Council for **A**ffordable and **R**ural **H**ousing
Serving the Affordable Housing Needs of Rural America

February 16, 2021

VIA EMAIL: regs.comments@federalreserve.gov

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

Re: Docket No. R-1723, RIN 7100-AF94, Modernizing the Community Reinvestment Act Regulatory and Supervisory Framework

Dear Ms. Misback:

The Council for Affordable and Rural Housing ("CARH") provides its comments to the Board of Governors of the Federal Reserve System's (the "Board") Advance Notice of Proposed Rulemaking ("ANPR") regarding modernizing the Community Reinvestment Act (the "CRA") regulatory and supervisory framework.

CARH represents for-profit and non-profit companies providing affordable rural rental housing throughout America. For over 30 years, CARH has served as the nation's premier association for participants in the affordable rural housing profession, including builders, owners, developers, managers, non-profits, housing authorities, syndicators, accountants, architects, attorneys, bankers, and companies that supply goods and services to the industry. CARH is the only association that solely represents the needs of the entire rural affordable housing industry. CARH members regularly obtain loans or seek equity investments from financial institutions regulated under CRA.

The ANPR asks certain specific questions related to the current regulatory approach and certain potential modification. CARH provides comments to selected and consolidated questions below. Our comments are organized to correspond with the relevant question or questions as they are presented in the ANPR.

Response to Questions 1-2:

The ANPR captures some of the most critical objectives for CRA modernization, particularly in addressing inequities in credit access. Additionally, we support efforts to clarify and increase transparency of CRA regulations and its regulatory framework in general. We support doing so in a way that preserves incentives to invest in affordable housing in rural communities. The Board could expand assessment areas to include activities, such as investment in Low Income Housing Tax Credit ("Housing Credit") properties, within the same state or states as the financial institution's current assessment area or areas. This would provide greater incentives to banks to invest in communities utilizing their services without the presence of a branch while also guaranteeing that investment benefits LMI populations, a primary beneficiary of Housing Credit properties, for example.

Response to Question 3:

Given the CRA's nexus to fair lending laws, it is important that assessment areas do not reflect illegal discrimination and do not arbitrarily exclude low- to moderate- income ("LMI") census tracts. This will likely require prudent data collection from banks as well as opportunities for input from rural and LMI communities. We encourage the Board to continue focusing on increasing opportunities for input from such communities and related stakeholders.

Response to Question 5-7:

We support allowing smaller banks the flexibility to delineate assessment areas more tailored to the communities they serve. However, we encourage the Board to closely monitor that such flexibility does not result in unnecessary gaps in CRA activities in rural communities where smaller banks are more frequent. Additionally, we support requiring large banks to delineate facility-based assessment areas as, at least, one or more contiguous counties because this can lead to coverage of LMI and rural communities in a county that might otherwise lack coverage. Large banks are more likely to have the resources and infrastructure to reach and provide county-wide services, and the requirement proposed in the ANPR would encourage large banks to do so.

Additionally, we support delineating assessment areas around deposit-taking ATMs. Although the increased prevalence of Internet deposit services in some cases decrease the usage of deposit-taking ATMs, deposit-taking ATMs can provide an integral source to remote rural communities whose residents may not have access to Internet deposit services. If banks are not required to delineate assessment areas around deposit-taking ATMs, we would encourage the Board to incentivize doing so where deposit-taking ATMs are important community resources.

Response to Question 8:

We reiterate our support of expanding assessment areas beyond physical branch locations to increase equity in CRA coverage. We are concerned that deposit-based assessment areas would incentivize banks to focus CRA activity in high-deposit areas that may already have more resources than Non-CRA communities or CRA communities with high needs, such as LMI and rural communities. Additionally, a lending-based approach might also incentivize banks to concentrate loan products to existing CRA "hotspots," as described in the ANPR. However, as banks continue to rely more on Internet and other forms of mobile banking, we support the Board's efforts to expand assessment areas to more LMI and rural communities that may not otherwise have access to physical branches.

Response to Questions 9-10:

As stated above, we support expanding assessment areas beyond physical branch locations to increase equity in CRA coverage. Allowing large banks with national reach to delineate national assessment areas could increase certain banks' ability to disburse their loan products to communities across the country that they would not otherwise serve, which could decrease inequity in CRA coverage. However, we would encourage the Board to heavily consider the impact of CRA activity in a national assessment area to avoid exacerbating CRA "hotspots." One potential solution would be to favor investment in LMI and rural communities with lower concentrations of loan products and investment.

Response to Questions 11-13:

We support the use of a variety of evaluation methods to encourage banks to focus on impact rather than ease or volume. We previously provided comments in opposition to a single-metric approach to CRA evaluation because it would allow banks to forego impactful CRA activities as long as a larger volume of easier activities resulted in a positive metric. We support evaluating large banks based on both retail assessment and community development assessment, and all four relevant subtests, so that banks are provided greater incentive to invest in a variety of impactful services and products.

Response to Questions 42-45:

We caution against the combination of community development loans and investments under one subtest because it may reduce the incentive for banks to make Housing Credit investments. This is significant because rural areas, particularly those with high needs, have traditionally struggled to attract private investment.

