

ANHD's CRA Modernization FAQ

Comments Due August 5th - Now is the Time for a Strong, Race-Conscious CRA!

The three federal bank regulators at the FDIC, OCC, and Federal Reserve Board are working together to update and modernize the CRA. ***This proposal represents the first major update of the CRA in over 25 years, providing a historic opportunity for the CRA to finally meet its intended purpose to address redlining and racial disparities*** and increase access to banking and capital in LMI and BIPOC communities.

We appreciate the regulators working together and for putting forth several positive changes to the CRA. ***However, without significant changes, it will be a missed opportunity.***

- [What is the Community Reinvestment Act \(CRA\)?](#)
- [How does the CRA help you & your community?](#)
- [Why Do We Need to Preserve & Strengthen the CRA?](#)

Learn more about the proposal and some of the areas ANHD is focusing on (Scroll through it all [starting here](#), or jump to sections that interest you):

- [Race & CRA](#): The CRA must incorporate an analysis of race & ethnicity
- [Close loopholes](#): Regulators must close loopholes on current CRA & loopholes introduced in proposal
- [Community Input](#): Regulators must strengthen mechanisms for gathering and factoring in community input throughout the CRA process.
- [Lending Test intro](#)
 - [1-4 family mortgages](#): loans to buy & maintain a home
 - [Small business lending](#) (in progress)
 - Consumer
- [Multifamily Lending](#) to deter harm and displacement
 - Also see [ANHD Proposal](#) for regulators
- [Access to branches/ banking](#)
- [Community development finance](#)
- (in progress/To come...)
 - new exam test for large banks
 - Threshold changes
 - mergers
 -

What is the Community Reinvestment Act?

The CRA is a Civil Rights law: The CRA was one of several civil rights laws passed in the 60's and 70's in response to discriminatory laws and practices, such as redlining, separate and unequal housing and schooling, and more:

The CRA is a federal law stating that banks have an obligation to help meet the credit needs of the local communities in which they are chartered. **NY State** is one of just a few states that also has its own CRA that covers state-chartered banks and (new in 2022) non-bank lenders.

How does the CRA help you & your community?

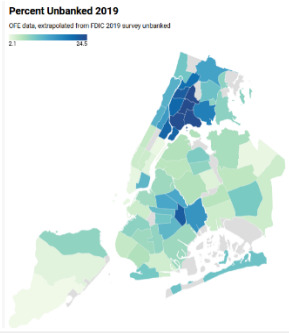
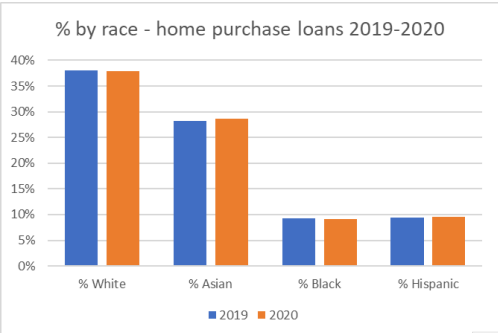
The CRA is one of the most important laws we have to hold banks accountable to their obligations to serve and invest in local communities. The law has leveraged trillions of dollars and fostered meaningful investments and financial activities in NYC neighborhoods, including:

- Bank branches and affordable, accessible banking products
- Affordable mortgages to buy a home or stay in a home
- Loans to help small businesses operate and expand
- Financing for affordable housing, economic development, and community services – the Low-Income Housing Tax Credit (LIHTC) is just one example
- Investments in Community Development Financial Institutions (CDFIs) and credit unions that serve individuals, small businesses, and nonprofit developers
- Philanthropic grants to nonprofits that develop, advocate for, and support affordable housing, economic development, financial empowerment, and community services

Why Do We Need to Preserve & Strengthen the CRA?

