low and no-carbon HVAC systems into buildings, but also support the building retrofits that are needed to accommodate these newer, more efficient systems. A major barrier to installing high efficiency HVAC and electrical systems – including heat pumps and renewables – is the lack of resources to ensure that buildings in low- and moderate-income communities are retrofitted to address building components such as distribution systems, electrical panels, and structural issues.

Qualifying activities should also include programming that directly encourages economic asset creation, which is often achieved through strengthening home ownership opportunities (which should include energy efficiency measures), small business ownership (which, again, should also include energy efficient measures), quality job placement and/or strengthening individual savings (to help mitigate the impact of a disaster). CRA credit should be given to CDFIs, and other organizations, that seek to invest in diverse strategies aimed at fostering stronger economic livelihoods.

Lastly, qualifying activities should include supports for planning and coordination (technical capacity supports) needed to assist non-profits, community leaders, small businesses, public agencies and other public-private partnerships with adaptation and resilience planning. Technical assistance for adaption planning should include qualifying activities such as: leadership and resource training, resource coordination, long-term community planning efforts, business continuity and adaptation planning, creative financing supports for adaptation infrastructure, and organizational support to assist with community-based adaptation and resilience coordination efforts.

Tailoring activities to benefit LMI families and communities: Rural communities, particularly rural coastal regions, face a greater threat from climate change than more-urbanized areas because they often lack the resources, infrastructure and adaptive capacity of city centers. Rural communities are poorly equipped to handle the challenges of climate change because of an already highly stressed social, economic and environmental system. Rural regions also lack the resources to adequately connect and advocate with public agencies charged with longer-term recovery processes, which often results in being left out of larger, regional reinvestment strategies post disaster. Because of this disparity, additional credit should be considered for making investments in CDFIs and/or other institutions that directly invest in rural-based resilience and adaptation programs or projects.

<u>Other criteria</u>**:** Adaptation and resilience planning requires years of forethought, planning and preparation by all communities (not just those located in a disaster declared region). Adaptation requires regionalism and regional approaches, which requires focusing beyond a specific LMI census tract. LMI individuals residing outside of a federally declared disaster region should not be excluded from resilience and adaptation planning opportunities, as these communities may one day find themselves directly impacted by an extreme climatic event or unexpected disaster of their own. Because of this, consideration should be given to redefining area of impact and LMI as it relates to resilience and adaptation investments.

Question 27. Should consideration of financial literacy activities expand to include activities that benefit individuals and families of all income levels, including low- and moderate-income, or should consideration be limited to activities that have a primary purpose of benefiting low- or moderate-income individuals or families?

No. Such activities should generally have to be directed to LMI populations, with an exception for minority and first time homebuyers.

<u>Section IV: Qualifying Activities Confirmation and Illustrative List of Activities</u>

Comments in Brief: LISC supports the agencies' proposal to post a list of illustrative qualifying activities. Under the current review process, a bank would only find out during an exam review – which could be three years or more after an investment has been made – that a presumably qualifying activity was deemed ineligible. LISC believes that banks need clear information at the time they make an investment that the investment will qualify for CRA credit. Another value to these efforts to increase transparency is that it will also ensure better consistency from CRA examiners. Inconsistent examiner treatment is often cited by banks as a weakness in the current examination procedures, so any certainty that can be provided to what qualifies for CRA credit that is understood by both banks and examiners is going to be very useful.

Question 31. Should the agencies also maintain a non-exhaustive list of activities that do not qualify for CRA consideration as a community development activity?

Yes. Just as it is beneficial for banks to have certainty for what activities will qualify, they should also be aware of any activities that the regulators have determined will not be eligible for CRA credit.

Question 32. What procedures should the agencies develop for accepting submissions and establishing a timeline for review?

