Prosperity INDIANA

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Federal Reserve Board of Governors:

Prosperity Indiana appreciates the opportunity to comment regarding the Federal Reserve Board's (Fed) Advance Notice of Proposed Rulemaking (ANPR) on the Community Reinvestment Act (CRA). We believe the Fed's approach is a good first step to improve upon the current CRA exam, in contrast to the Office of Comptroller's final rule. However, we join our state and national partners in calling for more rigor in performance measures in order to ensure that CRA ratings will not be as inflated as they are today. More rigor is key to ensuring that CRA exams leverage more lending, investing and services for communities of color and low- and moderate-income (LMI) communities.

Prosperity Indiana is a network of nearly 200 organizations and individuals committed to advancing community economic development statewide. The focus of our efforts is to ensure everyone can enjoy equal economic and social opportunities and live in thriving communities. In carrying out this work, we know how critical CRA is to ensuring that areas and/or projects that would not otherwise receive investment can secure critical capital from banks through loans and investments for affordable housing and economic development. These investments and credit services spark neighborhood revitalization and help more Hoosiers achieve and maintain economic success.

Increased intentionality around meeting the purposes of CRA is critical, in light of the disproportionate impact COVID-19 has had on people on color and LMI households and those that serve them. Prosperity Indiana offers these comments as the cross-sector intermediary for organizations dedicated to community economic development, which means our members are the people and organizations on the front lines fighting COVID-19. Our members and the populations and communities they serve statewide have borne the brunt of the pandemic, resulting in stresses on capacity and finances. Three-quarters of our members report having six months or less cash reserve on hand; and the great majority have been forced to cancel programs or events and experienced disrupted services, even while seeing an increased demand for services and assistance. In May 2020, 82% anticipated a future decrease in revenue, and 94% anticipated a moderate to high impact on their programs, services, and general operation.

Please consider these comments as a summary of the concerns that Prosperity Indiana members have conveyed to us throughout the pandemic, as well as areas where we lend our support to national partners leading on this issue. In order to convey these considerations, we are including both an overview of considerations of the ANPR as well as explorations of specific questions. And while many of our nearly 200 members are deeply engaged in the community economic development work affected by the CRA and the proposed changes in the ANPR, few have the capacity during the ongoing emergency of COVID-19 to respond to the 99 questions involved. In order for our members to continue to respond, recover, and rebuild from COVID-19, they need a robust CRA that does not hinder services to communities of color and low- and moderate-income communities.

What's at stake in Indiana?

Every community has a stake in strengthening the CRA, from Indiana's small towns to growing suburban areas to the core urban areas. This is true from Angola, which saw $130.3 million in mortgages or loans to LMI borrowers or neighborhoods from 2009 through 2018, $0 in business loans to LMI neighborhoods, and $97.2 million in loans to small businesses, to Warsaw with $277 million in mortgages to LMI borrowers or neighborhoods, $36.1 million in business loans to LMI neighborhoods, and $271.4 million in loans to small businesses. And in our state's largest metro area of Indianapolis-Carmel-Anderson, which itself spans a large city, a wealthy suburb, and a former industrial center now facing challenges, mortgages to LMI borrowers or neighborhoods totaled $14.2 billion from 2009 through 2018, with $3.9 billion in business loans to LMI neighborhoods, and nearly $4 billion in loans to small business. Indiana's communities from smallest to largest can't risk a weakening of the CRA that would allow an increase in discrimination in lending.

Strengthening CRA is a critical component of a just recovery

Indiana communities who have been hardest-hit and are still battling the public health, economic, and housing impacts of COVID-19 are the same who carry the scars of redlining. The National Community Reinvestment Coalition (NCRC) recently released a major report finding significant correlations between redlining and susceptibility to COVID, including Evansville, Fort Wayne, Indianapolis, Gary and Lake County, Muncie, South Bend, and Terre Haute. 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.

In Indiana, the pandemic has disproportionately affected communities of color in additional ways. For example, according to the Federal Reserve Bank of Atlanta's Unemployment Claims Monitor, Black Hoosiers have filed one in five unemployment insurance claims throughout the pandemic, although they make up only 9.4% of the labor force, according to 2019 data.