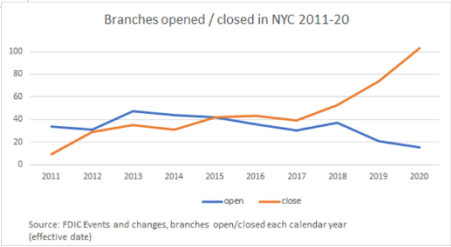
- Discrimination and disparities in lending and banking are still a problem for Black, Indigenous, and People of Color (BIPOC).
- Speculative multifamily lending and lending to bad acting landlords contributes to harassment and displacement.
- Banks continue to close branches and charge high fees for banking.
- Lending by CRA covered banks is safer and less likely to result in foreclosure than loan made by non-CRA covered lenders
- Loans made outside of branch networks, or by online banks with no branches, are not evaluated on CRA exams. Non-bank lenders are not covered by the federal CRA, meaning none of the federal regulators evaluates how equitably they are lending, nor do they have any obligation to reinvest in local communities.
- Low-income communities and communities of color have disproportionately fewer bank branches and do not have the banking products they need to conduct transactions and build wealth.

Current as of July 11



Landlords On The 2021 Worst Landlord Watchlist

Rank	Name	Number of Buildings	Average Number of Violations
1	DAVID SCHORR	17	1442
2	ABDUL KHAN	12	1302
3	NATHANIEL MONTGOMERY	17	1192
4	MICHAEL NIAMONITAKIS	10	1060
5	DAVID BLAU	5	1050



Good, Bad, and Ugly of the CRA Reform Proposal Details, questions, concerns

Race & CRA: ([back to top](#))

Under this historic proposal to modernize the CRA, purportedly in part to address racial disparities and discrimination, the regulators failed to incorporate race in any meaningful way.

The CRA today is color-blind, only allowing downgrades in instances of fair lending violations (discrimination in providing credit). The proposal does not go much further than this.

Proposed changes

- Additional data disclosure on CRA exams by disclosing home lending data by race, using publicly available data in the HMDA database. This will not factor into the ratings
- Expand downgrades for discrimination to include non-credit discrimination (eg: fake bank accounts and consumer violations)
- Exclude certain community development activities if they are found to foster “displacement or detrimental effect on LMI or underserved populations” where perhaps underserved populations could be BIPOC.

The CRA can no longer be color-blind – We have 40 years of data since the CRA and other color-blind laws were passed to address racism and discrimination. Income is not a proxy for race. Regulators must take steps like the following:

- Create affirmative obligations to serve and benefit BIPOC people and communities
- Incentivize activities that close the racial wealth gap
- Benchmark all available data by race and allow for downgrades when disparate trends emerge. Blatant disparities should also trigger stronger fair lending analyses.
 - eg 22% of NYC population is Black, but fewer than 10% of all loans to purchase a home – fewer than 5% of loans by CRA-regulated banks – go to Black borrowers each year.
- Expand the discrimination downgrades to include incidents of displacement or harm (“detrimental effects”) on BIPOC, such as specific branch closures, harmful landlord practices, or higher cost products. Also allow for downgrades on component tests when such practices are identified.

Close today’s loopholes and do not create new loopholes ([back to top](#))

- **No exclusions for any large banks:** As described elsewhere, the proposal expands data disclosure; adds analyses of deposits and bank accounts; and evaluates auto lending for large banks, but excludes “small” large banks with \$2 billion - \$10 billion in assets. All large banks must have the same requirements.

- Examples of excluded banks active in NYC: Cross River, Habib, Flushing, Woori, Ridgewood, Carver, Amalgamated, Emigrant, Peapack-Gladstone, Metropolitan Commercial
- **No exclusions for “limited purpose banks”:** Evaluate limited purpose banks on the quantity and quality of their products. Under CRA today and as proposed, a limited purpose bank credit card bank has no obligation to offer low-cost, affordable credit cards to build/repair credit, and no penalties for offering products that extract wealth through punitive fees and high interest rates. Small business credit card loans may appear on an exam if included as an affiliate of a retail bank, but that is optional.
- **No loopholes to exclude loans not considered a “Major product Line”:** The proposed definition of a “major product line” could lenders with high volumes of smaller dollar loans. This is especially relevant for small business lenders that focus on credit cards, but also applies to HELOC (open ended) loans. Any line of business with at least 100 loans should be considered a “major product line” for analysis under retail lending test.
- **Don’t allow banks to buy their way to passing their CRA exam (Origination vs purchase):** The proposal continues to evaluate loan purchases the same as loans originated. CRA should evaluate loan originations separate from originations and downgrade if a high percentage of loans are purchased
- **Require analysis of affiliates & partner non-bank lenders:** Affiliates are still optional, and no analysis of non-bank lenders banks refer to. The CRA should require all affiliate lenders to be evaluated on the test and factor in non-bank lenders with which banks have a formal relationship with, especially to offer a product the bank no longer offers
 - (eg: Freedom Mortgage with Sterling & NYCB).
- **Community development:** No community development credit for activities that do not explicitly benefit LMI or BIPOC people and communities.