The agencies should look both internally and externally in creating lists of qualifying activities, through a request for information asking for suggestions of qualifying activities. We would recommend that before posting such lists, that the regulators first allow for a period of public comment. We would also recommend that the lists be updated and put out for public comment on a routine basis (e.g., once every three years). LISC also recommends that the agencies allow banks to seek confirmation from the regulators in advance, with a 90-day required response period from the agency, that an activity will qualify, to the extent that it is not otherwise addressed on the list of qualifying activities.

Lastly, LISC also recommends that the agencies develop a set of illustrative innovative and responsive product offerings, not just investment activities. In this manner, banks can get a sense of what type of product offerings (e.g., with respect to rates, terms, fees, etc.) will likely be scored more favorably under the qualitative portion of the examiner reviews.

Section V: Impact Review of Community Development Activities

Comments in Brief: LISC appreciates the agencies' efforts to provide a clear listing of impact factors. This will give banks needed direction to identify and prioritize certain projects, geographies and activities. We support the activities on this list, but also feel that it is critical to add at least three more items:

(1) **Equity Investments** (excluding MBS) – this is discussed in more detail under Section XII below;

(2) **Special Purpose Credit Programs**, to the extent activities fall under the community development definition – this is discussed in more detail in our response to Question 106; and

(3) **Rural Communities** that aren't already captured under non-metropolitan communities.

We also believe that the agencies need to provide more guidance about how the impact factors will be considered within the context of the community development activities metric. Ideally, the agencies should create a sub-metric that identifies the percentage of total community development activities that are "high impact" activities. The agencies could use this as a peer comparator to determine whether an entity is performing at an outstanding level relative to its peers; and with the collection of this data point over time, can eventually identify and publicly disclose a minimum threshold percentage of high impact activities needed to achieve an outstanding score.

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?

It is probably sufficient to include all persistent poverty counties, plus any other areas that the agencies have determined have "high community development needs" based on an analysis of bank lending patterns across the country. In this scenario, it wouldn't be necessary for the agencies to separately consider high poverty census tracts, since presumably they would already be captured by one of the other two designations if they were truly underserved. The designation of areas deemed to have high community development needs should be updated frequently – at least bi-annually – so that banks can be encouraged in real time to address needs in underserved communities. That said, there should also be a grandfather period of at least one year for banks to get credit for investments made in geographies that are no longer on the list.

As noted in the comments submitted by the Housing Assistance Council and other commenters, we also believe that there should be a separate priority category for loans and investments made in rural communities, as distinct from non-metropolitan communities.

Question 35. For the proposed factor focused on activities supporting MDIs, WDIs, LICUs, and Treasury Department-certified CDFIs, should the factor exclude placements of short-term deposits, and should any other activities be excluded? Should the criterion specifically emphasize equity investments, long-term debt financing, donations, and services, and should other activities be emphasized?

We don't believe that certain types of investments in these institutions should be disallowed, but we do agree that banks should be incentivized to make the more impactful investments (e.g., equity investments, long term debt financing) whenever possible. In fact, we recommend elsewhere in this document to expand the community development services test to also include an evaluation of "responsiveness", as is done in the retail services test. It would be in this context that the type of products offered by a bank will factor into the scoring, so that a bank might get a more favorable (or less favorable) score, depending on how impactful its investment are. And ideally, as noted earlier, the agencies could post a non-exhaustive, illustrative list of what it deems to be particularly responsive products.

We believe that certified NeighborWorks Network Organizations should also be included on this list of favored partnering institutions. NeighborWorks is a congressionally chartered organization, and membership in the network for these mission-driven organizations requires rigorous financial and management assessments prior to receiving their charters and on an ongoing basis thereafter. Furthermore, membership in the NeighborWorks network is only available to organizations that demonstrate a commitment to resident leadership, ensuring that the organization continues to represent the interests of the communities in which it works.

Lastly, we want to flag here that the regulators should also be sure to include not just CDFIs, MDIs, etc., but also any wholly owned subsidiaries of these entities, as well as LLPs and other funds managed by these entities. CDFIs are increasingly engaged in complex financing instruments that necessitate the formation of subsidiary entities, so it is critical that they are included in this definition.