While we have not seen state-level data about Indiana's Black-owned businesses, reports from the experiences of our members throughout the state align with nationwide trends showing a disproportionate impact on these businesses. Since the start of the pandemic, more than 440,000 African American businesses (41%) have been closed nationwide, compared to just 17% of White-owned small businesses. Discrimination in lending contributes significantly to racial disparities in small business survival rates. An 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. We do not need state-level data to confirm the impact, and we cannot afford to see the CRA watered down in the meantime. CRA must be strengthened considerably in order to combat discrimination and help our communities recover from the pandemic.

The Federal Reserve proposal must be strengthened to prevent grade inflation
However, it is unclear if the Fed's ANPR proposals will address CRA ratings inflation. 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.

The Federal Reserve proposal should be strengthened to increase lending to people of color
The Fed recognizes the importance of addressing racial inequities. It asks the public whether underserved areas should be designated based on high levels of poverty or low levels of retail lending. We support NCRC's designation of underserved census tracts based on low levels of lending which would effectively target neighborhoods redlined because of the HOLC classifications.

Prosperity Indiana joins our members and national partners in asking the Fed to consider explicitly including race on CRA exams. The agencies have hesitated to do so but we believe that the CRA statute allows this since the law emphasizes banks meeting credit needs in all communities, but particularly underserved ones. 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.

Assessment areas must support and reflect a commitment to local lending, investments and services
Prosperity Indiana joins NCRC in supporting 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. We do not

support the idea of a national assessment area for internet banks that the Fed discusses. Instead, we believe that data analysis can designate areas where high numbers of retail loans or deposits are located.

We applaud the Fed proposal to eliminate distinctions between full-scope and limited-scope assessment areas. Full-scope assessment areas, which are usually the largest cities, count more on current CRA exams than limited-scope areas that generally are smaller cities and rural counties. Often, communities of color, Native American reservations and other underserved communities continue to receive less CRA-related loans and investments because they are in limited-scope areas.

CRA modernization must maintain its focus on lower-income communities and communities of color

Unlike the Office of the Comptroller (OCC), Prosperity Indiana appreciates that the Fed generally does not stray away from the focus on LMI communities in its ANPR proposals. However, we do not support expanding financial education to any income since LMI consumers and people of color are most likely to be unbanked or underbanked as revealed by surveys conducted by the Federal Deposit Insurance Corporation (FDIC). The Fed can designate additional subgroups in the population such as people of color, people with disabilities or older adults for whom CRA credit for financial education or other community development activity can be earned instead of opening it up to everyone regardless of need. Likewise, the Fed should further develop its procedures for awarding CRA credit for financing affordable housing that is not subsidized so that such financing actually serves LMI tenants.

Collecting improved community development and deposit data

Prosperity Indiana believes the Fed should pursue its proposals to collect improved community development and deposit data. Community development and deposit data should be collected on a census tract level or at least on a county level so that CRA exams can better target community development financing to areas of need.

Question 1. Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?

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Prosperity Indiana believes the ANPR misses a core objective of CRA modernization. CRA modernization should help banks clarify how to *identify* local community development needs.

Taking the ANPR as a whole, we join NACEDA in their one fundamental criticism of the ideas and themes put forward in the ANPR that we hope the Board will take time to address. The ANPR puts a lot of time and effort into the technical aspects of CRA examination and accountability, while allowing a core part of CRA's mission - strengthening the relationship between a bank and the communities in which they do business - to somewhat atrophy. The very first objective listed at the top of the ANPR illustrates this shortcoming. It reads:

"More effectively meet the needs of LMI communities and address inequities in credit access, in furtherance of the CRA statute and its core purpose."

Meeting a community development need – at least for banks – is often a relatively technical challenge… create a new loan product, put financial or human resources here instead of there, count the resources in this way or that, etc. But in order to *meet* the need, the bank has to *identify* it first.

Aside from a small number of questions, we do not think the ANPR does enough to address how banks are documenting and identifying community development needs and engaging with community stakeholders. As you will see in our response to Question 71, we find the Board's proposed non-exhaustive list of activities particularly problematic, though you will see references to these themes in a number of our responses.

