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Via Electronic Submission

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

RE: Modernizing the Community Reinvestment Act; Docket ID R-1723; RIN 7100-AF394

Ms. Misback:

The members of the Community Development Bankers Association (CDBA) respectfully submit the enclosed comments in response to the Advance Notice of Proposed Rulemaking (ANPR) published in the Federal Register on October 19, 2020 on reform of the Community Reinvestment Act (CRA).

WHO WE ARE & WHOM WE SERVE

CDBA is the national trade association of banks and thrifts with a primary mission of promoting community development. There are 144 banks with the Treasury's Community Development Financial Institutions (CDFIs) designation – which means at least 60% of total lending, services and other activities are targeted to low- and moderate-income (LMI) communities. CDFI banks have a primary mission of community development and work in impoverished urban, rural, and Native American communities. Our members are on the front lines serving LMI communities that are too often by-passed by traditional banks and financial service providers.

CDBA SUPPORTS A STRONG CRA

CDBA strongly supports the purposes and objectives of CRA. Enacted 40 years ago, CRA has been instrumental in ensuring LMI communities have access to credit and financial services. CDBA believes that the current framework for CRA is effective, but needs modernization to reflect changes in the financial service landscape. We applaud the Board of Governors of the Federal Reserve for their efforts thus far to update CRA. We share the goals articulated in the ANPR to improve clarity, transparency and consistency in implementation of CRA. We also share a desire to incorporate objective metrics for measuring performance. Most of all, we support ensuring that CRA is effective in serving communities with the greatest needs

CRA MODERNIZATION OBJECTIVES

We are grateful for the opportunity to provide comments on the subjects outlined in this ANPR. CDBA members believe that the current framework for CRA needs modernization to reflect changes in the financial service landscape.

We strongly urge the Federal Reserve to work the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) to build a consensus final rule. Without a single uniform Federal policy, an uneven CRA playing field will develop that will negatively impact communities. We would be pleased to continue a dialogue with all of the agencies to develop common objective methods for measuring performance. We believe all new ideas must be tested prior to implementation to understand any implications.

CDBA agrees with the Federal Reserve's broad CRA modernization objectives as stated in public materials distributed with the ANPR. Specifically, we applaud the Federal Reserve's recognition that strengthening the regulations is supported by ensuring "a wide range of LMI banking needs are being met," promoting "financial inclusion, including credit for activities in areas with unmet needs outside of assessment areas (AAs), including Indian Country," and updating "standards in light of changes to banking over time, including mobile and Internet banking," and continuing "to promote community engagement.

We particularly believe these goals are strongly supported by the fourth stated goal: Incentivizing "investment in minority depository institutions (MDIs) and community development financial institutions (CDFIs)." CDFI banks especially are at the vanguard of meeting LMI banking needs, promoting financial inclusion, and establishing new standards in the provision of banking services.

We firmly believe that the final framework must recognize the particular work of CDFI banks and encourage the leadership and innovation demonstrated by these uniquely community-development focused institutions in response to widely varied local market conditions. Currently, CRA allows small institutions, especially CDFI banks, to develop a strategy that fits their business model, local economic conditions, and opportunities. However, CDFI banks are also uniquely required to meet the parallel and complimentary, but imprecisely aligned, requirements of CDFI certification *and* CRA compliance. The standards for CDFI certification are rigorous, as they must consistently demonstrate through rigorous analysis that at least 60 percent of their activity is directed to low- and moderate-income communities.

The distressed urban, rural, and Native communities served by CDFI banks are often "outliers" relative to more prosperous communities. Thus, any reforms designed to apply to institutions that primarily serve high- or middle-income places is unlikely to fit the communities we serve. No matter how sophisticated, we do not believe any CRA reform focused on the general market can be adequately reconciled with the difficult and committed work of full-time community development banking. Unless the requirements of CDFI certification and CRA compliance reporting are reconciled, (i.e. incorporating CDFI reporting data into the examination process for CDFI banks), the result is an ongoing drag on the growth and development of CDFI banks and their communities. Implementation of any proposed new rule will be very costly without a clear benefit to mission-focused banks or their communities, due to these banks already established track record of providing 60% or more of activity to low-and moderate-income communities. Mission-driven banks have far fewer resources to absorb the costs for setting up new data systems and staff training.

GENERAL PRINCIPLES TO ENSURE CONSISTENCY AND FAIRNESS IN MODERNIZATION

CDBA members generally believe the current CRA framework, regulations, and Question & Answer (Q&A) guidance are clear and understandable. Our members also believe however that inconsistency in implementation by examiners is a substantial problem that should be addressed. CDFI banks note significant discrepancies in interpretation and application of the rules from one exam to the next. Despite a common set of regulations and Q&A guidance, bankers cite discrepancies in implementation both between and within Federal agencies. For example, terms like “reasonable” and “substantial” leave interpretation up to the discretion of the examiner and can lead to inconsistencies in examinations.

CDBA recommends improving consistency with: (A) enhanced examiner training; (B) robust public information sharing of peer data and case studies; (C) enacting the proposal to maintain a public database of approved activities by reinstituting the ability of banks to obtain an agency opinion on CRA eligibility of a proposed activity with public dissemination of those opinions once given; and (D) a business model- oriented approach to the regulation.

A. TRAINING

CDBA strongly recommends enhanced interagency CRA training for examiners. To address discrepancies in implementation of CRA between bank regulatory agencies, we recommend that all CRA examiner trainings be conducted on an interagency basis. To further facilitate common understanding of how CRA exams are conducted, we recommend that bank CRA officers also be permitted to attend such trainings.

B. PUBLIC CASE STUDY DATABASE

To enhance transparency, CDBA strongly supports the proposal to create a robust public database of CRA case studies and peer performance data. The database would be enhanced by including case studies that would describe the project or activity and include an explanation of why specific activities are deemed CRA “eligible” or “ineligible.” Further, a formal line of communication between a CRA regulator and a bank’s CRA team will contribute to the success of a database of opinions and case studies that can serve as a training tool and source of information for both examiners and bankers.

C. PUBLIC, PEER-APPROPRIATE CRA METRICS

CDBA recommends publication of timely CRA peer performance data to enhance transparency. In lieu of the threshold based metrics proposed in the ANPR, we propose CRA

performance metrics tailored to each bank's business model, performance context, and mix of products and services. Similar to financial performance indicators, bank CRA performance benchmarks could be published and available for comparison to other peer banks (i.e. by CDFI certification status, geography, business model, asset size, etc.). Banks should also have the opportunity to describe innovative or other high-impact initiatives that cannot easily be captured with numeric benchmarks. Below are some illustrative potential benchmarks:

- *Is the bank's total lending and services in LMI census tracts proportionate to the LMI population in its AA?*
- *What is the average number of volunteer hours contributed per employee? How does this compare to peer banks?*
- *What is the total number of LMI residents that participated in and completed financial literacy training with the bank?*
- *What was the average increase in credit score of customers participating in credit repair initiatives?*

D. BUSINESS MODEL APPROACH TO CRA - RECOGNIZING THE UNIQUE CDFI BANK BUSINESS MODEL

CDBA sincerely appreciates the Federal Reserve's recognition in the ANPR of the value of the CDFI bank business model as a vehicle for delivering community development financing and services as CRA partners for traditional banks. We also strongly recommend that the regulatory agencies explicitly recognize CDFI banks as a distinct business for the purposes of their own CRA compliance. CDFI banks have a primary mission of promoting community development and/or serving economically disenfranchised populations. To be certified CDFI, a bank must demonstrate that at least 60% of its total activities (lending, investment, services) are focused on serving low-income communities, low-income people, or otherwise underserved populations.

