SOUTH CAROLINA
Community
Loan Fund
Investing in Community

Docket Number R-1723 and RIN Number 7100-AF94

To Whom it May Concern:

South Carolina Community Loan Fund (SCCLF) appreciates the opportunity to comment on the "Advanced Notice of Proposed Rulemaking (ANPR) on Reforming the Community Reinvestment Act Regulatory Framework." Our organization strongly supports the Community Reinvestment Act (CRA) while also acknowledging that there are aspects of the law and its administration that could be improved. SCCLF supports an effective, well-enforced Community Reinvestment Act that keeps pace with the changing financial services industry. Our comments reflect a commitment to the community development finance industry in which banks and CDFIs are important partners in expanding access to capital and credit, as well as to historically under-invested communities.

SCCLF is a nonprofit Community Development Financial Institution (CDFI) that has deployed over $65MM in lending capital in communities across South Carolina. Acknowledging that the need for our work is rooted in generations of injustice and disinvestment, we focus these lending activities on serving people of color, women, low-income individuals, and those in rural communities. The capital SCCLF has provided has been desperately needed and its impact has been profound, contributing to over $375MM in project development in under-invested South Carolina communities. Revolving loan fund investments enable us to carry out this work and nearly 50% of them come from financial institutions. Much of the investment banks have made in SCCLF, and CDFIs across the country, can be directly attributed to CRA regulations.

SCCLF and our partner CDFIs across the country have also been a vital resource in the relief and recovery efforts resulting from the Coronavirus pandemic. SCCLF's response has included creating a working capital fund to provide the capital needed to help businesses keep employees and continue to operate, providing interest-only and forbearance options to current borrowers, providing technical assistance to small businesses and nonprofits to help them access additional relief resources like PPP, and continuing to provide financing and coaching for community development projects that increase access to housing and essential services, and stimulate economic activity. Strong CRA regulations are more important than ever as SCCLF and other community development organizations seek to assist in the recovery efforts of those communities who have been disproportionately impacted by COVID-19.

Strengthening CRA to leverage the role of CDFIs in serving under-invested communities

Inspired by the civil rights movement, the very first CDFIs set out to prove that access to affordable, responsible credit can transform a community. There are now more than 1,100 CDFIs certified by the Department of Treasury's Community Development Financial Institutions (CDFI) Fund with more than $222 billion in total assets. With cumulative loan loss rates of less than 1 percent, CDFIs lend prudently and productively in exactly the low- and moderate-income (LMI) communities that are the focus of CRA. CDFIs have demonstrated that when you remove access to credit as a systemic barrier, communities in decline can begin to come back, and even thrive. Today, CDFIs provide financing where it is needed most—marginalized people in every community in the United States, as well as persistently poor inner cities and rural communities.

Banks often partner with CDFIs to enter new markets that were previously ignored or "redlined." These communities have reaped benefits, not only from the growth in CRA-motivated capital, but also from the partnerships between banks and CDFIs. Both banks and CDFIs have realized that working in partnership can enhance both institutions' effectiveness in reaching underserved markets. The Community Reinvestment Act has played a key role in this effective collaboration, fostering millions of new homeowners, thriving businesses, and accountholders. Any reform should build on this successful record, not reverse or pull back.

SCCLF strongly supports the Federal Reserve's proposal to allow automatic CRA credit for qualified activities in conjunction with certified CDFIs located anywhere in the country, even outside of the bank's assessment area. However, the current placement in the evaluation framework is not necessarily sufficient to motivate investment. Activities undertaken in conjunction with a CDFI should count as part of the Community Development Test – not just receive qualitative consideration for moving from satisfactory presumption to outstanding rating.

Similar to the recommendations for MDIs, investments into CDFIs must be meaningful to ensure they reach historically disinvested communities. Banks should get additional credit for working with CDFIs based in or serving designated areas of need and CDFIs serving communities of color and for providing long-term, low-cost capital, equity, or equity equivalent products.

As NCRC notes, current CRA exams rarely discuss whether banks are purchasing loans from CDFIs that are particularly responsive to local needs. Examiners should review purchased loans separately from loan originations on CRA exams to determine the concentration of bank activity in loan purchases. This method of examination would allow banks to offer greater detail on their loan purchases. Activities that provide liquidity to CDFIs or other mission lenders could be considered particularly responsive or impactful and receive additional consideration.

Strengthening CRA to promote a just recovery

The Federal Reserve Board must strengthen the rigor of CRA exams in order to promote recovery from the COVID-19 pandemic. The National Community Reinvestment Coalition (NCRC) recently released a major report finding significant correlations between redlining and susceptibility to COVID. In the 1930s, the Home Owners Loan Corporation (HOLC) commissioned the production of maps that rated neighborhoods based on the risk of lending in them. Working class and minority neighborhoods usually received the riskiest designation of hazardous. The designations subsequently facilitated redlining and discrimination against these neighborhoods, which remain starved of credit and are predominantly lower-income and minority. These neighborhoods also have the highest incidence of health conditions such as asthma, diabetes, kidney disease and stroke, which make residents more susceptible to COVID-19. Life expectancy is almost four years lower in the redlined communities than the neighborhoods not designated as hazardous by HOLC.

Since the start of the pandemic, more than 440,000 African American businesses have been closed or 41% compared to just 17% of White-owned small businesses. Discrimination in lending contributes significantly to racial disparities in small business survival rates. A NCRC investigation found that African American testers applying for Paycheck Protection Program (PPP) loans for their small businesses during the pandemic were likely to receive less information or encouragement to apply than White testers. CRA must be strengthened considerably in order to combat discrimination and help our communities recover from the pandemic.