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?

Yes. The agencies should include, as an impact factor, activities that benefit Native populations as well as Native lands. According to 2010 census data, 78% of the 5.7 million people that identify as American Indian or Alaska Native live outside of tribal statistical areas.

VI. Assessment Areas and Areas for Eligible Community Development Activity

Comments in Brief: We are supportive of the new approach the agencies are proposing for defining assessment areas, as well as the clarifications provided that will more easily allow banks to receive credit for investments made outside of their assessment areas. As non-branch, wholesale and limited purposes banks have grown over the years, an attachment to a pure facilities based assessment area model made little sense and led to distortions in certain geographies. The introduction of retail lending assessment areas will allow regulators to shift their focus to where the banks are most active, rather than where they are headquartered. The proposal to allow banks to get credit for community development activities outside of their facilities based assessment areas without first having to demonstrate that they have been "responsive" to the needs of their assessment areas will provide much needed certainty to banks, and hopefully lead to more investments in markets that banks may not currently be serving. We are particularly hopeful that this change will help to smooth out LIHTC pricing discrepancies between "CRA hot" and "CRA not" markets.

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?

The agencies have proposed, we believe, a very straightforward mechanism for banks to be able to claim credit for community development investments made outside of their facilities based assessment areas; both in the states where they have assessment areas, and in other states as well. Further, we believe that by providing a sliding scale for weighting activities inside and outside of assessment areas, the agencies have appropriately mitigated against an overconcentration of activities in areas were branchless banks may be headquartered.

If there is one area of clarification that may be necessary, it is whether the bank has an option of selecting where it would like its investments assigned. For example, a bank can currently invest in a national fund and request a side letter from the fund manager that "assigns" the investment to a specific project or projects. In that manner, it can demonstrate that its investment benefitted a project in its assessment area. We believe that the banks should still have this option, rather than the regulators making a determination that a bank can only get credit at the national level for investments in a national fund. *Please see our response to Question 117 for additional recommendations.*

The agencies may also want to consider whether to include additional geographic limitations on branch-based banks seeking to invest outside states where they have branches. Specifically, whether such banks should be restricted to making investments in the geographies (e.g., persistent poverty communities, Native communities) identified under the high impact factors.

VII. Performance Tests, Standards and Ratings in General

Comments in Brief: LISC has two global recommendations regarding the proposed rating system for large banks: 1) community development activities should be given equal weight to retail activities; and 2) there needs to be a separate "investment" subtest under the Community Development test to encourage bank equity investments. LISC will be expanding upon these recommendations, and offering additional recommendations regarding the performance tests and ratings, in pertinent sections below.

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?

LISC recommends that the agencies keep the current size standards for small, intermediate and large banks, but include an annual inflation adjustment. According to the National Community Reinvestment Corporation, if the new standards are adopted, over 750 banks that collectively invest over $1.2 billion in community development annually will be moved from the intermediate size category to the small size category; meaning that they will no longer have a required community development test. We would support lighter reporting requirements for this segment of banks, but believe they should still be required to be examined based upon their community development activities.

VIII. Retail Lending Test Product Categories and Major Product Lines

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?

Each multifamily loan should be evaluated under either the Retail Lending Test or the Community Development Financing Test, but not both. An argument could be made for evaluating unsubsidized multifamily properties under the Retail Lending Test and subsidized properties under the Community Development Financing Test -- since unlike subsidized properties, unsubsidized properties aren't part of a concerted government preservation or revitalization strategy, nor do they have long term affordability restrictions. But if the agencies wish to place all multifamily loans into a single bucket, then it would make the most sense to review them all under the community development financing test.

Question 62. Should the agencies adopt a size standard for small business loans and small farm loans that differs from the SBA's size standards for purposes of the CRA? Is the proposed size standard of gross annual revenues of $5 million or less, which is consistent with the size standard proposed by the CFPB in its Section 1071 Rulemaking, appropriate? Should the CRA compliance date for updated "small business," "small business loan," "small farm," and "small farm loan" definitions be directly aligned with a future compliance date in the CFPB's Section 1071 Rulemaking, or should the agencies provide an additional year after the proposed updated CRA definitions become effective?