CDFI banks are innovators and leaders in community development finance and have an outsized impact relative to their modest size. CDFI banks are among the smallest regulated banks in the United States. The average asset size of a CDFI bank is $585 million, with the largest at $5.1 billion and the smallest at $25 million. Given the unique role and public policy objectives they fill, we believe CDFI banks should have the option to have their own tailored CRA requirements.

Most importantly, CDBA recommends that CRA reporting for CDFI banks align with the reporting requirement of the U.S. Treasury Department's CDFI Fund. Federal banking regulatory agencies implementing CRA share an interest with the Treasury Department in the same outcomes – improving the economic well-being of LMI communities through access to responsible credit and financial services. Yet these agencies have very different definitions, regulatory standards, and reporting requirements. This lack of policy coordination results in voluminous double reporting that creates an unnecessary administrative burden and siphons resources away from entities serving underserved communities. We propose that the agencies work to close the gap by developing common definitions and reporting standards, as well as sharing data.

As an example of the burden, this circumstance forces CDFI banks to maintain separate sets of loan and services data and documentation. To become a certified CDFI, a bank must demonstrate that at least 60% of its total activities meet the CDFI Fund's Target Market test. A Target Market can be a geography-based Investment Area or people-focused Target Population – or a combination of the two. The vast majority of CDFI banks meet the Target Market test using the geographic designation.

At the same time, most CDFI banks' AAs are incorporated in their more broadly defined Investment Areas. Although CDFI Investment Areas are not required to correspond with branch and ATM locations, CDFI banks' Investment Areas typically include their branches and ATMs due to the high concentration of customers in those areas. CRA evaluations focus on activities proximate to a branch and ATM locations whereas the CDFI Target Market test looks at activities across a bank's entire service area. Because CDFI banks typically go above-and-beyond the requirements of CRA to meet community needs both within and outside their AAs (e.g. their CDFI Investment Area), they often penalized when examiners do not give adequate CRA consideration for activities outside of their AAs.

CDBA strongly recommends that the banking regulatory agencies provide CDFI banks with the option to select a CRA test tailored to the unique business models of CDFI banks that will:

(1) Maximize alignment of definitions used for CRA and CDFI certification, geographic service areas, program application, service tests, and reporting;
(2) Reduce reporting burden by streamlining and sharing data submitted by CDFI banks for Call Reports, CRA, HMDA, CDFI annual re-certification, CDFI award compliance, and the CFPB's Dodd-Frank Section 1071 rule (when finalized).
(3) Give CDFI banks CRA consideration for all activities performed within CRA AAs *and* CDFI Investment Areas, *and* that benefit low-income or Underserved Target Populations; and
(4) Give CRA consideration for collecting social impact data and actively participating in CDFI Fund Programs or other Federal, state, or local programs that offer tools to enhance services to their CDFI Target Markets or to reach deeper to serve low-income people and communities.

A Note on Metrics and CDFI Banks

CDFI banks work in the most distressed credit markets. Loan sizes are typically small. Yet, making a small loan takes just as must time, effort and expense as a large one. To the extent any metric is developed that incorporates retail deposits, but does not consider the number of loans, complexity of transactions, or the amount of technical assistance needed to ensure our customers are successful, methodology will devalue the work CDFI banks and other small banks do with small borrowers. It will create an unfair CRA playing field. Larger "large" banks will continue to have a greater ability to compete against smaller "large banks" banks for larger loans; thus, making it easier for a large bank to achieve a favorable CRA rating. Under the current system, both large and small dollar value CRA qualified activities are considered fairly within the context of the bank's strategy and needs of the community. CDBA recommends that consumer and small dollar loans delivered to customers that are LMI or reside in LMI census tracts should be CRA eligible (Given the small size of consumer loans, collecting and reporting data on these loans can be cost prohibitive, this activity should be optional for the bank to report under CRA.)

Please note: **It is very important that any definition of deposits used in any final measurement for the retail lending subtest for CDFI banks be carefully defined to exclude certain deposits from the denominator.**

> 1. Non-Brokered Reciprocal Deposits: **Non-brokered reciprocal deposits are critically important to how CDFI banks raise deposits. If included in the retail domestic deposit definition, it could inadvertently trigger new CRA obligations for our banks in new higher income deposit-based AAs. The definition could also inadvertently discourage such mission focused institutions from utilizing a historically important funding and liquidity source.** Inclusion of non-brokered reciprocal deposits in retail domestic deposits could have the unintended consequence of forcing CDFI and MDI banks to limit the amount of such deposits they raise as not to create new "deposit-based" CRA obligations in places that do not need their services. Yet, this will hurt their LMI AAs because they will have less capital to lend.
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> 2. Prepaid Cards: **CDBA urges the agencies to ensure prepaid cards are excluded from the definition of retail domestic deposits. Prepaid cards have proven a powerful tool to help the 8+ million US households that are "unbanked" or without a savings account.** The large majority of these households are LMI. Prepaid cards can help unbanked consumers save money, transfer funds, make deposits, write checks and make purchases. Several CDFI banks have developed pre-paid card products that help transition unbanked and underbanked customers to a banking relationship.
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> Many types of prepaid cards do not have an address associated with the purchaser or the user. For example, if a prepaid gift card is purchased at a retail store, no identifying information is collected on the purchaser or the end consumer of the card. Furthermore, many prepaid cards are one-time use cards that may be issued in one geography, but customers can easily move them to a different geography. One of the key benefits of a prepaid card is that it is highly mobile. But, this feature makes it impossible for bank issues to track where the "deposit" is actually located for the purpose of calculating whether the deposit is within a facility based AA or not. For reasons of practicality, we ask that prepaid cards be excluded from the definition of retail domestic deposits for the purposes of CRA – regardless of the outcome of the FDIC's pending decision on prepaid cards and brokered deposits.

CDBA further recommends that regulators explicitly recognize the growing variety of bank business models and craft CRA regulations that fit each business model. The banking sector has grown far more diverse over the past two decades due to technology and other factors. We anticipate that the business models, delivery channels, and mix of product and services offered by banks will continue to evolve in response to advancing technology. Within CRA, banking regulators already recognize some non-traditional bank business models, and even these have subsets that defy categorization.