Strengthen the role of community input ([back to top](#))

Despite regulators stating that “the proposal also clarifies the agencies’ treatment of public comments in connection with CRA examinations”, we see no significant changes from the system today.

How community input works today:

Regulators must accept public comments related to community needs, and how banks are responding to those needs. Typically, regulators publish the CRA exam schedule three to six months ahead of the exam. However, there is little clarity or guidance as to how the comments factor into the component or final ratings. ANHD and our members have submitted detailed comments over the years that appear to have little to no impact on the final ratings.

Proposal:

We appreciate the regulators desire and intent to encourage and disseminate public comments on community needs and bank performance. They propose doing so through advance notice of exams, sharing comments with banks on community needs and their performance, requiring

comments on banks be made public, and establishing new ways for the public to provide input on needs and bank performance.

However, there are few details as to how they will improve these processes, nor how they factor into the exam any more than they do today. In fact, the only section of the exam explicitly referencing public comments is the retail lending test, where benchmarks are the main driving factor and public comments are just one of several additional factors regulators are considering adding.

- What happens in the case of “market failure” in a high-cost market like NYC? Will banks be off the hook in making loans?
- What happens when a bank finances a bad-acting landlord and the bank fails to act, and/or continues to finance that landlord? What happens when the community identifies patterns of financing landlords with public records and tenant stories of harm and displacement?
- What happens when communities comment on the impact of a branch closure in an LMI or BIPOC community, and the bank still closes?
- What happens when a bank rates well on distribution of residential or small business loans, yet makes few or no loans identified as most needed by community members and local studies? For example, communities have long called for fixed-rate home improvement loans, and traditional small business loans and lines of credit at smaller dollars, yet banks are offering HELOCs, small business credit card loans, and larger business loans

Community input must be central to the CRA process, including:

- Comprehensive needs assessment based on data and community feedback
- Proactive process to solicit local input on needs and bank performance from a wide range of stakeholders, with an emphasis on BIPOC-led and serving organizations, and in BIPOC communities, representing the wide range of community development areas. This could include letters, hearings, listening sessions. Regulators should consider community advisory boards within local communities to facilitate this.
- Evaluation of how well banks solicit and incorporate feedback from similar stakeholders.
- Clarity on how comments factor into ratings, based on how banks meet local needs with products and practices, as well as steps banks must take in response to concerns raised with them.
- Certain comments to trigger actions by banks that will be taken into account on following exam (eg: comments related to branch closures or undeserving branches trigger actions to correct/mitigate; comments related to problematic landlords a bank finances triggers actions to intervene)

Lending Test: Mortgages ([more details](#)), Small Business, Auto Loans (no other consumer loans) ([back to top](#))

Affordable, accessible residential mortgages are critical forms of credit BIPOC need to achieve homeownership and stay in their homes. Consumers also rely upon other forms of credit, such as auto loans, credit cards, credit builder loans, and small dollar loans.

Under CRA today, banks are evaluated on their mortgages (originated and purchased) made to borrowers seeking to purchase/refinance/improve their homes. This falls under the “lending test” of the CRA exam (50% of the exam) along with other lending categories. Banks are evaluated on the percentage of loans made to low- and moderate-income borrowers, and percentage of loans in low- and moderate-income tracts. Regulators also assess if they offer loans considered “responsive” or “innovative”. Auto loans and other consumer loans are rarely evaluated.

Under the proposal, regulators separate lending into two tests: (1) lending distribution falls under the retail lending test (45%) and (2) quality of products offered falls under the retail products and services test (15%)

Lending Test: Focus on 1-4 family mortgages: ([back to top](#))

Closed-end (traditional) & open-ended (HELOC) loans to purchase/refinance/improve a 1-4 family home

The proposal offers a more comprehensive, data driven approach to the lending test under CRA that will derive ratings based on how bank mortgage lending compares to a set of market & community benchmarks. The regulators predict more banks will fail this exam if they do not improve their performance.