When considered together - the ANPR's failure to clarify how to *identify* community needs AND its proposed non-exhaustive list of activities - the Board is tacitly relinquishing banks from their responsibility to do the hard work of knowing their communities.

Why would a bank participate in six months of community planning meetings when they can pick something from a list developed by their regulator?

Question 5. Should facility-based assessment area delineation requirements be tailored based on bank size, with large banks being required to delineate facility-based assessment areas as, at least, one or more contiguous counties and 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?

Prosperity Indiana and NACEDA believe that tailoring facility-based assessment areas by bank size, as outlined in the ANPR, is a reasonable approach, provided that a bank's assessment areas are detailed, clear, and publicly available. We would ask the Federal Reserve what the reasoning is for eliminating the intermediate category.

However, we ask the Federal Reserve for some clarification on the rules for small banks.

The ANPR states:

"that a small bank would not be required to expand the delineation of an assessment area to include parts of counties where it does not have a physical presence and where it either engages in a de minimis amount of lending ***or there is substantial competition from other institutions****, except in limited circumstances."*

We ask the Federal Reserve to clarify why "substantial competition from other financial institutions" would be sufficient reason to not delineate facility-based assessment areas. The presence of other banks, by itself, should not offer relief from CRA obligations, particularly if the small bank's lending volume is substantial. Perhaps the level of competition could be considered as part of the performance context, but the assessment area should be delineated and the bank's performance considered.

Such relief from delineation of a facility-based assessment area, however unlikely, could perversely encourage 'a race to the bottom', where a small bank chooses not to make investments in a community at the risk of becoming competitive and, therefore, trigger an assessment area.

Question 6. Would delineating facility-based assessment areas that surround LPOs support the policy objective of assessing CRA performance where banks conduct their banking business?

Delineating facility-based assessment areas should be delineated around bank LPOs to ensure the institutions are serving the entire community in which it does business and providing community development loans and investments in those communities. This update to the regulation is long needed.

Question 7. Should banks have the option of delineating assessment areas around deposit-taking ATMs or should this remain a requirement?

Prosperity Indiana and NACEDA recommend assessment areas around ATMs should remain a requirement but with a mechanism for the bank to 'opt out' of them, as opposed to giving them the option to 'opt in.' In other words, assessment areas around ATMs would be the assumed unless the bank provided a compelling reason to remove the assessment area, for example, if the ATM is not heavily utilized.

Question 8. Should delineation of new deposit- or lending-based assessment areas apply only to internet banks that do not have physical locations or should it also apply more broadly to other large banks with substantial activity beyond their branch-based assessment areas? Is there a certain threshold of such activity that should trigger additional assessment areas?

The analysis the board outlines in the ANPR is a good start to understand the impact of lending-based assessment areas. However, more is needed. The analysis of "LENDING-BASED APPROACH FOR LARGE BANKS WITH A CONCENTRATION OF LENDING OUTSIDE OF THEIR ASSESSMENT AREAS" states that 167 banks would have at least one more assessment area, but the data only covers one year and only examines mortgage data. Presumably the threshold for creating a lending-based assessment area would be applied to the bank's major lines of lending (mortgage, small business, etc.). Adding additional lines of business to the analysis would presumably lead to more than 167 banks delineating additional assessment areas. But we don't know how many more. Also, if the Board were to expand facility-based assessment areas around LPOs, how many of the new LPO facility-based assessment areas would overlap with the new lending-based assessment areas? Would simply requiring LPO facility-based assessment areas somewhat negate the need for lending-based assessment areas, at least among hybrid banks?

The delineation of new assessment areas should apply to both internet and hybrid banks and be primarily based on lending activity with an option for banks to delineate deposit-based assessment areas, depending on their business model.

Question 9. Should nationwide assessment areas apply only to internet banks? If so, should internet banks be defined as banks deriving no more than 20 percent of their deposits from branch-based assessment areas or by using some other threshold? Should wholesale and limited purpose banks, and industrial loan companies, also have the option to be evaluated under a nationwide assessment area approach?

Prosperity Indiana and NACEDA are generally opposed to nationwide assessment areas. The organization considers nationwide assessment areas to be inconsistent with the legislative intent of CRA to ensure banking and community development investment and services are available locally. Also, we fear that giving banks the ability to designate a nationwide assessment area will allow banks to gravitate toward the easiest to serve markets where bank activity is likely already present.