A bank's business model has a strong bearing on how it reaches and serves customers. A traditional community bank is principally located in, collects deposits, and serves a defined local geography. Thus, their CRA AA should reflect this targeted geographic focus. By contrast, an internet bank or credit card bank may raise deposits and serve customers on a nationwide basis: their AA should include both the local community in which they are chartered, the broader geographies they actually serve (e.g. state by state across the nation) *and* the accessibility and targeting of their products and distribution tools.

Further, CDBA would like the Agencies to consider large bank or internet bank's institutional rank or market share when determining if they must include a county in their assessment area. Loan data submitted by banks for HMDA and CRA compliance is already available to use for this analysis. CDBA makes this proposal in order to assure that more CRA-motivated resources reach rural, low-income counties, such as the Mississippi Delta region, where there are few physical bank branches. While many lenders without local branches may have a significant market share in these counties, they currently have little CRA obligation and make little, if any, effort to offer community development activities. CRA obligations are unlikely to be fairly apportioned among lenders if assigned based on the relative number or volume of loans in a very large institution's portfolio. Loans in counties with populations under 30,000, compared to loans in urban areas with populations in the millions, are unlikely to trigger a CRA obligation. We suggest including local market share as a consideration to establish AAs in order to shift a fair portion of CRA resources to rural counties.

Similarly, limited purpose and wholesale banks principally take deposits from and make loans to a broad geography. Limited purpose and wholesale banks should no longer be permitted to select only local AAs that are significantly smaller in scope than their real service areas. Large Banks with a national or super-regional focus that have a business model with a mix of retail, internet, credit card, or other delivery strategies should be required to have corresponding CRA strategies that reflect their delivery channels. Unless CRA is adapted to reflect the evolution of alternative business models and delivery channels, technology will continue to exacerbate an inequitable application of CRA between traditional and non-traditional banks and create significant loopholes for some institutions to avoid meaningful CRA obligations.

RESPONSES TO QUESTIONS POSED IN THE ANPR

Section III. Assessment Areas

Facility Based AAs

CDBA agrees with the proposal that AAs should continue to be "grounded" around branches for the majority of banks for the foreseeable future. However, technology is fundamentally reshaping the financial services industry. Modernizing CRA to consider technology-driven delivery channels should be a key priority. CRA needs to incorporate the evolution toward mobile, internet, and other digital delivery mechanisms while recognizing the continuing importance of brick-and-mortar branches. Flexibility must be granted to ensure an orderly modernization of the industry is maintained by ensuring the ability of banks to serve LMI communities beyond that branch footprint, as long as they identify channels, such as relationships with CDFI depositories, to continue to meet the needs of communities that they continue to serve.

Per Question 5, we strongly support tailoring facility-based AAs by bank size, with smaller banks being able to delineate smaller political subdivisions, such as portions of cities or townships, as long as they consist of whole census tracts. We further support the extension of this proposal to all CDFI banks as part of our proposed business-model based approach.

Per Questions 6 and 7, since loan production offices and deposit-taking ATMs are not used in-and-of themselves to drive deposit growth, these facilities should only be an opt-in to serve as a basis for establishing AAs.

Potential New AAs
An approach should be adopted which accommodates bank business models and encourages community development activity to be directed to areas of need. Banks with branch operations should continue to be evaluated on both their individual performance within branch-based AAs and at an institutional level, while given the option to be evaluated for activity conducted through alternative delivery methods that are designed to responsibly serve, and marketed directly to, underserved LMI communities regardless of their residency in the AA.

We are concerned that both lending-based and deposit-based AAs risk concentrating CRA retail and community development obligations in certain areas, regardless of need, creating even further heating of already hot CRA markets, and starving CRA deserts, such as Indian Country, and rural areas. The concentration of the majority of both loans and deposits in certain parts of the country means Banks would meet their obligations in those AAs and there would not be much left for the rest of the country, which is losing branches regularly since many branches are now practically held in our hands. There needs to be flexibility to direct CRA activity to areas that are in most need.

The CRA statute requires banks to serve the “convenience and needs” of the communities in which they are chartered to do business and have a “continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.” As technology disrupts and unbinds financial service delivery to geography, regulators need to rethink their interpretation of the “convenience and needs” of the communities that institutions serve.

The agencies should consider how CRA regulations could be reoriented to view services delivered via technology as a new form of “branch” office – focused not on the geography of any individual customer, but on the design and delivery of the tool itself (See our discussion of prepaid cards, above). In this case, an alternative delivery channel might demonstrate its bank’s responsiveness to the needs of its communities, by exhibiting certain accessibility, cost and financial inclusion futures, along with a demonstration by the bank of a credible, sustained effort to target the product to an LMI community, such as a CDFI Target Market or Target Population. A revised CRA that includes a focus on financial inclusion will need to recognize a broader range of alternative financial services and delivery mechanisms and develop proxies for measuring financial inclusion – particularly among vulnerable populations. Technology driven products developed to foster financial inclusion, asset building and access to credit in LMI areas or within communities should contribute to a bank's CRA performance regardless of a target customer's otherwise branch-based AA.

Section IV. Tailoring Evaluations Based on Bank Size and Business Model

CDBA supports the creation of objective methods for measuring CRA performance, as well as improvements in transparency and consistency in implementation. We believe a blended approach must incorporate performance context, but can also balance a dashboard of key objective metrics to produce the best outcomes for banks and their communities.

CDBA believes the proposed metrics within the evaluation framework take important steps towards transparency and consistency, while incorporating performance context. However, as detailed below, while the metrics are more automated, they are not necessarily less complex than the current system. Where there is complexity, there is an increased likelihood of unintended consequences.

Rules that create *new*, permanent data collection regimes for banks risk imposing regulatory burden which will divert needed capital from communities. We are encouraged by the Federal Reserve's research and analysis that underlies the proposal. However, establishing consistent data collection and setting these thresholds should be the subject of further work, study and testing among the three Federal regulatory agencies. Wherever possible, as outlined above, existing sources of data should be relied on, and small bank and mission-driven banks such as CDFI banks, should be able to expect examinations that reflect their size and business model.

Small Retail Banks
CDBA agrees with the Federal Reserve's stated goal to "tailor evaluations framework to bank size and business model." It is therefore appropriate for small retail banks to be permitted to choose to be evaluated under the current framework or the new framework, and per Question 11, **the default approach** should be to remain in the current framework and be permitted to opt-in to the new approach. Per Question 12, small retail banks electing the new framework should be assessed solely under the Retail Lending Subtest, unless they opt to have other activities considered. CDFI banks should have the opportunity to be evaluated under a previously suggested business model-tailored approach.

