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Modernizing and Strengthening CRA Regulations: A Conversation with the
Consumer Bankers Association

Remarks by

Lael Brainard

Member

Board of Governors of the Federal Reserve System

at the

Consumer Bankers Association

Community Reinvestment Act Committee Meeting

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Good afternoon and thank you for inviting me to take part in the Consumer Bankers Association's (CBA's) Community Reinvestment Act (CRA) Committee meeting. The CRA officers and teams at your institutions play an important role in identifying community priorities and building partnerships with stakeholders to implement effective CRA programs. We appreciate the opportunity to hear feedback from CBA members and this committee reflecting your extensive experience making loans and investments to support local communities.¹

The Federal Reserve issued an Advance Notice of Proposed Rulemaking (ANPR) on CRA modernization earlier this fall.² The ANPR seeks to strengthen the regulation in alignment with the CRA statute, and the discussion in the ANPR recognizes the historical context of redlining and racial discrimination prior to the CRA's enactment in 1977. We believe that the CRA remains an important tool to promote economic and financial inclusion, and we have specifically asked for feedback about what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities.

We also recognize the need to update the regulation to reflect the changes that have happened in the banking industry over time. In addition, the ANPR reflects other key objectives like providing greater consistency and transparency in CRA examinations, effectively tailoring regulations, and minimizing data burden.

¹ I am grateful to Carrie Johnson and Eric Lum of the Federal Reserve Board and to Jessica Farr of the Federal Reserve Bank of Atlanta for their 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 85 Fed. Reg. 66,410 (October 19, 2020), <https://www.govinfo.gov/content/pkg/FR-2020-10-19/pdf/2020-21227.pdf>.

We're looking forward to feedback on these big-picture questions and objectives in addition to the specific proposals discussed in the ANPR. Many of the ideas in the ANPR reflect interagency discussions, and our hope is that the ANPR provides a foundation for the agencies to converge on a consistent approach to CRA modernization that also has strong stakeholder support.

Let me take a minute to highlight some of the key proposals addressed in the ANPR.

First, we propose a CRA evaluation framework that incorporates the use of metrics and tailored standards that take into account differences across local communities and reflect differences in bank size and business model. We heard feedback about the importance of separately evaluating retail and community development activities in order to capture the distinct importance of each type of activity in meeting community needs. Therefore, the ANPR proposes that large retail banks would be evaluated under two separate tests—a Retail Test and a Community Development Test. Each of these tests is further divided into two subtests, which would result in large banks being evaluated under four subtests in each assessment area. Small retail banks, however, would be able to choose whether to be evaluated under the current framework or under the new framework. Small retail banks that elect the new framework would be assessed solely under a Retail Lending Subtest, unless they elect to have other activities considered.

The Retail Lending Subtest and Community Development Financing Subtest are grounded in a transparent, metrics-based approach to evaluating CRA performance. We propose using metrics that are tailored to local market conditions and that reflect changes across the business cycle. In addition, we have also asked for feedback on ways to pair

the use of metrics with targeted performance context considerations about the impact and responsiveness of retail lending and community development financing activities.

In considering the use of metrics, the ANPR also proposes ways to tailor evaluations to a bank's business model and major product lines. For example, it proposes a major product line threshold of 15 percent of the dollar value of the bank's mortgage, small business, or small farm lending in a specific assessment area. This threshold would be separately applied to each of these product lines and would create more transparency and certainty about which lending products are evaluated in an assessment area. We also recognize that consumer lending is a unique business line, and we ask for feedback on approaches specific to evaluating consumer lending.

In proposing metrics-based approaches, we recognize the tradeoff between providing greater clarity and certainty, as against the potential burden of additional data collection and reporting requirements. The proposed metrics in the ANPR would rely on existing data to the greatest extent possible. Small banks would be exempt from deposit data collection and reporting requirements, and data used for the lending analysis would be the same as is used for current examinations. For large banks, we propose using existing data sources where possible, and we ask for feedback about potential ways to minimize the number of larger banks that would need to collect and report more-granular deposits data for a metrics-based approach.

Second, the ANPR seeks feedback on several options for updating the approach for defining assessment areas where a bank's performance will be evaluated. With the changes in the banking system and the growth of mobile and internet banking, many banks are increasingly doing business beyond the boundaries of their branch-based

assessment areas. However, we have also received feedback and have reviewed data that branches continue to play a critical role in lower-income and rural communities. The ANPR proposes maintaining facility-based assessment areas while also exploring options for defining new assessment areas. Specifically, we ask for feedback on whether new assessment areas should be based on some threshold of deposits or lending in areas where the bank does not have a physical presence, and the ANPR discusses a potential option of allowing internet banks to have a national assessment area.

Finally, with respect to community development, we have heard feedback from stakeholders that it would be helpful to have more upfront clarity on what activities count for the CRA. We proposed providing an illustrative, non-exhaustive list of activities that meet the requirements for CRA consideration and are requesting feedback on how such a list should developed and maintained. And we ask for input on developing a preapproval process for activities and whether the process should focus on specific transactions or on more general categories of eligible activities.

The ANPR also seeks feedback on how to clarify elements of existing community development definitions. For example, within the affordable housing definition, we seek feedback on defining naturally occurring affordable housing, which is not financed by any type of public subsidy and provides an important source of affordable housing in many communities.

In all of these proposals, we aim to modernize the CRA in a way that advances the core purpose of the statute, while also providing greater certainty, tailoring regulations, and minimizing burden. Over the next few months, the Federal Reserve System will host outreach meetings and listening sessions like this one around the

country. We encourage the public to submit written comments by the deadline of February 16, 2021, and I look forward to your feedback.³

³ To submit comments online, go to https://www.federalreserve.gov/secure/forms/ElectronicCommentForm.aspx?doc_id=R-1723&doc_ver=1.