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February 16, 2021

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

Re: Regulation BB, Community Reinvestment Act; Docket Number R1723 and RIN 7100-AF94

To Whom it May Concern:

Thank you for the opportunity to comment on the Board of Governors of the Federal Reserve System's advance notice of proposed rulemaking (ANPR) regarding the Community Reinvestment Act (CRA). This comment letter will focus specifically on the role that CRA plays in encouraging small mortgages and the need to consider manufactured housing, including incentives and liquidity for banks to originate and purchase affordable personal property (chattel) loans for manufactured housing.

We write on behalf of The Pew Charitable Trusts, a global, non-governmental research and public policy organization dedicated to serving the public. We strive to improve public policy by conducting rigorous analysis, linking diverse interests to pursue common cause, and focusing on tangible results. In July 2020 Pew launched its home financing project, which is focusing on loans for manufactured housing, the relative dearth of small mortgages available in the United States, and the alternative arrangements that are used to purchase homes of all types when more traditional options are not accessible.[1] Additionally, Pew's Philadelphia Research and Policy Initiative has examined the lack of financing options for lower-cost homes in that region, including challenges related to repairing and maintaining affordable housing stock.[2] Though we are limiting our present comments to issues related to small mortgage and manufactured housing, we look forward to engaging the Board, lenders, and other stakeholders on all of these issues as we release research on these markets over the next several years.

CRA can foster a more robust small mortgage market.

The availability of small mortgages—those below $150,000—has been on the decline since the early 2000s. Between 2009 and 2019 alone, the origination of mortgages with balances between $10,000 and $69,999 dropped by 38%, while originations for loans between $70,000 and $150,000 fell by 26%.[3] In stark contrast, mortgage originations above the $150,000 mark rose by 65%.[4] The number of small mortgages being originated is greatly disproportionate to the number of low-cost homes that are

[1] https://www.pewtrusts.org/en/projects/home-financing.
[2] https://www.pewtrusts.org/en/projects/philadelphia-research-and-policy-initiative/housing.
[3] B. Eisen, "Small Mortgages Are Getting Harder to Come By," *The Wall Street Journal*, May 9, 2019, https://www.wsj.com/articles/small-mortgages-are-getting-harder-to-come-by-11557394201.
[4] ibid.

available for purchase across U.S. counties. For instance, in 2015, only 21% of home sales below $70,000 were financed with a mortgage, while 70% of sales between $70,000 and $150,000 were financed with a mortgage in those counties with the highest concentrations of low-cost homes.[5]

An Urban Institute analysis indicates that the rate of denial for small mortgages is higher than that for loans above $150,000 in both the conventional and government channels.[6] In 2017, the real denial rate for loans between $10,000 and $70,000 was 52%, compared to 35% for loans between $70,000 and $150,000 and 29% for loans worth more than $150,000.[7] The differences were not due to the applicants' credit scores. The credit profiles of applicants for small mortgages were comparable to those seeking larger loans, which indicates that the problem is one of a dearth of small mortgages.[8] This presents a challenge to many creditworthy families across the country that rely on this source of funding to purchase both site-built and manufactured low-cost homes and start up the homeownership ladder.[9] Home ownership is an important factor in achieving economic stability and building wealth for families. Data suggest that the dearth of small mortgages is encouraging otherwise creditworthy borrowers to turn towards alternative forms of financing, which are often riskier and have higher costs.[10] Low- and moderate-income (LMI) communities are more likely to live in low-cost homes, therefore they are most likely to be affected by the shortage of small mortgages and have their path to homeownership blocked.[11]

We strongly encourage the Board and other federal regulators to study the dearth of small mortgages and consider how to make them more readily available to creditworthy borrowers who wish to purchase affordable homes. The CRA regulatory and supervisory framework can evolve to foster a more robust small mortgage market indirectly, by encouraging lending in CRA-eligible census tracts where low- cost housing stock is more likely to be located, and directly by providing credit for mortgages on low-cost homes.

Assessment Areas should reflect the expanding service areas in mortgage lending.