Per Question 13, we do not agree that either of the proposed thresholds ($750 million or $1 billion of assets) between small retail and large retail banks is appropriate. A large bank asset threshold should be set at a level that more appropriately reflects the complexity and capacities of traditional banks. Currently, the threshold for intermediate small banks is already 30% higher - $1.322 billion. Meanwhile, the Federal Reserve's threshold between a small bank holding company and a Large Bank holding company has been raised from $1 billion to $3 billion. Further, the OCC's CRA Final Rule threshold is $2.5 million. A $1.322 billion bank is much closer to its community and more likely to reinvest in the communities in which it raised deposits than a larger bank. There is a far greater risk that a bank with assets exceeding $10 billion will raise deposits from one community and reallocate it to meet demand in a different community**. To ensure consistency, CDBA supports setting the threshold at the OCC's $2.5 billion. CDBA recommends updating asset thresholds on a regular basis – the threshold should continue to adjust as it has under the current regime.**

Section V. Retail Test: Evaluation of Retail Lending and Retail Services Performance

Large Retail Banks – Retail Lending Subtest
CDBA believes it is appropriate to keep differentiated subtests for retail lending and community development for Large Retail banks. Specifically, we agree that the Retail test should consist of a retail lending subtest and a retail services subtest.

Per Question 14, the Retail Lending Subtest screen for "presumption of satisfactory" based on the geographic and borrower distribution of major product lines, with the opportunity to continue onto earning and "outstanding," is *only appropriate given properly established thresholds*. Without further data, we are unable to comment authoritatively on whether the 30% threshold is appropriate. This requires further analysis and consideration among the agencies.

We applaud the ANPR's effort to remain responsive to performance context by establishing benchmarks based on "communities" and "markets"[1] but, as above, this risks introducing more complexity. Where there is complexity, there is an increased likelihood of unintended consequences. Setting thresholds "low" as the proposal suggests risk diluting the impact of the CRA. Setting them "too low" could fail to encourage banks to serve LMI communities.

The use, to the extent possible, of data already reported for HMDA and CRA small business purposes is appropriate. However, further study of this proposal is merited. This is an opportunity to adopt business model appropriate data regimes. For example, many small banks, and most CDFI banks of any size, are either not HMDA or CRA small business data reporters. As we note on page 5, additional data such as that collected for CDFI certification, awards and reporting purposes, ought to be considered to reflect and be appropriate to the range of peer groups and business models represented in the banking industry.

Rules that create *new*, permanent data collection regimes for banks risk imposing regulatory burden which will divert needed capital from communities. Certainly, if there are to be metrics, there must be thresholds. If appropriate thresholds are set, this proposal might contribute to transparency and consistency on what constitutes "satisfactory" vs. "outstanding" performance. Establishing these thresholds should be the subject of further work and study among the three Federal regulatory agencies. Regarding Questions 19 through 21, **the agencies should not set standards for pass-fail or assignment of CRA ratings based on a metric**

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outcome until the metrics themselves go through a new public comment process and the system is fully tested with real data.

We caution that the introduction of a Retail Lending Subtest "Dashboard," as envisioned to include "Current Thresholds," "Performance to Date," and "Difference," may certainly contribute to increased clarity, consistency and transparency, but only where data collection is consistent and regular, and reflects business model and size context. While would almost certainly result in a variety of "Dashboards," given the variety of bank business models, this would be appropriate. For those banks that are not HMDA or CRA data reporting (CDFI banks), as described, it would be an unreliable tool if it proceeds in its limited proposed form**. We strongly believe all metrics must be evaluated within the context of each bank's business model (i.e. CDFI status), delivery channel mix of products and services, and market opportunity and challenges, especially if they are to be an effective tool for both planning and evaluation.**

Large Retail Banks – Retail Services Subtest

Regarding *delivery systems*, CDBA believes that CRA plays an important role in encouraging banks to maintain branches in and near LMI geographies. Branches remain an important delivery channel for providing services to LMI communities. However, CRA still needs to incorporate the evolution toward mobile, internet, and other digital delivery mechanisms. Therefore, CDBA supports the principle of the ANPR's proposed framework for Large Bank Retail which evaluates retail services under the twin categories of (1) delivery systems and (2) deposit products.

Per Question 15, the retail lending distribution metrics are not appropriate for all retail banks, and it is not clear they are appropriate even for Large Retail banks. The measure relies on an overly simplistic assumption that there is a direct correlation between the balance sheet (represented by deposits) of a bank and the "right" amount of CRA activity. The proposal attempts to make this assumption actionable using an awkward measure of the dollar value of qualified CRA activities to the value of domestic deposits. The policy rationale for creating such a credit allocation system is unclear and requires further exploration.

Per Questions 24, 26 and 28, which are related, examiners should continue to evaluate a bank's branch distribution based on location within LMI geographies. Banks should also be able request consideration of branches located within middle- and upper-income tracts that are adjacent to LMI tracts, but must then demonstrate that services offered at those branches are both accessible and marketed to adjacent LMI communities. Quantitative benchmarks for evaluating non-branch delivery channels risks unnecessarily and unproductively stifling innovation. Banks ought to be given the opportunity to provide *qualitative* justification for assertions of a channel's benefit to LMI communities outside of quantitative benchmarks.

CDBA recommends ensuring that retail services that benefit LMI people and places remain on the list of qualified activities. Under the current system, banks can get credit for these activities. While these activities may be harder to quantify, they are highly valuable to communities, and the adoption by banks of innovative services should reflect the evolution of a bank's business model to effectively serve LMI communities where a branch-model is no longer supported. Simply, if banks must evolve to meet the needs of LMI focused communities outside of branches, they should be able introduce and receive CRA credit for compensating measures, such as partnering with a CDFI bank to deliver the service.

Per Question 25, the question of how to define banking deserts requires more study. We believe however, that the Bank Policy Institute's definition as "geographic area with no bank branch within 2 miles of the center of a census tract in an urban area, within 5 miles in a mixed area or within 10 miles in a rural area,[2]" is a reasonable place to begin the study.

Regarding *deposit products*, CDBA believes that CRA can play as important a role in encouraging LMI accessible product design as it can distribution channels. We applaud the ANPR's proposal to elevate the evaluation of deposit products that are responsive to the needs of AAs, and particularly LMI communities and consumers. For example, prepaid cards, as noted above, have proven a powerful tool to help the 8+ million US households that are "unbanked" or without a savings account. The large majority of these households are LMI.

As identified in the ANPR, other products commonly offered by CDFI banks such as "Bank-On accounts," "Low-cost transaction accounts which are accessible through debit cards or general-purpose reloadable prepaid cards," "individual development accounts (IDAs)," "accounts with low or no monthly opening deposit or balance fees," "accounts with low or no overdraft and insufficient funds fees," "free or low-cost government, payroll, or other check cashing services," and "reasonably priced remittance services" should be considered based on their availability, accessible design and demonstration of their intentional direction to LMI communities.