It does seem appropriate for the agencies to align their definitions of small business loans with those that are being set forth by the CFPB, so that the banks will be reporting like data to the primary regulatory agencies. It is appropriate that the regulators are also proposing to reward small dollar business loans under the retail services test, which should further help induce banks to make loans to smaller sized businesses, notwithstanding the change in definition.

Question 64. Should retail loan purchases be treated as equivalent to loan originations? If so, should consideration be limited to certain purchases – such as from a CDFI or directly from the originator? What, if any, other restrictions should be placed on the consideration of purchased loans?

Loan purchases should be an allowable activity if the loan benefits an LMI borrower or is in a LMI community, and is purchased from the originator or from a CDFI or MDI. The bank should also get special consideration (given the impact factors) for purchases from a CDFI or MDI. The only restrictions should be if the examiner determines the loan purchases were made to artificially inflate the retail lending score (see our response to Question 65).

Question 65. Would it be appropriate to consider information indicating that retail loan purchases were made for the sole or primary purpose of inappropriately influencing the bank's retail lending performance evaluation as an additional factor in considering the bank's performance under the metrics or should such purchased loans be removed from the bank's metrics?

Yes. It would be appropriate for examiners to consider the timing of loan purchases (both when they were purchased and how long they were held on the bank's books) as part of their performance reviews, to ensure that there is no gaming of loan purchases to inflate their retail lending metric.

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?

Yes. It is appropriate for the examiners to include consumer loans, including credit card products and small dollar consumer loans, as part of the retail services and products test. Regulators should examine loan terms, underwriting, pricing and safeguards as part of its responsiveness examination, as is currently proposed. Regulators could also consider indicating a maximum loan rate (e.g., 36%) in order for a consumer loan to receive CRA credit.

IX. Retail Lending Test Evaluation Framework for Facility-Based Assessment Areas and Retail Lending Assessment Areas

Question 78. Are the proposed community benchmarks appropriate, including the use of low-income and moderate-income family counts for the borrower distribution of home mortgage lending? Would alternative benchmarks be preferable? If so, which ones?

We agree that it is appropriate for the bank to disaggregate data based on whether the borrower is low-income (below 50% of AMI) or moderate income (below 80% of AMI); but not necessarily for the purpose of developing metrics for the retail lending test. Rather, a bank that can demonstrate success relative to their peers in providing loans to low-income borrows should be rewarded under the responsiveness portion of the review.

Question 82. How should the agencies address the potential concern that the proposed approach may set performance expectations too low in places where all lenders, or a significant share of lenders, are underserving the market and failing to meet community credit needs? Should the agencies consider an alternative approach to setting the performance thresholds that would use a weighted average of the calibrated market benchmark and calibrated community benchmark?

We have some concern that the proposed market and community benchmarks may not currently be set at the correct level. Specifically, according to table 9 in the NPR (p. 251), none of the 44 largest banks – those with assets over $50 billion, would currently receive an Outstanding conclusion for the retail test. While we appreciate the agencies' goal to encourage banks to increase their current levels of retail lending to LMI borrowers and LMI communities, one unintended consequence of setting the benchmarks too high is that a bank may conclude that the Outstanding rating is virtually unattainable on the retail test and by extension the overall final score (since retail comprises 60% of the score). In such an instance, the bank will have no incentive to strive for an outstanding score under the Community Development test, since this will not increase the bank's final rating above Satisfactory.

X. Retail Lending Test: Evaluation Framework for Retail Lending Test Conclusions at the State, Multistate MSA, and Institution Level

Question 103. Should the evaluation of digital and other delivery systems be optional for banks with assets of $10 billion or less as proposed, or should this component be required for these banks? Alternatively, should the agencies maintain current evaluation standards for alternative delivery systems for banks within this tier?