We support the retention of a distinct investment metric because investments in affordable housing in rural areas have tremendous positive impact within those communities. In particular, Housing Credit investments in rural communities assist developers acquire the much needed equity to preserve and maintain the affordable housing stock when existing rents are not sufficient to service debt. Investments in Housing Credits is crucial when the increases in rents needed to service debt are not feasible for low-income tenants, as is often the case in high-needs rural communities.

Additionally, we are concerned that focusing on the ratio of dollars to deposits of community development financing creates a metric that does not accurately account for the impact of investments and lending to LMI and rural communities. We are encouraged by, and appreciative of, the Board's commitment to undergo qualitative review of impact. We encourage the Board to provide additional resources and information regarding how the qualitative impact would be assessed, and we would also suggest that the Board provide opportunities for community stakeholders to provide input on impact.

Response to Question 47-49:

We support the Board's commitment to qualitative considerations of impact in the Community Development Financing Subtest and Community Development Services Subtest. In order to increase transparency, the Board could release clear instructions on how examiners gauge impact. We also respectfully request more information on why a 1-3 scale was selected rather than a scale that could allow for more variation. Additionally, we encourage the Board to consider allowing for opportunities for community stakeholders to provide input on impact analysis.

Response to Question 50-51:

We support volunteer activities in rural assessment areas and widely available financial literacy and housing counseling activities for all income levels. We do encourage the Board to consider implementing CRA credit for these activities in a way the preserves rather than takes away from the CRA's goals of increasing economic opportunity for LMI communities. Civic engagement of bank employees can be an important resource for communities, but CRA credit should not heavily weigh non-community development activities to a point that incentivizes banks to participate in non-community development activities over community development activities.

Response to Questions 52-55:

We support broadening the definition of "affordable housing" to encourage greater participation in the development and preservation of affordable housing in LMI and rural communities. Providing clear instruction on when a housing unit will be affordable will be helpful for banks to invest and lend in meaningful programs that provide critical resources to LMI and rural communities, such as the Housing Credit and USDA Rural Development rural rental housing loan and subsidy programs.

Additionally, we support the Board specifying certain activities that could be viewed as particularly responsive to affordable housing needs. We offer that the Housing Credit should be one such activity. The Housing Credit has been a powerful tool in the development and preservation of affordable housing across the country. However, many rural communities struggle to attract Housing Credit investment, particularly those communities outside of CRA assessment areas. Expanding assessment areas and providing clear incentives to banks to invest in Housing Credit properties would help to bridge the gap of investment that exists between rural and non-rural communities. Other programs that could be considered are investment and lending in Opportunity Zones, because those are by definition areas of high-poverty, and investment in properties within USDA Rural Development rural rental housing loan and subsidy programs, because those programs are often accessible within communities that struggle to attract outside investment.

Responses to Questions 64-66:

We support expanding CRA eligibility for investment in Minority Depository Institutions, woman-owned financial institutions, and low-income credit units outside of assessment areas, particularly those in rural communities not covered by the CRA. These institutions further the goals of the CRA to increase equity in access to economic resources and opportunity.

Response to Question 67:

We support expanding eligibility for investment in Community Development Financial Institutions ("CDFI"), but we reiterate out comment that the Board should make efforts to ensure that nationwide credit would not result in an exacerbation of CRA "hotspots." One possible solution would be to incentivize investment in CDFIs that primarily service high-needs communities with limited access to investment and banking services or resources, such as high-needs rural communities.

Responses to Questions 68-70:

We appreciate the Board's commitment to expanding CRA credit to activities outside of assessment areas because our members have reported that Housing Credit equity pricing in rural areas not covered by the CRA is presently about 10 cents per credit dollar below non-CRA non-rural areas. This unfortunate reality illustrates the importance and impact of the CRA regulatory framework and the assessment area designation in particular. It also illustrates the important stakes of rural communities that do not receive assessment areas designation. We have previously commented that CRA credit should be granted for Housing Credit investment in properties located within the same state as the relevant assessment area, and we reiterate our support of this approach here. Additionally, we support the expansion of geographic areas for community development activities to include designated areas of need. We respectfully request additional information on how a designate area of need will be defined, and we offer that Opportunity Zones could be such an area.

Responses to Questions 71-72:

We support an illustrative, but non-exhaustive list of CRA eligible activities. Such a list would provide greater clarity for banks and could potentially highlight programs that are relatively unknown but highly impactful for LMI and rural communities. We offer that the Housing Credit and investment in properties in Opportunity Zones and properties participating in USDA Rural Development rural rental housing loan and subsidy programs should be on this list. However, it should be made clear to banks and examiners that the list is non-exhaustive, so that activities not included on the list are not overlooked. We also offer that the Board should create opportunities for community stakeholders to regularly provide input on this list so that the list can accurately reflect impactful activities.

The CRA has created incredible opportunities for growth in rural areas. We support the Board's efforts to modernize and simplify CRA regulations, while expanding CRA in rural areas. Given the importance of affordable housing investment in rural areas, we reiterate our support of expanding assessment areas and providing credit for CRA activities in communities not covered by CRA assessment areas

We appreciate your time and attention to this matter.

Sincerely,

Colleen M. Fisher

Colleen M. Fisher
Executive Director