Regarding Question 29, evaluating these deposit products' impact presents challenges, given an implied new obligation to provide new information for evaluations, but their contribution to the financial health of LMI communities is substantial. Prepaid cards in particular have proven a powerful tool to help the 8+ million US households that are "unbanked" or without a savings account. The large majority of these households are LMI. Prepaid cards can help unbanked consumers save money, transfer funds, make deposits, write checks and make purchases. Several CDFI banks have developed pre-paid card products that help transition unbanked and underbanked customers to a banking relationship. A CDFI bank which chooses to provide impact data on any of the products above should be given the option to do so in order to enhance contextual understanding, (data provided to the CDFI fund for certification or other purposes should be accepted in these circumstances) but a CDFI bank should not be required to do so.

Section VI. Retail Lending Subtest Definitions and Qualifying Activities

In regards to questions 33, 34 and 35, CDBA believes that for many small banks, the volume of loans required to reach a statistically meaningful percentage just cannot be reached. Trying to

[2] Bank Policy Institute, "Some Facts About Bank Branches and LMI Customers," April 4, 2019 www.bpi.com

derive a percentage from originations less than 20 originations per year in each AA could be problematic. Many small banks – particularly in rural communities – do not originate that many loans across multiple product lines. This does not, however, negate the importance of each individual small dollar or consumer loan. To the contrary, these loans are extremely important components of CDFI banks' services to the LMI communities that they target.

Unfortunately, due to the size of many of these institutions, as well as the varied nature of many lines of small loan and consumer lending, banks would have limited data points for conducting an analysis – meaning the results could be swayed by only a few loans. This could make the difference between passing or failing a test. If a bank fails a test for a single product line, so designated due to circumstances including the small size or market of the institution, they might risk failing the entire test. Again, market context plays an important role in determining whether a product line should or should not be considered as part of a CRA evaluation. Any final rule should clearly articulate how it will be business model-responsive to acknowledge this.

Regarding Question 37, CDBA supports increasing the size cap of loans to small businesses and small farms from $1 million to $2 million. We further believe the regulatory agencies should ensure that any evaluation process gives banks robust incentives to encourage them to continue providing small business and small farm loans under $1 million and serving small businesses and small farms with under $1 million in revenue. We also urge you to consider how a business model-responsive CRA can provide extra incentives for banks serving populations historically disadvantaged in accessing small business credit and affected by systemic racial wealth gaps.

Regarding Questions 40 and 41, CDBA supports broadening consideration for retail lending activities conducted in Indian Country, particularly activities that support essential community facilities (such as schools and hospitals). We believe strongly that these activities benefit targeted areas of need, and are an essential component of a robust community development program. We support the approach that qualitative aspects of a bank's performance would include a review of any retail activity conducted in Indian Country, including loans to low-, moderate- and middle-income borrowers.

Section VII. Community Development Test: Evaluation of Community Development Financing and Community Development Services Performance

Community Development Test – Financing Subtest

CDBA supports a Community Development Test for Large Retail Banks that would include a Community Development Financing Subtest and a Community Development Services Subtest. However, while the Federal Reserve proposes that the Community Development Test would apply only to large retail banks and wholesale and limited purpose banks in order to tailor performance expectations by bank size and business model, CDBA urges that any final framework continue to allow small banks to elect to have community development-qualifying activities evaluated as part of their examinations.

We note that performance context should continue strongly influence the opportunities for undertaking Community Development activities. General performance standards risk producing the opposite result as what is intended. No matter how sophisticated, we do not believe a formula-based approach can adequately capture the nuances of every community – and could easily result in harm to our banks and communities. A solely formula-based approach may be transparent, but is highly likely to produce arbitrary and inconsistent results. We support the ANPR's acknowledgement of this in the clarification that "A bank that does not surpass a quantitative threshold reflecting 'satisfactory' performance may still be assigned a 'satisfactory' or even 'outstanding' conclusion based on an examiner's review of performance context factors and a detailed review of the banks activities." This framework could help examiners account for variations in the types of community development activities that banks engage in." Whichever metric is adopted, this is, in our view, an essential clarification.

Regarding Question 42, we believe that the proposal to combine community development loans and investments under one subtest has merit, and should be carefully considered for its potential to encourage patient capital and more community development activities in areas "with significant unmet credit needs." As regards the treatment of donations, CDBA recommends that the Agencies review where they are considered, as their lack of investment return makes them unlike investments. The absence of an obligation makes donations a high value "investment", but even very impactful donations get subsumed in many CRA exam investment tests due to their relatively small size. Regarding Question 43, ***CDBA strongly believes that it is inadequate to only consider the ratio of dollars of community development financing activities to measure the level of community development financing***. Focusing only on dollar amounts in community development financing products is a disincentive to participation in smaller, impactful activities (e.g. making insured deposits in CDFI banks, or participating in the secondary market for SBA 504 loans) especially in small and rural markets, where need is high but the dollars required are smaller than in more competitive markets. CDBA strongly urges the development of a metric that encourages smaller dollar community development qualifying activities, and includes consideration for number of transactions.

Regarding Question 45, CDBA supports a closer examination of the proposal to develop local and national benchmarks in evaluating large bank community development financing performance to account for differences in needs and opportunities across AAs and over time. This examination should rely on thorough analysis based on actual historic data. Any eventual benchmarks should be responsive to the performance context of an institution, and include both number and dollar volume of activity.

Regarding Question 47, the idea of "impact scores" as a data based alternatives to "multipliers" has merit and should continue to be explored. We caution however, that while the number of new housing units or jobs created are themselves "quantities," they are more useful in a "qualitative" sense for these purposes. The performance context will help determine, for example, the relative value of 10 units of affordable housing in a rural market vs. 100 units in a dense, urban market.

Community Development Test – Services Subtest

Regarding question 48, CDBA supports a primarily qualitative approach to community development serves that also acknowledges quantitate measures. Regarding Question 49, we refer to our cautiously supportive language above regarding impact measures as an improvement over multipliers that nevertheless require study and care. For example, we strongly believe the most important and effective Development Service that CDFIs offer is one-on-one technical assistance (TA), provided in conjunction with a product or other service. Setting strict parameters for Development Services particularly harms the customers of depository CDFIs that offer a wide range of financial products and services. Particularly in the case of CDFI banks, the nature, frequency, and amount of community development services provided by a CDFI to its customers must be flexible. Every customer is different, and CDFIs of all types are experts in recognizing and responding constructively to each customer's individuality.

For the purposes of CRA compliance, CDBA believes that community development services should continue to be required to demonstrate a clear nexus between the activity and benefits created for LMI populations. Regarding Questions 50 and 51, CDBA supports amending the term "CD services" to allow banks to receive CRA credit for all volunteer hours provided to a CD project (i.e. not just financial service related hours) to the extent the volunteer activities benefit LMI individuals and families. At the same time, CDBA urges the agencies to provide greater clarity in respect to how activities that "partially" or "primarily" benefit LMI individuals or families will receive CRA credit. Consistent with current practice, if an activity "primarily" benefits LMI individuals or families the bank should get full CRA credit. In the case of an activity that "partially" serves LMI individuals or families, CDBA recommends that a bank receive pro-rata credit based on the extent to which such activity serves LMI populations.

