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Modernizing and Strengthening CRA Regulations:
A Conversation with the Housing Community

Remarks by

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at the

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I want to thank David Dworkin for inviting me to participate in this discussion. I am pleased to be with you to talk about Community Reinvestment Act (CRA) modernization and how this process can help address the housing challenges facing minority and low- and moderate-income (LMI) communities around the country.[1] The National Housing Conference (NHC) is an important voice in housing and community development policy, so I look forward to hearing from you.

During the mortgage foreclosure crisis, many families around the country suffered the devastating loss of their home through no fault of their own, and homeownership rates have not recovered to pre-crisis levels for the affected groups. Now, the COVID-19 pandemic is raising a new set of housing challenges for renters and the rental market. The current crisis is hitting LMI households with limited financial resources the hardest, and this is especially true for Black and Latinx households. Data from the Census Household Pulse Survey indicate that 25 percent of Black renters and 22 percent of Hispanic renters were behind on their rent payments as of September, along with 12 percent of White renters.[2] Among homeowners, Black and Hispanic households have been "significantly more likely to miss or defer monthly mortgage payments and experience uncertainty about making next month's payment than white households" during the pandemic.[3]

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[1] I am grateful to Lisa Robinson of the Federal Reserve Board for her assistance in preparing this text. These remarks represent my own views, which do not necessarily represent those of the Federal Reserve Board or the Federal Open Market Committee.

[2] United States Census Bureau, Week 14 Household Pulse Survey: September 2 – September 14, https://www.census.gov/data/tables/2020/demo/hhp/hhp14.html. Data are staff calculations from data in the U.S. Census Household Pulse Survey.

[3] Jung Hyun Choi, "Six Facts You Should Know about Current Mortgage Forbearances," *Urban Wire: Housing and Housing Finance* (blog), Urban Institute, August 18, 2020, https://www.urban.org/urban-wire/six-facts-you-should-know-about-current-mortgage-forbearances.

Coronavirus Aid, Relief, and Economic Security (CARES) Act emergency payments and supplemental unemployment benefits provided vital support to households in the initial stages of the crisis, and the mortgage forbearance period of up to 360 days in the Act and eviction moratoriums at the federal, state, and local level have provided vital stop-gap stability for many families. There is growing concern about what will happen to individuals who may be behind on their rent or mortgage payments as a result of job loss or reduced hours when eviction moratoriums and mortgage forbearance programs come to an end, especially given uncertainty about whether there will be further fiscal support.

The housing challenges resulting from the COVID-19 pandemic are layered on top of existing challenges in both the homeownership and rental markets. Affordable housing is essential to providing low-income households the stability necessary to engage in employment and schooling, provide for essential needs, and accumulate some financial cushion for emergencies. However, the need for affordable housing has grown at a faster pace than the supply.[4] With limited supply of lots and other challenges, new construction in many places has been oriented to higher-end units, leaving more limited supply for households with lower incomes, especially in higher cost cities. Many households have been unable to purchase a home since the last financial crisis due to a confluence of

[4] Joint Center for Housing Studies, *State of the Nation's Housing 2019* (stating "[j]ust as the recent housing downturn was longer and deeper than any other since the Great Depression, the residential construction rebound has been slower. Since reaching bottom in 2011 at just 633,000 new units, additions to the housing stock have grown at an average annual rate of just 10 percent. Despite these steady gains, completions and placements totaled only 1.2 million units last year—the lowest annual production, excluding 2008–2018, going back to 1982… according to Joint Center for Housing Studies estimates, annual construction should now be on the order of 1.5 million units, or about 260,000 higher than in 2018."), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_of_the_Nations_Housing_2019%20%281%29.pdf.

factors, including higher home prices and stricter lending standards.[5] For those who have purchased a home, higher home prices have translated into higher debt levels relative to household income.

For renters, available subsidies or programs for affordable housing have fallen short of the need, particularly in higher cost cities, while new higher-end rental housing has increased significantly since the financial crisis. The high cost of renting leaves many families paying a higher share of their income for housing. American Community Survey data from 2019 show that 45 percent of renter households spend more than 30 percent of their monthly income on rent.[6] While 22 percent of renters pay more than half of their income toward rent, this figure jumps to nearly 38 percent for renters earning below $50,000.[7] This leaves families with little to no room to save for emergencies, such as the COVID-19 pandemic.