LISC is generally supportive of the new framework for the retail service test; however, the evaluation of digital and other delivery systems **should not** be optional for banks with assets of $10 billion or less as proposed. Bank efforts to reach LMI and rural areas with online and mobile services was added to the service test as part of the 2016 Interagency Q&A update. Recognizing that digital service delivery is critical in rural communities, in particular, we propose that this evaluation be mandatory for all large banks. Additionally, as the agencies acknowledge the growing reliance on online and mobile banking for all consumers, the CRA should therefore ratify financial institutions' role in *improving access to adequate internet service or "digital skills" through their investments* as a means by which LMI populations will gain and sustain equitable access to financial services.

LISC has learned from its network of over 150 Financial Opportunity Centers and "Digital Navigator" host sites in more than 40 rural locations in twenty states that there is high demand among their primarily- LMI client populations to develop skills to access financial services online. For example, LISC-affiliate Central Missouri Community Action (CMCA), a rural job and financial coaching host site, served 400 individual clients with broadband internet, device access and digital literacy skills (including internet security and privacy) in 2021, of which 40% specifically sought out the agency's services to improve their individual *digital financial literacy skills*.

As stated in the 2016 Q&A (§ __.24(d)(3) – 1), "examiners will consider any information an institution maintains and provides to examiners demonstrating that the institution's alternative delivery systems are available to, and used by, low- or moderate-income individuals, such as data on customer usage or transactions." Social service agencies like CMCA track whether increased participation in the digital realm, including accessing financial services online, improves an individual's credit score and ability to reduce debt, and leads to increases in net assets and income. Banks that work closely with the community development delivery system can use these relationships to demonstrate that an institution's alternative delivery systems is available and utilized. *The agencies should improve the evaluation standards as proposed (incorporating the "responsiveness" assessment), and should consider activities that support broadband internet and technology access (including broadband planning and predevelopment activities) as contributing to the "responsiveness" assessment as part of the services test.*

Question 105. Should the agencies provide more specific guidance regarding what credit products and programs may be considered especially responsive, or is it preferable to provide general criteria so as not to discourage a bank from pursuing impactful and responsive activities that may deviate from the specific examples?

The agencies should provide an illustrative and non-exhaustive list of what they deem to be products and programs that are especially responsive; but when possible, also indicate with specificity whether a product specifically will not qualify. For instance, as we noted in our response to Question 69, it might be appropriate for the agencies to provide an APR cap on certain credit products.

Question 106. Should special purpose credit programs meeting the credit needs of a bank's assessment areas be included in the regulation as an example of loan product or program that facilitates home mortgage and consumer lending for low- and moderate-income individuals?

Yes. The agencies should be encouraging banks to pursue special purpose credit programs (SPCP) in every instance possible. One way is to call these programs out as particularly responsive under the retail services and products test. Another is to instead review SPCPs under the community development finance test, and to also **include SPCPs as a high impact scoring factor**.

XI. Retail Services and Products Test

Comments in Brief: We are generally supportive of this framework. We appreciate incorporating the "responsiveness" assessment as part of the services test (previously, it was done under the lending test), and that the overall combined weight is a significant portion of the total retail test. This should induce banks to improve the quality of their products and delivery systems for LMI families and LMI communities. We also appreciate specific references to small dollar loans, and partnerships with CDFIs, as particularly impactful.

XII. Community Development Finance Test

Comments in Brief: There are several positive elements of this proposal, including:

(i) providing local and national benchmarks to measure bank performance creates more transparency and consistency across reviews;

(ii) providing different weights to assessment area activities vs. activities outside of assessment areas based on whether the bank has significant facilities-based operations will help deconcentrate investments in anomalous CRA markets;

(iii) providing more certainty that banks will get credit for activities outside of their assessment areas will encourage more investments in underserved CRA communities, as well as in statewide and national funds;

(iv) providing more clarity on the impact factors up front will drive more banks to those investments; and

(v) providing CRA credit for all outstanding CD loans, not just those originated during the assessment period, will hopefully encourage more long term debt offerings.