The quantitative expression of a bank's services value should consider total number of hours of community services. For example, "informal" conversations that provide timely, dispassionate advice are the core of a CDFI's relationship with its customers. Examples of these critical moments include explaining the benefits of a no-minimum balance checking account, outlining the relative costs and advantages of a longer loan term, or encouraging a customer to deposit a portion of a tax refund into a savings account. The hours dedicated to this work on the front line of a CDFI are as reflective of the impact as the dollars behind the wage of the individuals. **We also believe the depth and frequency of this activity should be factored into a CRA grade.** For example, currently a bank holding monthly financial literacy workshops can receive the same consideration as a small bank holding a single, one-time workshop. The resources devoted by the small bank should not be undervalued.

VIII. Community Development Test Qualifying Activities and Geographies

CDBA applauds efforts to clarify and provide certainty about what activities would be considered under the Community Development Test, as well as clarifying where a bank could receive credit for community development activities outside of AAs. CDBA further believes that ***efforts to encourage more community development activity through mission-oriented banks and financial intermediaries, including depository CDFIs and MDIs, are of particular importance.*** We further applaud efforts to provide effective "ex ante" clarity regarding qualifying activities by publishing an illustrative list of example activities and providing a pre-approval process, as long as such lists are open to review for inclusion of new and emerging activities, and a pre-approval process is sufficiently streamlined to respond within 60 days, and activities taken based on that information are protected as valid as of the date of the list being published and approval being given.

As expressed above, CDBA strongly urges the agencies to provide greater clarity as respect to how activities that "partially" or "primarily" benefit LMI individuals or families will receive CRA credit. Consistent with current practice, if an activity "primarily" benefits LMI individuals or families the bank should get full CRA credit. CDBA recommends that a bank receive pro-rata credit based on the extent to which such activity serves LMI (including Native and otherwise underserved) populations. For example, if a bank provides financing support to a mixed income housing development, they should receive a pro-rated share of CRA credit equivalent to the portion of LMI households served.

As above, CDBA recommends that ALL CRA qualified activities be required to demonstrate a clear nexus between the activity and benefits created for LMI geographies or populations. We further emphasize that any final rule must ensure that community development financing activities ensure long-term affordability and limit displacement. The success of any CRA reform must be measured by whether it results in more credit and services delivered to LMI people. While the various questions and scenarios for discussion related to definitions of affordable housing are thought provoking, we believing that returning to these principles will provide the best guide for reaching conclusive answers that ensure the desire result while preserving the flexibility of banks and their partners to respond to needs.

Definitions for Community Development Subcomponents – Affordable Housing
CDBA supports the continuation of the definition of the term "affordable housing" to refer housing that is targeted to LMI individuals, and we agree that this definition should continue to include subsidized housing. Proposed new regulatory language that would "specify that a housing unit would be considered affordable if it is purchased, developed, rehabilitated, or preserved in conjunction with a federal, state, local, or tribal government affordable housing program or subsidy, with the bona fide intent of providing affordable housing," will contribute clarity. It is vitally important to ensure that both preservation of existing affordable housing, as well as production of new housing, are stated as qualifying purposes. Per Question 52, subsidized affordable housing, unsubsidized affordable housing, and housing with explicit pledges or other mechanisms to retain affordability should all be included the definition of affordable housing.

However, CDBA opposes a blanket rule stating that a unit of <u>un</u>subsidized housing must be both affordable <u>and</u> located in "either an LMI geography or a geography where the median renter is LMI." (Emphasis CDBA). This idea risks perpetuating the concentration of certain types of housing in communities that have historically struggled to overcome prejudicial practices such as redlining. We urge that this proposal not be pursued. We do believe that preserving unsubsidized housing (i.e. naturally occurring affordable housing, or NOAH) should be included for consideration, and we acknowledge the challenges in confirming its existence for these purposes given the lack of tools for certifying tenant income. We strongly urge that alternatives to certifying NOAH affordability continue to be considered.

Regarding Question 54, CDBA recommends that loan originations receive greater CRA consideration than purchasing CRA qualifying mortgage backed securities. Community development loans purchased from other lenders as part of a loan participation or loans purchases as part of a lending pool or consortia should be treated the same as a loan origination.

Definitions for Community Development Subcomponents – Community Services
CDBA agrees with the Federal Reserve that it is "important to maintain the focus of this community development subcomponent on community services 'targeted to low- or moderate-income individuals.'" Regarding Question 56, of the options under consideration to determine LMI targeting of services, CDBA does not believe that a geographic proxy alone is sufficient, although it can be useful. Ideally, criteria would build on current guidance by both clarifying, and expanding upon, the proxies that banks can use to demonstrate that 50 percent of participants served by a program or organization are LMI individuals. The Federal Reserve's proposed examples of recipients of federal disability programs and federal Pell Grants support this purpose.

Definitions for Community Development Subcomponents – Economic Development
CDFI banks are committed small business lenders – 37.7 percent of CDFI banks identify their primary line of business as "business finance", and 19.7% identify it as a secondary line, according to the CDFI Fund.[3] CDFI banks intimately understand the needs of underserved and disinvested communities. In fact, large portions of the people and communities served by CDFI banks consist of communities that have experienced discrimination, targeting by predatory providers, and a lack of opportunity that undermines long-term economic stability.

CDFI banks support efforts to ensure the definition of economic development encourages undertaking activities that finance "the smallest segment of businesses and farms that may still face specific unmet financing needs." In this sector especially, it is crucial to ensure flexibility for the purposes of CRA compliance. We strongly agree that one way to achieve this, is to "specify() that economic development activity focused on the smallest businesses, smallest farms, and minority-owned small businesses would be considered responsive and impactful in developing a Community Development Test conclusion or rating." However, it is insufficient to state this without specifying what the material benefit in CRA rating will be, in contrast to undertaking larger loans to larger business which can likewise hold an expectation of strong job creation, preservation or other benefits. CRA could incentivize this with the inclusion of very small loans to very small businesses (based on number of employees or annual revenue) on community development loan registers as well as on small business loan register. This might provide extra recognition to lending directed to very small and micro-businesses, which are frequently start-ups, women-owned and/or minority-owned. This is similar to the incentive provided for multi-family affordable housing loans, which may be included on HMDA Loan Application Registers as well as Community Development Loan Registers.

[3] CDFI Fund "Snapshot" 2019.