The current evaluation system focuses on banks' performance within designated assessment areas, which are defined as those areas where institutions have offices, branches, or ATMs. This system does not encourage banking institutions to expand their CRA efforts beyond their "geographically-bound" assessment areas, which leads to "hotspots" of concentrated CRA activity. While most banks continue to concentrate their deposit-taking and lending activity around branch networks, activity is increasing

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[5] A. McCargo et al., "Small-Dollar Mortgages for Single-Family Residential Properties" (Urban Institute, 2018), 10, https://www.urban.org/research/publication/small-dollar-mortgages-single-family-residential-properties.
[6] L. Goodman, B. Bai, and W. Li, "Real Denial Rates: A Better Way to Look at Who Is Receiving Mortgage Credit" (working paper, Urban Institute, 2018), 19-20, https://www.urban.org/sites/default/files/publication/98823/real_denial_rates_1.pdf.
[7] Ibid., 20.
[8] Ibid., 2-4.
[9] A. Horowitz and T. Roche, "Small Mortgages Are Hard to Get Even Where Home Prices Are Low," The Pew Charitable Trusts, accessed Feb. 2, 2021, Sep. 11, 2020, https://www.pewtrusts.org/en/research-and-analysis/articles/2020/09/11/small-mortgages-are-hard-to-get-even-where-home-prices-are-low.
[10] ibid.
[11] According to an Urban Institute analysis, in counties with the highest concentration of low-cost homes, nearly 34 percent of households are renters, therefore potential homeowners, have the lowest median income ($29,000) and highest minority share (35 percent) compared with other households. McCargo et al., "Small-Dollar Mortgages for Single-Family Residential Properties," 12.

beyond the branch network and over the internet.[12] Therefore, efforts to reevaluate the assessment areas to cover internet banks that do not have physical locations and other large banks with substantial activity beyond their branch-based assessment areas seem well justified.

We cannot at this time offer recommendations on whether delineation of new assessment areas should be either deposit-based, lending-based, or nationwide, and whether these should apply only to internet banks, as proposed under questions 8 and 9.[13] Yet we recognize the importance of expanding assessment areas, as lending to low- and moderate-income (LMI) borrowers and communities is higher in geographical areas designated as assessment areas.[14] It is also important to avoid a method for designating assessment areas which results in problems of credit hotspots and deserts.

Retail lending subtest definitions and qualifying activities should facilitate examination of mortgage lending to LMI communities.

The metrics used to evaluate a lender's performance in its assessment area will also play a big role in encouraging the origination of small mortgages. Performance tests based on the dollar volume of loans produced may tend to motivate lenders to focus on high-value loans in order to achieve the threshold and neglect smaller loans, which could serve a large number of LMI community members. We applaud the Board for suggesting that mortgage lending be counted based on the number of loans rather than the dollar amount, in Section V of the ANPR, as this is likely to give greater incentives for banks to make more small mortgage loans. We encourage the Board to consider other ways to promote small mortgage lending.

We also welcome a major product line standard for deciding which retail product lines will be evaluated using the metrics outlined in Section V. A major product lines approach could streamline evaluations and focus on the retail lending activity that has the biggest impact at each bank. In response to question 33, we do not recommend, however, that major product line designation for home mortgages should be based on a threshold of 15% of the dollar value of a bank's retail lending in individual assessment

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[12] A. Fuster et al., "The Role of Technology in Mortgage Lending" (working paper, Federal Reserve Bank of New York, 2018), 1, https://www.newyorkfed.org/research/staff_reports/sr836.

[13] 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? 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? Community Reinvestment Act; a Proposed Rule by the Federal Reserve System, 85 FR 66410 Fed. Reg. 66410-63 (October 19, 2020), https://www.federalregister.gov/documents/2020/10/19/2020-21227/community-reinvestment-act.

[14] L. Ding and L. Nakamura, "Don't Know What You Got Till It's Gone: The Effects of the Community Reinvestment Act (Cra) on Mortgage Lending in the Philadelphia Market" (working paper, Federal Reserve Bank of Philadelphia, 2020), 4-5, https://www.philadelphiafed.org/-/media/frbp/assets/working-papers/2020/wp20-08.pdf. and L. Ding, H. Lee, and R.W. Bostic, "Effects of the Cra on Small Business Lending" (working paper, Federal Reserve Bank of Philadelphia, 2018), 1-2, https://www.philadelphiafed.org/-/media/frbp/assets/working-papers/2018/wp18-27.pdf?la=en.

areas.[15] It would be more appropriate, and overall more effective in achieving the goals of CRA, for the designation to be based on the number of loans provided under the product line, since this would enable banks to get credit for making mortgage loans on lower-cost homes that tend to be more affordable for LMI households.