Question 10. How should retail lending and community development activities in potential nationwide assessment areas be considered when evaluating an internet bank's overall CRA performance?

As noted in the previous question, Prosperity Indiana and NACEDA are generally opposed to nationwide assessment areas.

Question 38. Should the Board provide CRA credit only for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in CRA examinations? Alternatively, should the Board continue to value home mortgage loan purchases on par with loan originations but impose an additional level of review to discourage loan churning?

Prosperity Indiana and NACEDA believe the practice referred to as loan churning should no longer receive the kind of CRA credit it currently receives. However, the ability of banks to purchase loans originated by another lender provides liquidity that is, ultimately, important for the ability of lenders to serve LMI people and places. The ANPR offers two alternatives for how examiners could treat loan purchases. While both approaches seem reasonable and would address loan churning, Prosperity Indiana and NACEDA would lean toward the alternative that only counts loan purchases directly from originating lenders. That policy alternative provides liquidity to mortgage market, prevents churning, and is relatively simple to evaluate for CRA purposes. However, we acknowledge that the alternative also lacks nuance and may potentially be unnecessarily rigid.

The other alternative presented by the ANPR is reasonable, to a) provide an extra layer of review, b) look at how the loans were originated and c) look more favorably upon loans originated by community-serving institutions for CRA purposes. Prosperity Indiana and NACEDA think this also is a reasonable approach, so long as examiners have the teeth and mandate to search for undesirable churning.

Question 42. Should the Board combine community development loans and investments under one subtest? Would the proposed approach provide incentives for stronger and more effective community development financing?

Prosperity Indiana and NACEDA believe there is a strong need to incentivize longer term, patient capital. In that respect, the Board's approach is sound. However, we join NACEDA in strongly discouraging treating debt and equity equally or 'combining' them into one numerator for some type of ratio. Equity investments, such as LIHTC or other types of equity, are difficult to raise for developers in LMI areas and are badly needed. Combining their consideration with debt would dilute the incentive for banks to contribute this desperately needed capital.

Further, this approach may also disincentivize the use of grants which are also incredibly valuable to community organizations. It would be helpful if the board clarified how grants will be counted in any CD Financing Metric(s). NACEDA and its members, including Prosperity Indiana, have found that CRA is a strong incentive for banks to provide riskier capital (such as equity) and money that does not get a rate of return (grants). Combining them with debt capital would erode these needed financial resources. Further, combining all these different types of capital would complicate or muddy the impact the capital is having.

Also, the dollar value of the investments (equity, grant, or debt) is not the only metric that should matter. Transaction volume (or units) should matter just as much as dollar value.

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Relying solely on dollar volume incentivizes large deals over small, even though smaller transactions may have more impact. Examining both dollar volume and transaction units should be part of any set of CD Financing Metrics.

Question 43. For large retail banks, should the Board use the ratio of dollars of community development financing activities to deposits to measure its level of community development financing activity relative to its capacity to lend and invest within an assessment area? Are there readily available alternative data sources that could measure a bank's capacity to finance community development?

Prosperity Indiana and NACEDA would be open to a given bank or examiner using a deposit-based denominator and/or a tier one capital denominator, depending on the bank's business model. It may make sense to use a different 'denominator' depending on the bank's business.

Question 44. For wholesale and limited purpose banks, is there an appropriate measure of financial capacity for these banks, as an alternative to using deposits?

Similar to the response on question 43, tier one capital could be an option in addition to deposits, depending on the bank's business model.

Question 45. Should the Board use local and national benchmarks in evaluating large bank community development financing performance to account for differences in community development needs and opportunities across assessment areas and over time?

A narrowly defined benchmark at both the local and national level could potentially have the effect of banks meeting the benchmark and then retreating their focus and activities for the remainder of their exam period. In other words, we don't want banks to meet their dollar ratio and then stop making investments. In that way, neither Prosperity Indiana nor NACEDA believes a single dollar-based metric is appropriate. Also, as stated previously, dollar value in and of itself does not necessarily tell the story of the investment portfolio's impact. Transaction volume (or units) should also be a consideration to retain incentives for banks to make smaller investments that may have as much or more impact.