This growing shortage underscores the importance of the incentives provided by the CRA for the production and rehabilitation of affordable housing. With the demand for affordable units significantly exceeding supply, it is essential to strengthen the incentives for these loans and investments as part of CRA modernization.

Increasing access to affordable housing is critical to creating opportunities for homeownership for LMI households and with it the chance to build wealth through home

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[5] See Elliot Anenberg, Aurel Hizmo, Edward Kung, and Raven Molloy, "Measuring mortgage credit availability: A frontier estimation approach," *Journal of Applied Economics, 34*(6), 865-882; Laurie Goodman, Jun Zhu, Taz George, "Four million mortgage loans missing from 2009 to 2013 due to tight credit standards," *Urban Wire: Housing and Housing Finance* (blog), Urban Institute, April 2, 2015, https://www.urban.org/urban-wire/four-million-mortgage-loans-missing-2009-2013-due-tight-credit-standards.
[6] United States Census Bureau, American Community Survey (2019 ACS 1-year estimates, Table: B25074), https://data.census.gov/cedsci/all?q=ACS%20Table%20B25074,%201-year%20data%20for%202019.
[7] See United States Census Bureau, American Community Survey in note 6.

equity. Here too, CRA plays a role, not only in providing incentives for the provision of affordable housing, but also in encouraging access to credit for homeownership for LMI households and communities. Indeed, mortgage lending has long been at the center of evaluating CRA performance.

The challenges facing LMI and minority renters and would-be homeowners underscore the importance of getting CRA modernization right. The Federal Reserve Board unanimously voted to approve an Advance Notice of Proposed Rulemaking (ANPR) about CRA modernization on September 21, 2020.[8] The ANPR was published yesterday in the *Federal Register*, and the comment period will end on February 16, 2021.[9] By providing a 120-day comment period, we hope to receive comments from a wide range of stakeholders and build on the already robust feedback that informed the development of the ANPR.

Throughout this process, NHC has provided the Federal Reserve with valuable insights into the unique role and needs of affordable housing providers. Your members support community development projects in communities throughout the country, and we have benefited from the engagement of NHC and its members both in the form of detailed comment letters and through meetings to discuss different aspects of CRA reform.

The CRA is a critical law, enacted along with other complementary federal civil rights laws during the late 1960s and 1970s. The intent of these laws was to address

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[8] Federal Reserve Board issues Advance Notice of Proposed Rulemaking on an approach to modernize regulations that implement the Community Reinvestment Act, September 21, 2020, https://www.federalreserve.gov/newsevents/pressreleases/bcreg20200921a.htm.
[9] 85 Fed. Reg. 66,410, October 19, 2020, https://www.govinfo.gov/content/pkg/FR-2020-10-19/pdf/2020-21227.pdf.

redlining and systemic inequities in access to credit and other financial services for LMI and minority communities. The core purpose of CRA remains as important as ever, especially given the national conversation we are having about racial equity in our society and the disproportionate impact that COVID-19 is having on LMI and minority communities.

Even with these critical laws, the wealth gap remains stubbornly wide.[10] The Survey of Consumer Finances for 2019 found that the typical White family has eight times the wealth of the typical Black family.[11] For many American families, homeownership is the single most important component of their wealth. In 2019, the homeownership rate for Black households was 42.1 percent, as compared to the 73.3 percent for White households.[12] This homeownership gap of 31.2 percent is 3.1 percentage points wider than a decade ago.

The Board's ANPR seeks to advance the law's core purpose of addressing unequal access to credit for LMI and minority communities and disinvestment in underserved communities. A modernized CRA should help move the needle on credit access, wealth building, and the availability of community development financing. This includes strengthening the regulations to ensure that a wide range of low-income and minority banking needs are being met. It also includes promoting financial inclusion by proposing incentives for further bank investments in Minority Depository Institutions,

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[10] Lael Brainard, "Strengthening the CRA to Meet the Challenges of Our Time," (remarks delivered via webcast at the Urban Institute, Washington, D.C., October 1, 2020), https://www.federalreserve.gov/newsevents/speech/brainard20200921a.htm.

[11] Neil Bhutta, Andrew C. Chang, Lisa J. Dettling, and Joanne W. Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances" (Washington: Board of Governors, September 2020), https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm#fig1.

[12] United States Census Bureau, Current Population Survey, Housing Vacancies and Homeownership, March 10, 2020, https://www.census.gov/housing/hvs/data/ann19ind.html.

Community Development Financial Institutions (CDFIs), and community development activity in designated areas of need outside of assessment areas, such as Indian Country.