The Fed has described approaches in its ANPR that will make CRA exams more objective and transparent. Yet, questions remain about whether the Fed's approach will reduce the high rate of CRA inflation. If nearly every bank continues to pass their CRA exams, banks will not engage in strenuous efforts to help communities of color and low- and moderate-income (LMI) neighborhoods recover from the pandemic's devastation.

The Fed emphasizes improving the performance measures on CRA exams including those used on the lending test that compare a bank's percent of loans to LMI borrowers and communities to other lenders. However, the Fed proposes thresholds that appear to replicate the high ratings on CRA exams. The Fed does not describe in any detail the impact of its initial thresholds on CRA ratings and hints the thresholds replicate the current CRA ratings distribution.

Moreover, the Fed is proposing to reduce the number of ratings on a state level and on subtests from five to four. This proposal would result in fewer distinctions in performance whereas a new CRA exam system must reveal more distinctions in performance in order to motivate banks to be more responsive to COVID-19 recovery needs. Five ratings must be retained on the state level and on subtests.

Strengthening CRA to increase lending to people of color, low-income communities, and rural communities

CRA's history as civil rights legislation to address the impacts of racial discrimination in banking should not be downplayed. The CRA is rooted in addressing systemic inequity, and it is important that the Board's proposal focus on increasing lending and investment in communities of color. A focus on race is well within the statutory focus of CRA. There are explicit references to race in the legislation including allowing investments with Minority Depository Institutions (MDIs), women-owned financial institutions, or low-income credit unions in minority communities to count for CRA credit. The law also requires reporting to Congress comparing depository institutions' lending in "minority neighborhoods" as well as other distressed areas.

Efforts to truly address the racial wealth gap require regulators to meaningfully assess how banks are meeting the financial needs of communities of color. The inclusion of race in the CRA evaluation should not be relegated to "extra credit" or optional as the current proposal largely has it structured. The proposed remedies of considering underserved areas on exams and encouraging more financing to minority depository institutions are insufficient to address systemic inequities. CRA exams could include performance measures assessing lending, investing, branching and services to people of color and communities of color. In addition, CRA exams can include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas (geographical areas on CRA exams). The Fed could also provide CRA consideration for lending and investing in majority minority census tracts outside of assessment areas just as the Fed is considering for Indian reservations and other underserved areas. SCCLF agrees with OFN, the Hope Enterprise Corporation and the National Community Reinvestment Coalition (NCRC) that a bank should not be able to even reach a presumption of satisfactory without demonstrated accountability of lending to people and communities of color in its assessment areas.

SCCLF agrees with the Board that community development activities that support minority-owned, women-owned and other small businesses with revenues of less than $1 million should receive CRA credit. To encourage additional activity with the smallest businesses, the Board should remove requirements that the businesses create jobs for LMI people. Sole proprietorships make up more than three quarters of all small businesses – and businesses owned by people of color are more likely to be sole proprietors. Investments in Historically Black Colleges and Universities (HBCUs) should also qualify as eligible activities. Additionally, MDIs, women-owned financial institutions, low-income credit unions and CDFI banks should receive CRA credit for investments in other MDIs, women-owned financial institutions, and low-income credit unions and CDFIs, especially those located in and/or serving communities of color.

We support the Fed's proposals to expand assessment areas on CRA exams. In addition to areas around branches, assessment areas must also include areas outside of branches with significant amounts of bank lending or deposit-taking. However, SCCLF is concerned that a national assessment area for online banks might leave communities of color or severely economically distressed areas underserved. As NCRC notes, this would allow internet banks to cherry pick which areas to serve in their retail and community development activities. In other words, internet banks would gravitate towards serving those areas in which it is easiest to conduct CRA activities rather than areas most in needs of credit and capital. Using a hybrid deposit or lending based assessment area approach to create local assessment areas for internet banks is a better approach.

SCCLF supports the Board's proposal that banks get CRA credit for community development activities in a newly created designation of Designated Areas of Need, without regard for a bank's assessment areas. However, the Fed must do more to ensure these investments reach the intended communities. The CRA credit provided for investments in "designated areas of need" must be given enough weight to incent investments and the designated areas of need must be correctly defined.

SCCLF opposes the ANPR's proposal to increase the threshold for small banks from those under $326 million in assets to either $750 million or $1 billion. The increase in small bank threshold could exempt many more banks from a community development test, which could impact community development investment in CDFIs and rural areas. Rural areas are more likely to be served by small banks, and already receive less community development investment than urban areas. The Fed should be moving to strengthen, not exempt, banks' meaningful investments in rural communities, particularly communities of color and persistent poverty communities.

The Board should also continue to define small business and small farm loans based on Call Report definitions of $1 million or less. This is aligned with the well documented need for smaller dollar lending for business owners. The Federal Reserve's 2021 Small Business Credit Survey found that 90 percent of business owners seeking capital sought financing of less than $1 million, with 48 percent seeking less than $100,000 in financing. Increasing the dollar threshold allows banks to obtain CRA credit for making larger loans likely to have been made in the normal course of business.

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Conclusion

We appreciate the direction the Fed has embarked in its ANPR but caution that it must not end up with a set of proposals that replicate existing CRA ratings inflation as this will not help our communities devastated by COVID-19. Thanks to CRA, SCCLF has attracted over $12MM in investment capital from financial institutions, and these investments have been essential to our ability to grow and deepen our lending pool. We advocate for the development of a final rule that focuses on serving the communities most in need of economic opportunity, including communities of color, LMI communities, and rural communities, and that incentivizes investments in CDFIs and other community development organizations who can help facilitate meaningful development in these communities. We believe that this proposal serves as an important starting point for an interagency rulemaking that will strengthen CRA and take a critical step towards more financially resilient communities and an equitable recovery.

Respectfully,

Anna Hamilton Lewin

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