That said, keeping and considering ratios of dollars AND units over time could be useful to consider the environment in which the bank's activity is taking place, for example, if the economy or different capital markets locally or nationally are particularly hot, cold, or stagnant. But Prosperity Indiana and NACEDA would not recommend using these national or local dollar-volume benchmark ratios as a singular or primary basis for an evaluation.

Question 48. Should the Board develop quantitative metrics for evaluating community development services? If so, what metrics should it consider?

Both Prosperity Indiana and NACEDA strongly believes the Board is headed in the right direction on the Community Development Services Test outline provided in the ANPR. The proposal balances a quantitative measurement (hours over employees) that will allow communities to compare banks by hours provided and the needs and services addressed by those hours. A strong qualitative component should assure those services are addressing a community need and making an impact on those needs.

Question 50. Should volunteer activities unrelated to the provision of financial services, or those without a primary purpose of community development, receive CRA consideration for banks in rural assessment areas? If so, should consideration be expanded to include all banks?

CRA credit for bank volunteerism should be limited to activities unique to the skill sets relevant to banking and financial expertise, as the current regulation outlines, or using skills within the bank toward the improving the capacity of a community development entity or nonprofit. For example, a human resources professional within a bank volunteering to help a local community development corporation craft a personnel manual. This part of the current regulation is working adequately – don't change it. Financial expertise provided by bank employees is critical to the capacity and effectiveness of community development nonprofit organizations to implement challenging projects in which banks invest. It builds trust and familiarity among bankers and community organizations.

Question 51. Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?

CRA credit for critical financial education (including housing counseling and debt counseling among other activities) must be limited to LMI people and families. This type of free education is already scarce enough among these populations without this rule further watering down a `bank's incentive to provide it.

Question 57. **What other options should the Board consider for revising the economic development definition to provide incentives for engaging in activity with smaller businesses and farms and/or minority-owned businesses?**

Updating the definition of economic development in a way that acknowledges disparities is a step in the right direction toward addressing racial equity concerns. To advance this effort, the definition should clarify that community development activities that support minority-owned, women-owned and other small businesses defined by an established threshold, such as revenues less than $1 million, all count toward CRA credit. For these businesses, a size test should apply and the purpose test should not apply because the purpose can be presumed to assist disadvantaged, small businesses. However, just providing additional weight to the "smallest" businesses and farms and eliminating the size plus purpose test requirements – while the intention might be to become more responsive and impactful – will likely have a net effect on economic development that results in fewer LMI jobs created, if provided without this clarification around the definition. As such, for those supporting businesses that qualify under the SBA Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, both a size test and a purpose test should apply. The accepted definition of job creation utilized by the HHS' CED program should also be considered a good standard-setting definition with which to align. Eligible economic development investments should demonstrate benefits to LMI people or places, with extra consideration given to those investments that serve both. Community development services or financing supports economic development if it provides financial assistance or technical assistance to intermediaries or nonprofit organizations that mentor or provide physical facilities for small businesses.

The Board should avoid changes that reduce the eligible activities that qualify under the economic development definition, as well as broadening the definition in ways that no longer seeks to secure job creation. Also, a definition that is limited to start-ups or recently formed businesses does not address the needs of small businesses that are not new but are looking for financing to expand. Also, shared ownership business enterprises (such as co-ops) that might not be small in size by their nature but do empower new entrepreneurship could also be considered.

Banks looking to secure CRA credit for economic development projects that do not meet their eligibility requirements could show a pipeline for further investment, including pre-qualification options for future loans or connectivity to financing intermediaries, who can document job creation. An example of this is the myWay to Credit referral program. This would serve to show bank commitment to small- and minority-owned business expansion, instead of turning businesses away or just providing short-term infusions of funds into CDFIs to secure CRA credit and quick recovery of the capital that in no way sets businesses up for future success.

***Question 58.* How could the Board establish clearer standards for economic development activities to ''demonstrate LMI job creation, retention, or improvement''?**

The types of governmental workforce development programs and CDFIs that the ANPR references regularly and successfully secure this type of data to support program outcomes. The Board should consult with these counterpart agencies, including SBA, regarding how to document job creation, retention or expansion associated with small business loans. As previously mentioned, the CED Program within the Department of Health and Human Services also offers clear job creation standards and definitions that are commonly used by community economic developers.