The ANPR also seeks to provide greater certainty, tailor regulations based on bank size and business model, and minimize burden. For example, the ANPR introduces a metrics-based approach that would separately evaluate retail lending and community development financing activity. The use of standardized metrics would provide greater clarity and transparency on how lending and investment activity is evaluated. These proposed metrics would also use thresholds that are tailored to local market conditions, while also retaining a focus on targeted performance context factors.

Lastly, we hope the ANPR will provide a foundation for the agencies to converge on a consistent approach that has broad support among stakeholders. Stakeholders, including the NHC, have expressed strong support for the agencies to work together to modernize CRA. By reflecting stakeholder views and providing a long public comment period, we believe that the ANPR provides the basis for the agencies to establish a consistent approach that has broad support.

Before concluding, I want to highlight a few proposals in the ANPR that have particular relevance to affordable housing. First, the ANPR proposes two separate tests for evaluating the CRA performance of large retail banks—a Retail Test and a Community Development Test—in response to the overwhelming stakeholder feedback we heard about the vital importance of both retail and community development activities. In the ANPR, each of these tests would have a subtest that focuses on financing and a subtest that focuses on services, resulting in four overall subtests for large retail banks.

Second, the ANPR proposes evaluating a bank's retail lending in its major product lines using metrics that measure the number of loans a bank makes, not the dollar-value of these loans. As a result, a larger mortgage loan would count the same as a smaller-dollar mortgage under the proposed metrics. We think this is important to avoid providing incentives to serve borrowers seeking to finance higher-priced homes at the expense of lower-income borrowers seeking finance for lower-priced homes.

Third, the ANPR proposes combining consideration of community development loans and qualified investments, including originations and purchases, into one metrics-based Community Development Financing Subtest. We believe this could encourage the provision of patient capital because both new originations and those already on the balance sheet would be included in the evaluation metric.

Fourth, stakeholders have emphasized the critical importance of CRA-motivated capital as a source of funding for affordable rental and single-family housing for LMI populations. Given the significant unmet need for affordable housing, the ANPR provides an opportunity to carefully reconsider how we define affordable housing in the CRA regulations and how we can strengthen existing provisions for the creation and preservation of affordable housing, both rental and owner-occupied.

The ANPR proposes 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. This definition is intended to capture a wide variety of subsidies, including tax credit programs (such as the Low-Income Housing Tax Credit), federal government direct subsidies, and state and local government direct subsidies for the production or preservation of affordable housing. These programs could be for rental housing or homeownership. The suggested language is also intended to capture programs that do not provide monetary subsidies, but that have the express intent of producing or preserving affordable housing, such as a loan in support of a land bank program.

In addition, many stakeholders have noted the importance of preserving unsubsidized housing that is affordable to LMI households and ensuring units retain their affordability in gentrifying areas. In response to these concerns, the ANPR seeks to clarify the criteria under which banks can receive CRA consideration for investing in unsubsidized, or naturally-occurring, affordable housing. We are also considering other options to ensure that housing-related community development financing activities maintain long-term affordability, limit displacement, and encourage affordable housing located in all communities. As experts in this field, we look forward to receiving your feedback on what specific data sources and criteria we should consider to promote the preservation of naturally-occurring, affordable housing.

Fifth, the ANPR seeks feedback on the appropriate CRA treatment of mortgage-backed securities (MBS) that are backed by loans that finance subsidized multifamily rental housing, loans for mixed-income housing that includes affordable housing for LMI families, or loans to LMI borrowers. While issuance of qualifying MBS can improve liquidity, and thereby increase capacity for lenders that make home mortgage loans to LMI borrowers, some stakeholders have expressed concern that MBS purchases may be undertaken in lieu of other more impactful community development financing activities that may require greater effort.

Finally, the ANPR seeks feedback on extending to CDFIs the status that is extended to Minority Depository Institutions, women-owned financial institutions, and low-income credit unions. Such an approach would effectively give banks CRA consideration for loans, investments, or services in conjunction with a CDFI anywhere in the country. Additionally, the ANPR discusses granting automatic CRA community development consideration for qualified activities in conjunction with U.S. Department of the Treasury-certified CDFIs for activities in a bank's assessment area(s).

We hope that you will provide us with feedback on how to modernize the CRA in a way that supports affordable housing and promotes housing-related credit and investments to LMI and minority individuals and communities. We thank you for your engagement and look forward to hearing more from you and your members through the rulemaking process.