We appreciate the data-driven approach and rigor this offers, as well as the potential to combat grade inflation with more banks potentially failing (even in NYC with such a low bar), **but we have some questions and concerns** about the benchmarks established for NYC, and the impact of what is / isn't evaluated:

- **“Major Product Line” Threshold test could exclude products:** Few banks make sufficient volume of HELOC loans to reach the “major product line” threshold, meaning they won't be evaluated for distribution or any quality / pricing factors we are advocating to be included. The same could happen for any product not meeting the threshold.
- **Benchmarks: race to top... or bottom?** Benchmarks are based on the **lower** of community (demographics) and market (bank performance) percentages. **In NYC, banks perform FAR below community demographics**

Market: % of loans to low/moderate-income borrowers; in low/moderate-income tract (passing benchmark: 80% - 110% market)

Community: % of low/moderate-income families; families in low/moderate-income tracts. (passing benchmark: 65%-90%)

- o In NYC area, just 1.7% of loans go to low-income borrowers / 6% to moderate-income. Whereas 27% of families are low-income, and 15% moderate income.

Benchmark to pass is lower of two, making it 1.4% - 1.9% to low-income, and 4.8%- 6.6% moderate

We appreciate that regulators suggest possible solutions to this problem of “market failure” and encourage them to raise the bar when the two benchmarks differ like this. However, they offer few details on how it will work, and may then allow examiners to factor in high housing costs like we have in NYC, even as banks benefit from the people who can afford higher and higher costs.

- **Combining loan types: will it dilute needed products?** We greatly appreciate that regulators evaluate low-income separate from moderate-income, and separates closed-ended from open-ended (HELOC) loans. But within each line, they combine many products together. *How will regulators evaluate if banks are meeting stated local needs, especially for loans that are smaller in volume, like home repair loans? How is a bank financing predominantly investor-owned properties helping increase homeownership rates for LMI or BIPOC? What if a bank purchases more than originates? Makes majority of loans in LMI/BIPOC tracts to white and/or upper income people?*
 - o Loans used to purchase, refinance, and improve/repair a home
 - o Owner-occupied and investor-owned properties
 - o Loans originated and purchased by the bank
 - o Any income borrower in LMI tracts
- **No evaluation of pricing or loan quality** on retail lending test; qualitative evaluation of products on separate test, with little to no analysis of their usage.
 - o HMDA now collects and discloses details on loan pricing and terms, including closing costs, points & fees, reverse mortgages, interest-only mortgages, interest rates, and more. But the proposal fails to incorporate any of these factors.
 - o The retail services and products test gives credit for responsive products, such as affordable mortgages, but does not evaluate usage of said products, nor does either test lower a rating for failing to offer such products and/or offering high-cost/extractive products.

Lending Test: Focus on Small Business loans: ([back to top](#))

In the 25+ years since small business loans were added to the CRA, LMI-owned, BIPOC-owned, immigrant-owned, and very small businesses still lack access to the credit they need.

Under the CRA today: The test is similar to mortgages, and part of the same lending test. Under CRA today, small business loans are defined as business loans under \$1 million to businesses of any size. Banks are evaluated on the volume of those loans, and also on the distribution of loans (a) to *small businesses* (defined as having revenue under \$1 million) and (b) in LMI tracts, with some additional analysis at times on the size of the loans. Banks can get additional consideration for responsive products and practices.

Under the proposal:

Small business loans redefined: loans of any size to businesses up to \$5 million in revenue.