***Question 59.* Should the Board consider workforce development that meets the definition of ''promoting economic development'' without a direct connection to the ''size'' test?**

Since the focus of this element of the definition is on workforce development for LMI persons rather than investment in job creation activities, size is not a critical component to this facet of the definition. Workforce development that prepares LMI workers for jobs in businesses of any size is valuable. However, size should remain part of the other activities definition.

***Question 60.* Should the Board codify the types of activities that will be considered to help attract and retain existing and new residents and businesses? How should the Board**

ensure that these activities benefit LMI individuals and communities, as well as other underserved communities?

In general, codifying a list of activity types will diminish potential community impact rather than invite it. For one, a list created today cannot anticipate all of the needs or potential innovations of tomorrow. Also, approved lists tend to create a lower bar of expectation, even when "not all-inclusive" language is used, and results in justification for denials for new initiatives. Attraction and retention goals may be appropriate to codify in conjunction with "not all-inclusive" language.

While it is appropriate for the same activities to qualify in LMI census tracts and distressed or underserved tracts, local context is also important. To ensure these activities benefit LMI individuals and communities in all instances, the intent of the initial activity and the anticipated impact should be documented as locally relevant. Just as it would defeat the purpose of CRA to bring employment opportunities to LMI areas residents to keep them at that same income level, it also defeats the purpose of the Act to incentivize investment to attract residents that is certain to cause displacement. Market studies, government plans, and higher standards set to achieve the goals of CRA under various circumstances will convey and ensure better methods of achieving revitalization and stabilization.

Prosperity Indiana and NACEDA also support a definition of "underserved" that includes communities of color.

Question 61. **What standards should the Board consider to define "essential community needs" and "essential community infrastructure," and should these standards be the same across all targeted geographies?**

While it may make it easier to ascertain CRA creditworthiness if a finite list is provided across all geographies, establishing such could serve to both limit activities in places with critically important – but non-listed – needs and also incentivize activities that are not critically needed in other places. Improved interaction and relationship building with local communities by banks would result in those geographies outlining what is essential in their community, making documentation easier, in the absence of a universal definition.

Question 62. **Should the Board include disaster preparedness and climate resilience as qualifying activities in certain targeted geographies?**

While appropriate to add disaster preparedness and climate resilience as qualifying activities in targeted geographies, relevance to the community – and the need for these activities – should be considered and weighted toward those with documented need.

Question 63. **What types of activities should require association with a federal, state, local, or tribal government plan to demonstrate eligibility for the revitalization or stabilization of an area? What standards should apply for activities not requiring association with a federal, state, local, or tribal government plan?**

Not all communities value investing in LMI or underserved areas. Some units of government by -inaction or even malintent - actually contribute to the need for revitalization or stabilization efforts. As a result, there should not be a requirement for investments to align with government planning. That said, government plans and documentation can be helpful in evidencing a community need and help banks, examiners, and communities understand a project's potential impact.

Question 67. Should banks receive CRA consideration for loans, investments, or services in conjunction with a CDFI operating anywhere in the country?

Prosperity Indiana and NACEDA are both very supportive of CDFIs providing access to capital in hard to serve areas and wants to encourage banks to invest in and work with CDFIs. However, we prefer that banks have a priority to serve CDFIs that serve the bank's assessment areas first and then a second, lower priority for working with CDFIs that work in the bank's non-assessment areas.

CDFIs through their certification process must provide at minimum 60% of their capital and services to targeted populations or in CDFI eligible investment areas. Banks should be able to get full consideration for contributions to CDFIs investing in their assessment areas and partial consideration for investing in CDFIs where the contribution is invested outside of the bank's assessment areas.

Question 68. Will the approach of considering activities in ''eligible states and territories'' and ''eligible regions'' provide greater certainty and clarity regarding the consideration of activities outside of assessment areas, while maintaining an emphasis on activities within assessment areas via the community development financing metric?