However, there is one major omission that needs to be addressed: the need for a separate investment test.

The current CRA evaluation process for large banks allots 25% of the total score to an assessment of a bank's investment activities. LISC is concerned that, without a separate investment test for large banks, banks will have a diminished appetite for investing in LIHTC, NMTC and historic tax credit transactions, among other equity investments. CRA-motivated banks are the largest investors in these credits. It is estimated that 85% of the investors in LIHTC are CRA-motivated banks, and it is likely that an even higher proportion of NMTC investors are CRA-motivated banks. Collectively, these institutions place well over $25 billion per year of equity investments into LIHTC and NMTC transactions, helping to develop affordable housing, revitalize neighborhoods and lift families out of poverty. We believe the separate investment test isthe single biggest driver of banks financing these products, since the characteristics of these tax credit investments (e.g., relatively modest yields, longer duration, less liquidity, higher capital charges) would otherwise make these investments less attractive to banks. In addition, other external factors such as a rising interest rate environment and a switch to a global minimum tax may further diminish a bank's appetite for these credits, leaving even larger project financing gaps that will need to be filled.

We are recommending that a separate investment test be included under the community development test and be weighted between 15-20%. As discussed previously, we are recommending that the total weight for community development be increased to 50%. Of this total, we are recommending a weight of 25% for loans, 20% for investments, and 5% for services. However, if there are changes made to the community development services test to make it more substantial (as discussed under Section XIII below), the services test could be increased to 10% and the investment test weighted at 15%.

In addition, the agencies need to consider other ways to mitigate against the substitution effect away from investments -- particularly LIHTC, NMTC and other community development investments -- and into debt products. The agencies should consider the following strategies, which could be mutually exclusive or used together:

- **Include equity as an impact review factor.** Equity is generally more impactful than debt financing because it is the first money into a project that allows the debt to follow. It is also higher risk capital and carries a higher charge on a bank's balance sheet. For these reasons equity, exclusive of MBS portfolios, should be identified as an impact review factor and weighted accordingly.

- **Examine bank investment trends.** Regulators should examine a bank's community development tax credit originations in the examination period in comparison to the previous examination period, and potentially downgrade a bank that has significantly decreased its tax credit investing without sufficient explanation.

- **Utilize an equity benchmark for peer comparisons.** Regulators should develop a benchmark that measures total equity investments (exclusive of MBS) as a percentage of the bank's total community development activities, and use this as a peer comparator. A bank that devotes a larger portion of its community development activity toward equity than its peer institutions could be eligible for an increase in its overall community development test or applicable subtest conclusion, particularly if the bank is between two possible ratings. Alternatively, a high Equity Metric could be considered as a factor for an Outstanding rating.

Question 117. Should activities that cannot be allocated to a specific county or state be considered at the highest level (at the state or institution level, as appropriate) instead of allocated to multiple counties or states based upon the distribution of all low- and moderate income families across the counties or states?

Yes. It would be much cleaner to allocate those activities at the broader geographic level, rather than try and determine a formula for allocating them across various jurisdictions. In addition, the agencies must make best efforts to ensure that the assignment of projects be done in a manner that is consistent with the bank's preferences (as we noted in our response to Question 47), as well as with standard industry practices. To this end, we support comments provided by the Affordable Housing Tax Credit Coalition:

> *"Currently, CRA consideration for Housing Credit investments in funds with multiple investors and multiple property investments in various markets – which make up roughly 70% of Housing Credit equity– is geographically allocated to investors based on letters between tax credit syndicators that administer the funds and the bank investors in those funds. There is a very thorough "allocation letter" (a.k.a. "side letter") process to make sure that (1) there is no*

duplication of banks receiving geographic credit for the same project unless the total amount for that specific project is specifically split among designated banks, and (2) that a bank receives geographic allocations of specific projects only up to the total amount invested by that bank. We believe the banking agencies should continue to allow banks appropriate flexibility in the geographic allocation of community development investments by recognizing allocation letters.