Banks will be evaluated against benchmarks using the same methodology as mortgages with ratings set based on the **lower of community and market benchmarks**. Regulators will look at (a) small business loans in low-income and moderate-income tracts, and (b) loans to small businesses: < \$250K revenue; \$250K- \$1 million revenue

We appreciate the data-driven approach and rigor this offers, as well as the potential to combat grade inflation with more banks potentially failing. The **evaluation of loans to very small businesses is a huge step forward!**

However, **we have some questions and concerns** about the change in small business definition and the impact of what is / isn't evaluated:

- **“Major Product Line” Threshold test could exclude products:** Several banks with high volumes of small business loans, many of which are likely credit card loans, won't get evaluated for distribution or any quality / pricing factors we are advocating to be included.
 - Examples include: Wells Fargo, Santander, & Citibank with thousands of loans each.
- **Impact of new small business definition**

The regulators are correct to align with the CFPB's proposed threshold for reporting small business loans under Dodd Frank Section 1071, and correct to include an analysis of loans to businesses under \$250,000 in revenue. They should also consider looking at businesses below \$100,000. However, even with this test, it is unclear if the overall change will lead to more or fewer loans to persistently underserved BIPOC-owned, and immigrant-owned businesses. 90% of businesses in NYC - 93% of businesses in LMI tracts - are under \$1 million in revenue; surveys consistently demonstrate the unmet credit needs of businesses well below that. How will this increase to \$5 million direct capital to those smaller businesses? To BIPOC owned businesses of all sizes?

- **Combining loan types: will it dilute needed products?** We greatly appreciate that regulators evaluate low-income separate from moderate-income, and include a separate analysis of loans to small businesses < \$250K in revenue.

But within each line, they combine many products together. How will regulators evaluate if banks are meeting stated local needs, especially when credit card loans dominate in many banks.

- Credit cards continue to count the same as traditional loans and lines of credit. it's possible the same will happen with merchant cash advances and other higher cost products.
 - Loans originated and purchased by the bank
- **New small business definition (up to \$5M revenue) and no attention to business size in LMI geographies.** The regulators adjusted the small business definition to align with the CFPB's proposed threshold for reporting small business loans under Dodd Frank Section 1071. Without any way to compare with the size of businesses receiving loans under the CRA today, it is unclear how this new system will impact the small business landscape. The new analysis of loans to businesses with less than \$250,000 in revenue is positive, and has the potential to help, but that is just one of many tests, including loans to businesses up to \$1M revenue, and loans to businesses up to \$5M revenue within LMI tracts.

90% of businesses in NYC - 93% of businesses in LMI tracts - are under \$1 million in revenue; surveys consistently demonstrate unmet credit needs of businesses well below that size. Yet, banks can still get credit for loans to businesses well over \$1M revenue in LMI tracts. Black owned businesses of all sizes face barriers to credit, but without any race analysis, these loans could also go to larger white-owned businesses which do not lack access to credit like the local immigrant-owned, BIPOC-owned small businesses in the neighborhood do.

Multifamily mortgage lending to foster responsible lending ([back to top](#))

The CRA has the potential to be a powerful tool to preserve affordable housing and prevent displacement and to hold banks accountable when their multifamily lending finances landlords that harm and displace tenants.

This new proposal does neither, allowing banks to continue harmful lending with impunity, while doing little to encourage best practices.

Under the CRA today, banks are evaluated on the percentage of multifamily loans in LMI census tracts. Multifamily loans may also qualify as *Community Development loans* if they are determined to support affordable housing, typically based on the % of units affordable to LMI

families at the time the loan is made. These may be **subsidized housing** (LIHTC, section 8, or other affordable housing programs) or in some cases, **unsubsidized housing** often referred to as Naturally Occurring Affordable Housing (NOAH), which **includes NYC's rent-stabilized housing**.

NY State's CRA goes further, with policies that *discount* affordable housing loans if the building is in poor condition, or shows signs of speculation or displacement.

However, no regulator can downgrade a bank when such instances are uncovered, nor when tenants and advocates submit detailed comments about lending to landlords with public records of harm and displacement - often supplemented with tenant testimonials.

The proposal fails to address any of these concerns.

Under the proposal, regulators continue to evaluate banks on the percentage of units in LMI tracts. Under the community development finance test, they more explicitly outline conditions under which "NOAH" loans can qualify for community development credit. We appreciate the attempt to discount loans underwritten to be unaffordable post-construction/renovation, but this falls far short of what is needed to create structural changes for tenants.