Yes, a proposed eligibility test for state, territories and regions will provide clarity and certainty regarding CRA consideration of activities outside of assessment areas. However, the board should take the time to carefully define what these areas include and how they are calculated. For instance, could a bank get consideration for an investment in a CDFI eligible investment area? What about an area of persistent poverty? Are their gaps in how eligible areas are measured and how often do the definitions change or get revised?

In general, Prosperity Indiana and NACEDA are supportive of providing clarity to banks on whether or not their investments will be considered for CRA. We still prefer a strong incentive for serving assessment areas before non-assessment areas. However, we both sees the benefit in giving banks some CRA consideration for investments in areas of high need. We encourage the Board to put forth draft rules that spell out how the considerations could be determined so interested parties can analyze and make proper comment moving forward.

Question 69. Should the Board expand the geographic areas for community development activities to include designated areas of need? Should activities within designated areas of need that are also in a bank's assessment area(s) or eligible states and territories be considered particularly responsive?

In short, yes. Prosperity Indiana and NACEDA believe that banks should be encouraged to invest in designated areas of need both in and outside of the bank's assessment areas. However, banks should receive full consideration for investments made in their assessment area and secondary consideration for investments make outside of their assessment area.

Prosperity Indiana and NACEDA are not promoting any particular way to determine areas of need over other areas of need as most options being considered have both pros and cons. However, we think the process of designating investment areas of need should be transparent and accountable and should not result in banks flooding capital into areas just to get CRA consideration.

We are not clear whether this is what the Board is proposing, but Prosperity Indiana and NACEDA would not endorse banks getting "double credit" or extra credit for serving a designated area of need that also happens to be one of their assessment areas. This could have the unintended consequence of banks doing less than previous cycles but getting equal amounts of credit.

Question 70. In addition to the potential designated areas of need identified above, are there other areas that should be designated to encourage access to credit for underserved or economically distressed minority communities?

In general, Prosperity Indiana and NACEDA support designating very hard to serve areas as places where banks can get CRA credit for investments outside of their assessment areas. Like question 69, we do not take a position on how to define these area as several different methods currently exist at the federal level to designate these types of areas. However, in general, these areas should have low wages, high unemployment, high poverty rates, areas of stagnant property values, and a lack of banking options for residents.

One type of area for consideration are communities where economic stagnation has left property values flat or in decline and where local governments don't have the tax revenue needed to make infrastructure and community development improvements. Some advocates, investors, and experts refer to these as "Middle Neighborhoods." One possible way to quantifiably designate these communities is by looking at tax revenue increases over time compared to changes in the consumer price index. Another alternative would be to consider census tracts with high rates of homeownership but low levels of home value appreciation. Recent research has shown these census tracts are disproportionately occupied by people of color, African Americans in particular (needs citation).

Question 71. Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?

A modern CRA that serves the law's original intent to end redlining and ensure local access to basic financial services would start with the question, "What does the community need?" The ANPR offers to develop a non-exhaustive list of activities developed by regulators and bureaucrats disconnected from the communities CRA obligates banks to serve. From a bank's point of view, a non-exhaustive list of activities threatens to obfuscate how they should prioritize resources. Should they prioritize their resources to align with a non-exhaustive list? Or should it prioritize addressing a community-identified need that may be more difficult to address but also more impactful? Put another way, how would examiners reconcile a community development investment or service that is 'on the list' but has not been identified as a community need? How should examiners balance identified community needs against CRA-eligible activities 'from the list' when the two are in conflict? How will examiners prevent banks from cherry-picking the easiest activities on the list, as opposed to the most impactful?

To paraphrase FDIC Board Member Martin Gruenberg's statement on December 12, 2019, in opposition to OCC's proposed CRA rule, 'the encouragement of bank engagement and dialogue with stakeholders in local communities, including community-based organizations, community development corporations, and others, to understand and better serve historically underserved areas, has been a core strength of CRA for 40 years.'

Prosperity Indiana and NACEDA have concerns that introducing a list developed in Washington, DC, will distract community and bank engagement processes from the much harder work of identifying and prioritizing community needs and thus strengthening the relationship among communities and their financial institutions.

Further, the existence of a list could have the effect of limiting innovation among CRA bankers and investors. Is it possible to have a list of activities for a bank to consider, while also incentivizing innovation?