The purchase of home mortgage loans should also be considered among the product lines that will be evaluated for CRA credit. Purchasing of mortgages promotes liquidity by freeing up capital so that banks and other lenders can make additional home mortgage loans to LMI individuals. Originators (banks and CDFIs) should be able to sell qualifying CRA mortgages to banks that would like to earn credit; however, it is important that purchased loans should be eligible for CRA credit no more than one time. Allowing repeated CRA credit (churn) for the same loan undermines incentives for new loan origination and reduces the positive impact of CRA for LMI families or underserved communities. Therefore, in response to question 38, it is appropriate for the Board to consider only providing credit for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in order to avoid the problem of churn.[16]

Credit for community development activities in areas with low levels of home mortgages

Allowing banks to receive credit for community development activities that benefit LMI populations in designated areas of need could improve the volume of small-mortgage lending where that would otherwise be neglected. Including places that have low levels of home mortgage activity on the list of designated areas of need is a welcome addition, as it could encourage small mortgage origination and promote home ownership where there is currently a dearth of small mortgages.

The ANPR overlooks the importance of manufactured homes and their financing

Manufactured homes, commonly known as mobile homes, are the largest source of unsubsidized affordable housing in the United States. They are especially important for low-to-moderate income families in suburban and rural regions. This type of housing is distinctive because it can be owned as personal or real property (real estate) and, though it is most often placed on the homeowner's private land, the plot can also be rented.[17] In recent years resident owned communities (ROCs) have increased

[15] Question 33. Should the Board establish a major product line approach with a 15 percent threshold in individual assessment areas for home mortgage, small business, and small farm loans? Community Reinvestment Act; a Proposed Rule by the Federal Reserve System, 85 FR 66410 Fed. Reg. 66410-63 (October 19, 2020), https://www.federalregister.gov/documents/2020/10/19/2020-21227/community-reinvestment-act.

[16] 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 Community Reinvestment Act; a Proposed Rule by the Federal Reserve System, 85 FR 66410 Fed. Reg. 66410-63 (October 19, 2020), https://www.federalregister.gov/documents/2020/10/19/2020-21227/community-reinvestment-act..

[17] Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States" (2014), 4, https://files.consumerfinance.gov/f/201409_cfpb_report_manufactured-housing.pdf.

in popularity allowing members to own and control the land communally.[18] Manufactured homes can be financed with mortgages; however, they are most often purchased using personal property or chattel loans—regardless of whether the land and home are both owned or not. For a more detailed summary of information about manufactured housing, see Pew's analysis of the market.[19]

Unfortunately, neither this important source of affordable homeownership nor options for financing it are mentioned in the Federal Reserve's Advanced Notice of Proposed Rulemaking (ANPR); so, in response to questions 1 and 71 we suggest that lending for the purchase of manufactured homes be considered as a CRA-eligible activity. [20] Revising CRA to include manufactured homes and related lending could increase the availability of safe and affordable financing for this underserved market and provide much needed liquidity to the banks and other financial institutions that originate them.

Manufactured housing in the U.S. represents 10% of new housing starts and according to the U.S. Census, the average cost per square foot of a new manufactured home is less than half that of a site-built home, excluding the cost of land.[21] The quality of manufactured homes has improved greatly over the last 45 years. Since 1976, the Department of Housing and Urban Development (HUD) has required manufactured homes to meet strong building standards.[22] Modern building techniques allow many of these homes to be indistinguishable from neighboring site-built houses, and some have earned the Energy Star certification for their efficiency.[23]

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[18] ROC USA, "History," accessed Feb. 11, 2021, https://rocusa.org/whats-a-roc/history/.

[19] N. Bourke and R. Siegel, "Protections for Owners of Manufactured Homes Are Uncertain, Especially During Pandemic," The Pew Charitable Trusts, Sept. 11, 2020, https://www.pewtrusts.org/en/research-and-analysis/articles/2020/09/11/protections-for-owners-of-manufactured-homes-are-uncertain-especially-during-pandemic; The Pew Charitable Trusts, letter to Federal Housing Finance Agency, "Re: Dts Rfi Input: Proposed 2020 Modifications and 2021 Plan Extensions," Oct. 23, 2020, https://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2020/10/23/pew-encourages-expanded-access-to-mortgages-stronger-consumer-protections-for-low-income-homebuyers.

[20] Question 1. Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered? 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? Community Reinvestment Act; a Proposed Rule by the Federal Reserve System.

[21] U.S. Census Bureau, "Cost & Size Comparisons: New Manufactured Homes and New Single-Family Site-Built Homes (2007-2014)" (2015), https://www2.census.gov/programs-surveys/mhs/tables/time-series/sitebuiltvsmh.pdf; Manufactured Housing Institute, "2020 Manufactured Housing Facts: Industry Overview" (2020), https://www.manufacturedhousing.org/wp-content/uploads/2020/07/2020-MHI-Quick-Facts-updated-05-2020.pdf.