They can and must do better. Regulators should:

- Conduct a comprehensive evaluation of multifamily mortgage lending: distribution of buildings/units; affordable units - subsidized & unsubsidized (including NYC's rent-stabilized housing); housing conditions and record of landlord's treatment of tenants
 - Give credit for adopting and adhering to anti-displacement best practices;
 - Allow regulators to downgrade for patterns of harm and displacement
- Strengthen community development test to incentivize best practices, and downgrade for harm
 - Limit community development credit to originations for NOAH housing and not loans made in prior periods.
 - Extend place-based anti-displacement criteria to affordable housing: no credit for activities that lead to "displacement or detrimental effect on LMI or underserved populations", which would allow regulators to evaluate for poor conditions, speculation, deferred maintenance, and poor treatment of tenants.
 - Require banks to explicitly demonstrate how loans for unsubsidized affordable housing benefit tenants and deter displacement.
 - Allow regulators to downgrade for financing that leads to displacement/detrimental effect. This includes loans submitted and rejected for credit, and also loans identified through other means, such as community comments, or safety & soundness exams.

Access to bank branches and affordable, accessible bank products are critical to getting undeserved, un(der)banked BIPOC, LMI, and immigrant populations into and staying in the financial system.

9.4% of New York City households - over 17% of households in the Bronx - are completely unbanked, with higher rates in several neighborhoods. Unbanked households are largely concentrated in Black and Latinx communities and poorer communities. These neighborhoods typically have fewer bank branches and less internet access than neighborhoods with fewer unbanked households.

Under the CRA today, access to bank branches and bank accounts falls under the “service test” along with an assessment of bank volunteer hours. The service test is 25% of the rating. Banks are assessed on the percentage of branches in low- and moderate-income tracts, as well as an assessment of their ATMs and other delivery models, including online, phone, and internet banking. In recent years, there is more attention paid to accounts offered and their usage.

However, this has done little to stem the tide of branch closures, which has accelerated rapidly since COVID hit. **NYC lost over 200 branches in 2020 and 2021, including roughly 25% in LMI neighborhoods and 20% in majority Black, and/or Latinx communities that are already unbanked, underbanked, and poorly served by internet access.**

Under the proposal, we fear little will change.

We appreciate several positive aspects of the proposal:

- Benchmarking of branches in low- and moderate-income communities
- Incentives to open branches in unbanked areas
- Much more rigorous analysis of where the largest banks take deposits and the types of accounts they offer.

However, we have **significant concerns** about the impact of this new approach:

- **Smaller percent of exam:** Branches and access to banking now fall under the “retail services and products test” which covers more areas, but counts for less of the final rating (just 15%). Further, the analysis of consumer and deposit bank products appear to only have the potential to raise the score, especially with no analysis of usage of the products.
- **No Race/ethnicity:** No benchmarking or even disclosure of branching in communities by race/ethnicity
- **Few details on how branch openings / closings** factor into rating.
 - Just one closure could have a large impact on a local community, yet it barely makes a dent in the overall % of branches, especially banks with large branch networks.

- The regulators go to great lengths to define an unbanked / underbanked community and then only offer positive credit for opening there, with no consequences for closing or undeserving the same community, nor for opening elsewhere while continuing to ignore these communities
- **Loopholes:** Large banks with \$2B - \$10B in assets are not evaluated on how well they reach consumers based on where they take deposits or the kinds of products they offer. This could result in less analysis than they have today.
- **No online banking assessment areas:** The regulators emphasize how much this proposal takes into account new banking models, and even goes so far to create assessment areas based on where banks lend, outside of where they have branches. Yet does not offer a similar model for online banking. Nor do banks with lending-based assessment areas have any obligation to provide banking in those areas.

Community Development (CD) Finance:

Community development finance encompasses loans and investments that have a “community development” purpose. Many affordable housing developers, nonprofit lenders / CDFIs, and nonprofits large and small benefit from this part of the CRA when they take out a construction loan or utilize an investment (like LIHTC) to build or preserve affordable housing; receive a grant for financial education or homeownership counseling; take out a loan to lend to small businesses or support day-to-day operations, and more.

CD Investments encompass investments, grants, deposits, or membership shares with a community development purpose. Examples include mortgage backed securities, Low Income Housing Tax Credits (LIHTC) or New Markets Tax Credits (NMTC) projects. They also include EQ2s and philanthropy grants.