We are concerned that the NPR could require a different approach that would diminish the ability of banks to receive their intended CRA consideration for Housing Credit investments made in syndicated funds. Specifically, Section 14 of Appendix B could require all community development dollars to be geographically allocated at the county level in instances where a bank makes an equity investment, for which it is legally liable for the entire amount from the date of closing, but the fund does not call all the capital in the first year. This proposal does not look prospectively to provide how to allocate dollars during the time period that a bank is legally obligated to advance capital when called, but the fund has not yet called and/or deployed 100% of the bank's total investment amount. This is often the case for Housing Credit Investments and other funds that deploy capital over a period of several years.

We suggest that the banking agencies revise Section 14.a to specifically include the widely established and accepted practice of geographic allocation by allocation letters. We also recommend that the allocations be based upon the committed capital for investment and not on the timing in which such capital is actually invested in a particular project."

Question 123. When calculating the weighted average of facility-based assessment area conclusions and assessment area community development financing benchmarks, is it appropriate to weight assessment area metrics and benchmarks by the average share of loans and deposits, as proposed?

Yes. The methodology proposed is sound, and appropriately accounts for the differences in service areas of branch-based banks and non branch-based banks.

Question 125. Considering current data limitations, what approaches would further enhance the clarity and consistency of the proposed approach for assigning community development financing conclusions, such as assigning separate conclusions for the metric and benchmarks component and the impact review component? To calculate an average of the conclusions on the two components, what would be the appropriate weighting for the metric and benchmarks component, and for the impact review component? For instance, should both components be weighted equally, or should the metric and benchmarks be weighted more than impact review component?

It's difficult to answer this question now because the agencies have not yet proposed a methodology for quantifying the impact assessment. But presuming one is developed, perhaps along the lines of what we recommend below in Question 126, it may certainly be possible to assign a weight to that assessment. The weight should be substantial, perhaps up to 30% of the community development financing conclusion, in order to ensure that banks pay proper attention to the impact factors.

Question 126. How can the agencies encourage greater consistency and clarity for the impact review of bank activities? Should the agencies consider publishing standard metrics in performance evaluations, such as the percentage of a bank's activities that meet one or more impact criteria?

The agencies should strive to better quantify the measurement of "high impact" so that banks know their targets. This could be done, for example, by establishing an "impact benchmark" for banks that measures the dollar volume of high impact loans as the numerator, and the total dollar amount of community development loans and investments in the denominator. In the initial years as data is being collected, examiners would compare this ratio among peers to establish which banks are deserving of outstanding ratings. But over time, the regulators would have enough information to eventually provide specific benchmarks to banks (e.g., in order to receive an outstanding score, at least 50% of investments must meet at least one indicia of high impact).

XIII. Community Development Services Test

Comments in Brief: The current community development services test is not very robust. There are really only two activities being captured here: (i) in kind support to non-profits and government/tribal entities; and (ii) financial education and counseling. And the latter of the two activities is likely already being scored under the retail services test. The CD Services test, as currently constructed, should not be worth 10 percent of the overall score, and 25 percent of the community development score. We would recommend two significant changes that would make this test much more meaningful:

1. **Indicate that grant contributions to support the operations of non-profit community development organizations will be measured under this test**. As noted earlier, we are concerned that, notwithstanding it being scored as a high impact factor, grant making may be less attractive to banks under the new scoring regime – both because there is no separate investment test, and because grants will likely be such a small portion of a bank's overall bucket of community development activities. And even though grants to non-profits are small compared to banks' lending activities, operating grants have an outweighed role in the community development funding ecosystem. Separating this activity out from the broader bucket of community development loans and investments and assigning a score to it would encourage more grant making by banks. If grant contributions are included in this category, then the weight of 10% is appropriate.