[22] Housing and Urban Development, "About Hud's Construction and Safety Program," accessed Feb. 11, 2021, https://www.hud.gov/program_offices/housing/rmra/mhs/csp/mfsheet.

[23] U.S. Department of Housing and Urban Development, "Frequenly Asked Questions; Faqs for on-Site Completion of Manufactured Homes," accessed Feb. 5, 2021, https://www.hud.gov/program_offices/housing/rmra/mhs/faqs#:~:text=Manufactured%20homes%20are%20constructed%20according,constructed%20on%20a%20permanent%20chassis; Energy Star, "Energy Star Manufactured Homes," accessed Feb. 5, 2021, https://www.energystar.gov/newhomes/energy_star_manufactured_homes.

Nearly twenty-two million people live in manufactured homes, and in some counties—largely in the South and West—manufactured homes make up more than a third of the housing stock.[24] Manufactured homes make up a substantial percentage of housing units among financially vulnerable populations and in many of the same regions that are historically underserved in this country.[25] The Federal Reserve's ANPR rightly noted the need to encourage lending in underserved communities such as those on Native American lands (Indian Country), in rural towns, and in areas where banks are scarce. Further, according to the Consumer Financial Protection Bureau, individuals of Hispanic or Latino ethnicity and Native Americans or Alaskans make up a greater share of manufactured-home residents than site-built home residents.[26] Twelve percent of Native American or Alaskan Native families live in manufactured homes and they are twice as likely to live in these homes compared with non-native populations in the U.S.[27] The Center for Indian Country Development at the Minneapolis Federal Reserve has noted that manufactured housing is leveraged especially on reservations, with 17 percent of reservation households currently living in manufactured housing and around half of reservation residents who borrowed money to buy a home purchasing a manufactured home.[28] In sum, the availability of loans for manufactured housing is especially important for these populations, which the Board discussed in detail in the ANPR as very underserved populations; yet the ANPR is silent about manufactured housing and its financing.

Unique financing challenges of manufactured housing

The majority of buyers finance their purchase using personal property ("chattel") loans.[29] These borrowers include those who own both the land and home (and could finance using a mortgage) and those who rent the land under their home. Most states' laws make it cumbersome or impossible to change the titling of manufactured homes from personal property to real estate, which, in turn, excludes otherwise-eligible buyers from using mortgage financing.[30] According to one analysis, more than half of buyers who owned the land and financed their manufactured home used a personal property loan when they might have been eligible for a mortgage.[31]

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[24] J.J. Choi and L. Goodman, "22 Million Renters and Owners of Manufactured Homes Are Mostly Left out of Pandemic Assistance" (2020), 11, 12, https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance; Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States."

[25] Consumer Financial Protection Bureau, "Manufactured-Housing Consumer Finance in the United States," 4, 12.

[26] Ibid., 19.

[27] Federal Reserve Bank of Minneapolis and Center for Indian Country Development, "Chapter 11: Manufactured Homes: An Affordable Ownership Option," in *Tribal Leaders Handbook on Homeownership*, (2018), https://www.minneapolisfed.org/indiancountry/resources/tribal-leaders-handbook-on-homeownership/manufactured-homes-an-affordable-ownership-option.

[28] Ibid.

[29] L. Goodman and B. Ganesh, "Challenges to Obtaining Manufactured Home Financing" (Urban Institute, 2018), 1-4, https://www.urban.org/sites/default/files/publication/98687/challenges_to_obtaining_manufactured_home_financing_0.pdf.

[30] I'm Home: Innovations in Manufactured Homes and National Consumer Law Center, "Manufactured Housing Resource Guide: Titling Homes as Real Property" (2014), 1, 8, https://www.nclc.org/images/pdf/manufactured_housing/cfed-titling-homes.pdf.

[31] Goodman and Ganesh, "Challenges to Obtaining Manufactured Home Financing," 1-4.