Regarding Questions 57 and 58, **CDBA recommends expanding the definition of a CRA eligible small business, while still giving greatest CRA consideration to the smallest business loans.** Currently, the regulators define an eligible CRA small business loan as one that is $1 million or less to a business with $1 million or less in income. To ease reporting, we strongly urge the regulatory agencies to use the definitions of the Small Business Administration (SBA). The SBA has a well-developed small business "size standards" definition for qualification under its programs. The SBA's size standard definition includes industry, number of employees, and average annual income. A large portion of CDFI banks engaged in small business lending use SBA programs; thus, making the standards better align will reduce the data collection and reporting burden. In addition to lending through SBA programs or approved vehicles (e.g. small business investment companies (SBICs)), CRA should clarify that CDFI banks and entities under their control, that also have a demonstrable focus on serving small businesses, are qualifying vehicles for economic development-related investment or participation lending.

Regarding Question 59, CDBA recommends that all services associated with workforce development programs be considered CRA eligible as most such programs are focused on helping LMI workers build job skills. Our member banks cite inconsistent treatment of workforce development activities by examiners.

Definitions for Community Development Subcomponents – Revitalization and Stabilization
As above, we emphasize that any final rule must ensure that community development financing activities ensure long-term affordability and limit displacement. This is particularly important in the case of revitalization and stabilization. In regards to Question 60, we support codifying the types of activities that will be considered to help attract and retain existing and new residents and businesses, and maintained that in a list much in the same way as a list of CRA qualifying activities.

In regards to Questions 61 and 62, context is an important consideration in determining whether infrastructure should be an eligible CRA activity. CRA credit should only be permitted in documented cases where conventional public sources or non-CRA related private funding sources are not available or unable to fill a need (i.e. rural broadband). In areas with ample public resources, this provision could be easily abused (i.e. credit for stadiums located in LMI census tracts). Consistent with the purposes of CRA, banks should receive credit for infrastructure projects if such activity primarily benefits LMI individuals or families. CDBA recommends that if an infrastructure project serves an entire community, the bank should receive a pro-rated share of CRA credit equivalent to the portion of the infrastructure projects users that are LMI. If an LMI benefit cannot feasibility be determined, then the project should be ineligible for consideration as community development.

CDBA supports inclusion of activities that support essential community facilities (such as schools and hospitals) that benefit or serve LMI individuals, LMI census tracts, or other targeted areas of need, such as distressed areas or Indian country. As previously, the extent of benefits provided to LMI individuals should be established and CRA credit allowed accordingly. In the case of places designated as Medically Underserved Areas by the U.S. Health Resources and

Services Administration (HRSA), CDBA recommends that all of banks' support to health care facility projects be considered CRA eligible.

Definitions for Community Development Subcomponents – Minority Depository Institutions and other Mission-Oriented Financial Institutions / Community Development Financial Institutions

We applaud the Federal Reserve's ANPR for proposing to grant automatic community development consideration for community development activities with Treasury Department-certified CDFIs. Traditional bank investments in CDFIs, including CDFI banks, absolutely must receive equal treatment under CRA as investments in MDIs and Low-Income Credit Unions. Regarding Question 64, providing CRA credit at the institution level for investments in mission-driven financial institutions such as CDFI banks would provide increased incentives to invest in these institutions.

During the past 20 years, locally-based, mission-focused financial institutions have emerged as uniquely positioned to fill the void created by industry consolidation. Our institutions are highly effective in addressing the credit and service needs of LMI communities because they have deep roots in these markets and understand local needs. As such, they are ideal partners to enable Large Banks to reach underserved LMI communities. Historically, however, the money-center banks have provided limited support to either CDFI banks or MDIs, even though doing so would generally be considered a CRA eligible activity. CRA could and should play a valuable role in incenting money-center banks to work with mission-focused banks. The decline in the number of locally-based banks and the consolidation of banking assets by a small number of $100-plus billion money center banks has had profound effects on access to capital in LMI communities. As more credit decisions are made by geographically remote corporations and credit scoring models replace relationship banking, the ability of LMI communities and borrowers that "don't fit the box" to obtain adequate access to loans is compromised.

Federal policymakers first formally recognized CDFIs 20+ years ago with the creation of the CDFI Fund. For decades, CDFIs have consistently demonstrated strong performance in serving low-income markets. Yet banking regulators do not recognize CDFIs under CRA in the same manner as MDIs and Low-Income Credit Unions. Currently, any bank can get CRA consideration for providing financial or other support to an MDI or Low-Income Credit Union – regardless of whether or not the entity is located within or serves a bank's AA. By contrast, a bank providing similar support to a CDFI can only be assured of getting CRA credit if the recipient CDFI is located in or substantially serving the bank's designated AA. ***Regarding Question 67, all banks should absolutely receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country. We strongly agree that this approach would remove the geographic uncertainty about whether a CDFI's service area(s) appropriately overlaps with a bank's AA(s). This could also incent banks to invest in CDFIs that serve parts of the country with few or no bank AAs.***

CDBA also strongly recommends that CRA encourage banks to provide <u>long-term</u> support to CDFIs. Regulators should encourage banks to make long-term investments of capital, loans, and deposits to support depository CDFIs by giving CDFI instruments held in portfolio the same weight as new originations (for community development purposes) in an exam cycle. This will be supported by giving equal weight under community development for both loans and investments.

Geographic Areas for Community Development Activities
Regarding Question 68, CDBA believes that an approach that would consider community development activities anywhere within states, territories, or regions where a bank has at least one facility-based AA, with the activities counted towards the state or institution rating, has merit and should be carefully considered. Regarding Question 69, we also believe there is merit to designating geographic areas of need where banks could conduct activities outside of AAs, with those within AAs being "particularly responsive." CRA hotspots and deserts are exacerbated by traditional banks efforts to ensure they meet the undefined threshold of being "responsive to the credit and community development needs in its AA(s).

Combined with a branch focused AA, these proposals combine to form a new form of community development flexibility with a continuing obligation to branch based AAs.

Options to Provide Additional Certainty about Eligible Activities
Per questions 71 and 72, and as stated above, CDBA believes an illustrative, non-exhaustive list of Qualified Activities and the process for timely updates are a good step in the right direction. We support the concept of using standardized metrics, responsive to bank business model, that in the words of the Federal Reserve, create "greater ex ante certainty will provide stakeholders with additional transparency about what, how, and where activities are considered." The list's effectiveness would rely on the inclusion of substantive case studies that would describe the project or activity and include an explanation of why specific activities are deemed CRA "eligible" or "ineligible." A formal line of communication to deliver "binding" pre-approvals between a CRA regulator with and a bank's CRA team is a further condition of success for this approach.

Section IX. Strategic Plan Evaluation

CDBA supports the continuation of the option for banks to operate under CRA Strategic Plans. However, the process requires substantial improvement. Per Question 73, given the requirement for public input in development of a plan, we agree with the proposal that banks be required to post the strategic plan on both their website and the Board's website, in place of the current newspaper publication requirement. It is far too easy under the current rules to bury an announcement. We further agree with comments received by the Federal Reserve that strategic plan requirements should clarify that public comments help a bank to identify community needs and priorities, give a bank the opportunity to develop responsive products and services, and demonstrate the ways a bank has met those needs. Per Question 76., guidelines regarding what constitutes a material change to amend a strategic plan should include the requirement that a merger or acquisition, or level of growth greatly exceeding that expected in the plan, should trigger an automatic reopening of the plan by the regulators and potential amendment of the strategic plan.