We cannot endorse the idea of a non-exhaustive activities list until these questions are answered.

Instead of providing a list of activities, we ask the board to consider regularly publishing a list of existing and/or publicly created needs assessments that banks can use to demonstrate they are serving a local community development need. For example, a local jurisdiction's economic development plan, a nonprofit hospital's community health needs assessment, a state disaster recovery plan, recommendations from a community advisory board convened by the bank, etc. Such an approach would provide some additional certainty to banks that they would get credit for an investment, while satisfying CRA's legislative intent to serve local community development needs.

Another approach or alternative would provide examiners substantially more training to identify local needs, recognize how banks commonly meet those needs, and understand how the regulating agencies consider activities.

Question 75. In providing greater flexibility for banks to delineate additional assessment areas through CRA strategic plans, are there new criteria that should be required to prevent redlining?

Prosperity Indiana and NACEDA do not think banks should have the ability to delineate additional assessment areas through strategic plans. The ability to determine exemptions or exceptions to prescribed/negotiated assessment areas would create more problems than it solves. Based on the questions previously outlined by the board, it seems as though the Fed is already considering flexibility with whole/partial county/jurisdiction assessment areas depending on bank size. We do not recommend making this process any less concrete by considering flexibility during the development of strategic plans.

Question 79. For a bank with multiple assessment areas in a state or multistate MSA, should the Board limit how high a rating can be for the state or multistate MSA if there is a pattern of persistently weaker performance in multiple assessment areas?

Yes. Prosperity Indiana and NACEDA support limiting bank overall ratings if a portion of their assessment areas need improvement even though the overall blended rating may be High Satisfactory or Outstanding. Systematically poor performance among some portion of a bank's assessment areas is redlining. The detrimental legacy and impact of redlining is too important to be lax on this question. While we are not able to define what the portion should be, limiting overall CRA evaluation scores at the state or MSA level should be a primary tool regulators use when banks have greater than normal assessment areas where they need to improve.

That said, we do not want to create impediments for banks opening branches in hard to serve markets or in areas that might initially pull down their overall CRA score. Consideration should be given to the amount of time the bank has had branches in assessment areas where scores are lower than the bank average.

By weighting expansion branches in LMI communities differently in their first few years to account for potentially less activity, banks may be incentivized to open branches in LMI neighborhoods.

Question 85. Would the use of either the statewide community development financing metric or an impact score provide more transparency in the evaluation of activities outside of assessment areas? What options should the Board consider to consistently weight outside assessment area activities when deriving overall state or institution ratings for the Community Development Test?

Prosperity Indiana and NACEDA would endorse a statewide community development financing metric. One factor to consider in the development of a statewide impact score are investments in the activities of state and regional networks and intermediaries, such as NACEDA's members, Prosperity Indiana among them. These members play an integral role in CRA related community development activity. They provide research, training, technical assistance, advocacy, and general promotion of the sector. Currently, these statewide organizations commonly find a mismatch with banks in their footprint that have CRA assessment areas in some parts of the state but not others, creating artificial barriers between banks and statewide network organizations that have the same goal of meeting the credit, banking, and community development needs of LMI people and places. A clear statewide metric could offer some clarity.

Question 95. Are the community development financing data points proposed for collection and reporting appropriate? Should others be considered?

We think at least two additional pieces of information should be collected and made available to the public.

1) Banks should make public how they are *identifying* community needs and what it considers the community's needs to be. This would allow the public to make the connection between the identified needs and the bank's actions and investments.
2) As stated previously, the financing data points seem to weigh heavily, if not almost exclusively, on dollars invested. The 'units' (or number/volume of transactions) should also be taken into consideration, incentivizing banks to make impactful investments, not just large investments.

Question 96. Is collecting community development data at the loan or investment level and reporting that data at the county level or MSA level an appropriate way to gather and make information available to the public?

Data should be collected and made available on the transaction basis using the census tract as the common reporting level. Only by presenting data at the census tract level *by institution* will the public be able to see trends toward redlining and or the avoidance of certain parts of the city or populations. In addition to data on transactions at the census tract level, the public should have access to the community need the transactions served and how the financial institutions demonstrated those needs.

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. 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.

Sincerely,

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