CD Loans are loans and lines of credit with a community development purpose. With the exception of multifamily loans, community development loans cannot be retail loans already evaluated under the lending test. For many commercial banks, CD loans are part of their normal lines of business (eg: multifamily loans that are determined to be affordable; loans over \$1 million connected to jobs in an LMI tract). But, the CRA allows and encourages banks to finance a wider range of activities, as is most common in banks that have a dedicated community development team

Under the CRA today...

Banks get credit on their CRA exams for loans and investments that are determined to meet at least one of the four “community development” purposes that target LMI people and communities: (1) ***increase their access to affordable housing***, (2) ***provide community services***, (e) ***promote economic development***, (4) ***revitalize or stabilize communities***. These activities can be made with for-profit or non-profit entities that may or may not be mission driven. Banks may receive a lower rating for not making enough loans or investments, and are less likely to receive an outstanding if they fail to engage in at least some considered to be “innovative” or “responsive”.

However, banks will not be downgraded if activities considered - or potentially considered cause harm. Examples include multifamily loans on buildings with affordable rents that finance bad-acting landlords; “affordable housing” that is too expensive for local community or the market-rate units drive displacement; jobs in LMI communities that do not go to local residents.

Community development financing activities are currently evaluated on two distinct sections of the CRA exam: the investment test (25%) and lending test (50%).

CRA-qualified investments are evaluated on the investment test (25% of exam). Banks get credit for ***new investments*** (originated and purchased) during the exam period **and** the portion of ***investments made in prior exam periods*** that are still on a bank’s balance sheet.

Community development loans are evaluated under the lending test (50% of the exam), which also evaluates retail lending: 1-4 family home and multifamily mortgages and small business loans. With the exception of multifamily loans, community development loans cannot be retail loans already evaluated under the lending test. **Banks only get credit for new loans (originated or purchased)**, and not loans made in prior exam periods.

Under the CRA reform proposal:

- **Regulators expanded to 11 categories of community development.** This list expands upon some of today's four categories, and attempts to better clarify others.
 - **Standalone categories:** (1) affordable housing; (2) Economic Development: (9) MDIs, WDIs, low-income credit unions, and Treasury Department-certified CDFIs; (10) Community Supportive Services (11) Financial literacy
 - **Place-based categories:** (3) revitalization; (4) essential community facilities; (5) essential community infrastructure (including broadband); (6) disaster preparedness and climate resiliency activities; and (7) recovery activities in designated disaster areas; (8) qualifying activities in Native Land Areas.
- **Combines loans & investments:** Community development loans and investments are evaluated under one test: Community development finance test (30% of exam). As such, banks can make loans, investments, or both, but have no obligation to make both.
- **New & prior loans:** Banks will get credit for new (originated or purchased) **and** prior-period loans still on balance sheet (to match how investments are calculated today)
- **More metrics-based rating:** Regulators plan to create a more metric-driven system to establish ratings, based on the volume of a banks' activities as a percentage of deposits, and compared to other banks. (benchmarks not yet established)
 - **Financing outside assessment areas:** Final ratings incorporate metrics within branch-based assessment area rating; regional/state ratings; and national rating, to more clearly allow CD finance outside of assessment areas, in an overall attempt to get credit to rural and native communities.
- **Impact review:** In order to incentivize higher-impact activities, regulators plan to evaluate each activity against a list of criteria determined to be of higher impact. Banks can get favorable credit for high-impact activities ([full list here](#))

We appreciate several **positive aspects** of the Community Development Tests

- The proposal creates incentives to make grants, finance and support smaller businesses (< \$250K revenue; maybe < \$100K revenue), and finance deep affordable housing for households making < 30% AMI.
- Increased attention to climate resiliency and disaster preparedness
- Some provisions to deter displacement in "place-based" categories (eg: neighborhood revitalization, community services, infrastructure)
- Potential to direct capital to underbanked and underserved rural and native communities.