Section X. Ratings

CDBA supports "an approach to ratings that is grounded in performance in a bank's local communities." We agree that in practice CRA ratings have frequently been too subjective and lacking transparency.

Per Question 78, limited scope reviews should themselves be limited, although we urge the Agencies to consider allowing them in circumstances where an AA is newly established or acquired by the bank being examined. These newly established or acquired AAs should be given time to "come on line." In conjunction with reduced application of the "limited scope" review, the weighted average method provides an improvement on the current system for large retail banks, we but caution that it requires further analysis. Per Question 79, we agree that limiting how high an overall rating can be if there is a pattern of weaker performance in multiple AAs has merit, but that weakness must be carefully considered in the performance context before the overall rating suffers.

Per Question 82, we believe a basically formulaic approach is a useful guide to reaching initial rating decisions, and increases transparency and predictability. However, examiners should be able to exercise discretion in evaluations to adjust the weightings given a clearly articulated, well-grounded, argument based on the bank's performance context or in response to out-of-AA community development activities. In these cases, banks must also be given an opportunity to respond. Per Question 85, we believe the idea of statewide community development financing or impact scores has merit. CDBA welcomes the opportunity to join the Agencies in an exploration of this topic.

We especially wish to reinforce comments we made under Section VIII, that all banks should absolutely receive CRA consideration, ***including making these institutions a factor for an "outstanding" Retail or Community Development test rating,*** for loans, investments, or services in conjunction with a CDFI operating anywhere in the country.[4] However, these activities should not be an automatic elevator for a bank that has otherwise earned a "Needs to Improve." Per Questions 88 and 89, yes, consideration for an outstanding rating prompted by an investment or other activity in MDIs, ***CDFI's*** (CDBA inserted) women-owned financial institutions, and low-income credit unions ***should be contingent upon the bank at least falling within the "satisfactory" range of performance.*** Yes, it would be helpful to provide greater detail on the types and level of activities with MDIs, ***CDFIs,*** women-owned financial institutions, and low-income credit unions necessary to elevate a "satisfactory" rating to "outstanding."

Section XI. Data Collection and Reporting

CDBA believes that the data collection and reporting requirements of CRA are an exceptional opportunity for the agencies to harmonize various overlapping, parallel, and occasionally complimentary reporting regimes, particularly for CDFI banks by explicitly recognizing CDFI

[4] Currently, although CDFIs are explicitly contemplated in Section VIII and referenced in Question 67, they are not explicitly references in Section X., Questions 88 and 89.

banks as a distinct business model and accommodating CDFI bank's existing data reporting into CRA reporting.

Most importantly, CDBA recommends that CRA reporting for CDFI banks align with the reporting requirement of the U.S. Treasury Department's CDFI Fund. Federal banking regulatory agencies implementing CRA and the Treasury Department are interested in the same outcomes – improving the economic well-being of LMI communities through access to responsible credit and financial services. Yet these agencies have very different definitions, regulatory standards, and reporting requirements. This lack of policy coordination results in voluminous double reporting that creates an unnecessary administrative burden and siphons resources away from entities serving underserved communities. We propose that the agencies work to close the gap by developing common definitions and reporting standards, as well as sharing data. Our specific recommendations:

- Maximize alignment of definitions used for CRA and CDFI certification, geographic service areas, program application, service tests, and reporting;
- Reduce reporting burden by streamlining and sharing data submitted by CDFI banks for Call Reports, CRA, HMDA, CDFI annual re-certification, CDFI award compliance, and Dodd-Frank section 1071 reporting (once the CFPB's relevant 1071 rule has been finalized and published in the Federal Register.)
- Give CRA consideration for collecting social impact data and actively participating in CDFI Fund Programs or other Federal, state, or local programs that offer tools to enhance services to their CDFI Target Markets or to reach deeper to serve low-income people and communities.

Proposals for Rural Areas

Rural communities are underserved by Large Banks' CRA community development activities. The Housing Assistance Council, a rural housing advocacy organization, documented this trend in its 2015 report. For Large Banks, nearly all rural AAs are considered limited scope and they typically have very few CRA Community Development activities reported in their Performance Evaluations. As the CRA Officer for a Large Bank explained, Large Banks are motivated to conduct CRA community development activities in locations where they will count the most (full scope AAs). Because most of the Large Banks' branches are clustered in metropolitan areas, those locations get the most attention, generally leaving very little to share with rural (limited scope) AAs.

Given long-term declining economic trends and retraction of financial services in rural areas, CDBA recommends that regulators revisit -- and potentially discontinue -- the use of limited scope exams for the largest banks. Allowing the largest banks to satisfy their CRA obligations based solely on activities in metropolitan areas only exacerbates the lack of access to capital and services to rural populations. As an example, big banks have been particularly motivated to invest in Low-Income Housing Tax Credit (LIHTC) projects for CRA credit. In high-demand urban areas, this has created a competitive market with generally high prices for credits. However, LIHTC pricing for developments in underserved, rural areas is often significantly lower, which results in less equity for rural properties. In 2016, a project in Fargo, North Dakota, earned

$1.05 per dollar of credits, while a project on the Turtle Mountain reservation located in rural, north central North Dakota garnered a price of $0.82 per dollar of credits. This is in contrast to the $1.20 price that LIHTC credits are able to fetch in cities like San Francisco and New York. More explicitly encouraging money center banks to support CDFIs serving distressed rural communities can help address this challenge.

Finally, within rural communities, there are many census tracts that qualify as "middle distressed" or underserved, but which may have significant low-income populations. Most rural census tracts cover large geographic areas and may include areas of concentrated poverty that can be recognized in census block group level data. **CDBA recommends that CRA regulation afford banks the ability to get CRA consideration for activities that benefit LMI geographies defined at the block group level when located in middle distressed or underserved tracts.**

In enacting CRA, Congress stated that the purpose of CRA was to ensure that regulated financial institutions demonstrate that they "serve the convenience and needs of the communities in which they are chartered to do business." As such, these institutions have a "continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered." CRA has made great strides in ensuring access to credit in LMI communities and among minority and low-income borrowers over the past three decades. Systemic economic and social challenges, however, perpetuate a lack of access to fair services for many and allow predatory providers to thrive. Given growing economic inequity in urban, rural, and Native American communities, it is important to get CRA reform right.

We welcome the opportunity to continue this dialogue. Thank you for considering these important matters. Please contact Jeannine Jacokes at (202) 689-8935 ext. 222 or *jacokesj@pcgloanfund.org*.

Thank you for your consideration

Sincerely,

Jeannine S. Jacokes

Jeannine Jacokes
Chief Executive Officer