2. **Include "responsiveness of CD products" as part of this analysis, similar in concept to what the regulators are proposing on the retail services test.** As noted previously, it is not clear how examiners will be weighing the quality of these products under the current CD loan and investments test. If the regulators were to instead move the "responsiveness" part of the product test to the services section, as they do for the retail services and products test, banks will likely be more intentional in their consideration of whether the community development products they offer are innovative and responsive. This could also be the portion of the evaluation where, in the absence of incorporating the separate investment test we recommend, the examiners take a more careful consideration of the mix of equity products offered by an institution in comparison to its peers and in comparison with its

activities in the prior examination period. If this approach is adopted, and if the regulators do not otherwise carve out a separate investment test, then this should be weighted as at least 15% of the total score.

XVI. Assigned Conclusions and Ratings

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.

We believe that the retail test should be weighted equally with the community development test. Just as the banking industry has evolved significantly since the CRA was enacted in 1977 and the regulations were last overhauled in 1995, so too has the community development industry. An entire infrastructure has now been developed – led by CDFIs and supported by innovative tools like New Markets Tax Credits -- to support place-based investments in LMI communities. These investments support main street and commercial corridor revitalization, community facilities, and mixed use and retail development in communities that have been underinvested for decades. Investing in places is just as important as investing in people.

As noted previously, banks would have no incentive under the proposed rule to secure an outstanding score in community development if they cannot also get an outstanding in retail activities. Weighing the tests evenly will provide banks with an additional test conclusion combination to achieve an outstanding rating (i.e., high satisfactory conclusion on the retail test and outstanding on the community development test), thus providing banks with more incentive to aim for an outstanding conclusion on the community development test.

We also recommend setting a minimum standard for the community development test in order for a bank to receive an overall rating of satisfactory. Under the NPR, a bank could receive a satisfactory rating by achieving an outstanding, high satisfactory, or low satisfactory conclusion on the retail test along with a needs to improve conclusion on the Community Development Test. We urge that banks should not be issued an overall Satisfactory rating without achieving at least a Low Satisfactory on the Community Development Test.

XIX. Data Collection, Reporting, Disclosure

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

Yes. LISC supports the dissemination of this data by race and ethnicity. As noted at the outset of our comments, we believe that CRA was enacted to help prevent discrimination against minority borrowers and communities, and that CRA has yet to fully realize these goals of broader inclusion.

Collecting and releasing this data should help shed a light on where progress is being made, and where more efforts need to be applied.

We also support improvements to HMDA data collection as called for in the comments submitted by the National Housing Conference, including:

1. Releasing the precise number of units financed by a multifamily loan. While banks submit information to the regulators on the number of units supported by each multifamily loan, public HMDA disclosure puts this into five broad categories: 5-24 units, 25-49 units, 50-99 units, 100-149 units, more than 150 units. This makes it hard to actually know how many units have actually received financing.

2. For Fannie and Freddie quarterly loan performance data, adding two new fields (months' reserves and front-end DTI) to their quarterly and historical releases. This would allow us to test whether these fields have an impact on mortgage performance for borrower and LMI borrowers in particular. Geographical detail provided at the 3-digit ZIP code level in addition with credit score should be sufficient to identify LMI areas.

3. Releasing credit score data in the publicly available HMDA data. Knowing the credit score of borrowers would be helpful for researchers as credit history is the most cited reason for mortgage declines. Knowing the credit score distribution of those who are denied mortgages can help the industry target what supports are needed.

CONCLUDING COMMENTS

The Community Reinvestment Act has been by far the most effective tool for delivering capital to underserved communities and organizations that are dedicated to serving these vulnerable communities. Many of the proposals put forth by the agencies as part of this NPR should help to improve both the CRA review process and outcomes in the community, but we've identified several potential revisions and reforms that we believe need to be incorporated into the next stage of rulemaking to preserve and expand critical investment activities driven by CRA. We are hopeful that the agencies will be able to adopt these recommendations.

Thank you for consideration of our comments.

Sincerely,

Matt Josephs
Senior Vice President for Policy