However, we have serious concerns that must be addressed

- ***The proposal allows activities that may not benefit LMI/BIPOC people, communities, entrepreneurs.***
 - “Economic development” activities are not required to benefit businesses in LMI or BIPOC communities, nor have any connection to quality jobs. This means banks could get credit for any number of activities that (do no good / harm), such as investing in a venture capital fund or providing direct SBA loans that finance white-owned businesses in wealthy neighborhoods. Likewise, banks could finance entities that support “small businesses” well over \$1 million in revenue in LMI neighborhoods, even when they are not BIPOC-owned, nor provide jobs for marginalized communities.
 - There must be a focus on supporting very small businesses (< \$250K); and BIPOC-owned businesses; and increased scrutiny on individual people impacted for larger businesses (at least > \$1M revenue), with a focus on creating and supporting quality jobs for marginalized populations.
 - Financial education can benefit all incomes, all communities
 - Automatic credit for many activities, which presumes all CDFIs, MDIs, and government plans, programs, initiatives benefit the people the CRA was meant to serve. Community input is critical to understanding the impact of activities, including those put forth by local government
- ***Combines loans & investments, removing the requirement to make investments***
 - Combining loans and investments creates less incentive to make investments, including **grants, Low Income Housing Tax Credits (LIHTC), and EQ2** investments. Offering full credit for any LIHTC development likely won't have much impact, as most LIHTC projects are typically over 50% affordable housing.
 - Communities and community-based organizations already struggle to access grants, EQ2s, and other harder to access investments. This is especially the case when the proposal still allows for investments in SBICs, Mortgage Backed Securities, and possibly other easier to make investments.
- ***Equates new originations to outstanding loans/investments:*** While we appreciate that adding credit for prior/outstanding loans could incentivize much needed long-term, patient capital, it could reduce the incentive to make new loans. Already, banks may not make a new investment if prior investments meet their goals. Regulators can evaluate new originations separate from outstanding loans. They should also consider limiting prior-period credit to mission-driven, nonprofit entities.
- ***Proposal does not do enough to deter displacement and foster deep, permanent affordable housing.***
 - The CRA continues to give credit for any “affordable housing”, even if the housing is not affordable to the local community (eg: 80% AMI in a community where most families earn well below that). In fact, a bank could get impact credit if that same housing is in a persistent poverty area, or an area lacking investment.
 - Impact review does not include “permanent affordable housing”, and housing built with nonprofit, mission-driven developers

- The stronger anti-displacement language only applies to the “place-based categories”, meaning it does not pertain to affordable housing or economic development. Further, the regulators ***once again left out the ability of regulators to downgrade a bank for financing speculative, displacement, or harm.*** This must change.

Impact Review on the Community Development Finance Test -

The regulators propose a new impact review to incentivize factors “including but not limited to” the following.

- Serve **persistent poverty counties**, (counties with poverty rates $\geq 20\%$ for the past 30 years, as measured by the most recent decennial censuses;
 - Regulators considering adding activities in census tracts with a current poverty rate of at least 40%
- Serve geographic areas with low levels of community development financing;
- Support an MDI, WDI, LICU, or Treasury Department-certified CDFI;
- Serve low-income individuals and families ($< 50\%$ AMI);
 - Regulators considering lowering to $< 30\%$ AMI.
- Support small businesses or small farms with gross annual revenues $\leq \$250,000$;
 - Considering larger (\$500,000) or smaller (\$100,000)
- Directly facilitate the acquisition, construction, development, preservation, or improvement of affordable housing in High Opportunity Areas including: (i) areas designated by HUD as a "Difficult Development Area" (DDA); or (ii) areas designated by a state or local Qualified Allocation Plan as a high opportunity area, and where the poverty rate falls below 10% (metropolitan areas) or 15% (for nonmetropolitan areas)
- Benefit Native communities,
- Are a qualifying grant or donation;
- Reflect bank leadership through multi-faceted or instrumental support; or
- Result in a new community development financing product or service that addresses community development needs for low-or moderate-income individuals and families.

We appreciate several factors here, and offer the following suggestions:

- Add activities that close the racial wealth gap
- Add long-term/permanent affordable housing
- Do not provide extra credit if the housing is not affordable to residents in a high-poverty area or area with low levels of investment
- Evaluate for harmful impact that could lead to a downgrade, such as contributing to poor conditions, harassment and displacement.
- Benchmark grants along several criteria: area of community development; grants to neighborhood based organizations; grants to BIPOC-led organizations;