The lack of access to traditional financing for manufactured homes, even among qualified buyers, is exacerbated by the shortage of small mortgages nationally. One way to serve the market is to better incentivize banks to originate small mortgages as we have previously discussed in this letter. However, for many, personal property loans (or other alternatives such as rent-to-own or contract for deed arrangements) will remain the only way to finance the purchase of a manufactured home.[32] This type of personal property lending is very concentrated with just a few, mostly non-bank, lenders originating the bulk of loans. However, some banks do originate a small number of mortgage or personal property loans for manufactured homes and with increased incentives these programs could be expanded.[33]

We encourage the Board to consider:

1. Including safe and affordable manufactured housing personal property (chattel) loans on the list of CRA-eligible activities.[34] Banks currently get downgraded for predatory chattel loans and this should continue, but the Board should consider defining standards for what constitutes a qualified safe and affordable personal property loan for financing the purchase of a manufactured home. Pew is researching this issue, and though we cannot offer specific recommendations at this time we look forward to discussing it with the Board, lenders, and other stakeholders.

2. Allowing the purchase of qualified personal property loans from originators to be eligible for CRA credit, with additional care taken to prevent churn. As with small mortgages, this would provide much needed liquidity to the institutions that originate personal property loans for the purchase of manufactured homes and help them expand their lending programs, if the standards for qualification are not too restrictive.[35]

3. Encouraging qualified personal property loans by giving CRA credit based on the number, rather than dollar amount, of loans in this space. Because manufactured homes tend to be low-cost homes, loans to purchase them are generally small—less than $150,000. Providing credit based on the number of eligible personal property loans would better align to the goal of encouraging lenders to originate or purchase them, compared to assessing credit based on volume of lending.

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[32] N. Bourke, T. Roche, and R. Siegel, "Risky Home Financing Options Leave Millions Vulnerable," The Pew Charitable Trusts, Sept. 11, 2020, https://www.pewtrusts.org/en/research-and-analysis/articles/2020/09/11/risky-home-financing-options-leave-millions-vulnerable.

[33] L. Goodman and B. Ganesh, *Urban Wire: Housing and Housing Finance* (blog), Urban Institute, July 27, 2018, https://www.urban.org/urban-wire/four-ways-financing-differs-manufactured-homes.

[34] 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? Community Reinvestment Act; a Proposed Rule by the Federal Reserve System.

[35] 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? Question 39. Are there other alternatives that would promote liquidity by freeing up capital so that banks and other lenders, such as CDFIs, can make additional home mortgage loans to LMI individuals? Ibid., 66436.

In general, lenders must keep personal property loans on portfolio, and this keeps most lenders from being able to create a scalable product and serve the majority of this market, which relies largely on chattel lending.[36] As the Mortgage Bankers Association noted in a comment regarding the importance of a secondary market for chattel loans, the "lack of competition in the manufactured housing market results in the limited availability of long-term fixed rate loans at the most competitive interest rates and constricted options for the purchase, resale, and refinance of [these] properties."[37] The Federal Housing Finance Agency, Fannie Mae, and Freddie Mac have also noted that providing additional liquidity and competition in the chattel loan market is important.[38] Unfortunately, Fannie Mae and Freddie Mac have not moved forward with previously proposed pilots to purchase chattel loans (though they have increased their purchase of mortgages for manufactured homes and helped improve protections for some living in communities).

Banks currently get downgraded for predatory chattel loans and this should continue. But the Board should consider giving credit for making or purchasing safe and affordable chattel loans used to buy high-quality manufactured homes. Pew is conducting research that may help identify how these loans could be safer and more affordable. This could help incentivize banks to lend to these underserved individuals and also improve access to good quality loans used to purchase affordable housing.

Once again, thank you for the opportunity to comment on this request for input. As we complete more research in this space, we look forward to continuing to work with the Board, other government agencies, and stakeholders from the community and industry.

Sincerely,

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[36] N. Bourke, The Pew Charitable Trusts, letter to Federal Housing Finance Agency, "Re: DTS RFI Input: Proposed 2020 Modifications and 2021 Plan Extensions," Oct 23, 2020, https://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2020/10/23/pew-encourages-expanded-access-to-mortgages-stronger-consumer-protections-for-low-income-homebuyers.

[37] S.A. O'Connor, senior vice president, public policy and industry relations, Mortgage Bankers Association, letter to Federal Housing Finance Authority, "Re: Chattel Financing of Manufactured Homes Request for Input," March 20, 2017, https://www.fhfa.gov/forms/Lists/DTSChattelList/Attachments/26/MBA%20Response%20to%20FHFA%20Chattel%20RFI%20FINAL.pdf.

[38] Federal Housing Finance Agency, "Fannie Mae and Freddie Mac Support for Chattel Financing of Manufactured Homes Request for Input" (2017), 2-3, https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/Chattel-Pilot-RFI.pdf.