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August 5, 2022

Chief Counsel's Office
Attention: Comment Processing, Office
of the Comptroller of the Currency,
400 7th Street SW, Suite 3E–218
Washington, DC 20219

Re: Community Reinvestment Act: Docket ID OCC– 2022–0002

To Whom It May Concern:

Thank you for the opportunity to submit comments to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, Treasury on the joint notice of proposed rulemaking (NPR) regarding the Community Reinvestment Act (CRA).

We write on behalf of The Pew Charitable Trusts, a 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. For a decade, Pew's Consumer Finance project has studied the small-dollar credit market and advanced evidence-based consumer protections that balance the interests of borrowers and lenders. This includes standards that have enabled banks to issue safe, small loans at scale, which cost 10 to 15 times less than payday loans.

In July 2020, The Pew Charitable Trusts launched its Home Financing project to study the dearth of small mortgages relative to the availability of low-cost site-built and manufactured homes, and the alternative arrangements some people use instead to purchase homes when mortgages are not accessible.[1] Updates to CRA present an opportunity to encourage additional bank participation in the small-dollar loan market, benefiting millions of low-and moderate-income families, and improve access to safe, affordable home financing for families that want to purchase low-cost homes.

This comment letter will focus on two areas of consumer lending The Pew Charitable Trusts studies. Specifically, our comments will discuss:

1. The role that CRA might play in encouraging small-dollar consumer loans from banks, bolstering the recent policy and bank product innovations that are already making credit more affordable and have the potential to save Americans billions of dollars.
2. How CRA might better assess demand for and challenges originating small mortgages and other home loans for low-cost housing. In this context, Pew urges the agencies to consider:

i. Including manufactured home financing explicitly, as well as incentives for banks to originate and purchase mortgages and personal property "chattel" loans (which finance the home only and not land) with safe and affordable terms;

ii. Collecting and sharing data on lending practices and outcomes to better track and study racial disparities which could point to biases in the mortgage market; and

iii. Evaluating and monitoring the alternative financing options that families turn to in the absence of mortgages to purchase low-cost homes.

We are limiting our comments to issues related to small-dollar consumer loans, small mortgages, manufactured housing, and data collection. However, we look forward to continuing to engage the three agencies, lenders, and other stakeholders on these issues and others as we release new research.

In general, as the agencies revise CRA, we encourage them to recognize the substantial benefits of small loans and small mortgages in the banking system and also focus on understanding which buyers use alternative financing arrangements, their pathways into those arrangements, and their experiences and outcomes when determining communities' needs.

Pew's responses to several of the questions from the agencies appear in the following pages. Thank you again for the opportunity to comment on this notice of proposed rulemaking and for undertaking this essential work.

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Our comments will broadly focus on the following questions:

Question 10. What changes, if any, should the agencies consider to ensure that the proposed affordable housing definition is clearly and appropriately inclusive of activities that support affordable housing for low- or moderate-income individuals, including activities that involve complex or novel solutions such as community land trusts, shared equity models, and manufactured housing?

Question 29. In addition to the proposed criteria, should the agencies consider additional eligibility requirements for activities in Native Land Areas to ensure a community development activity benefits low- or moderate-income residents who reside in Native Land Areas?

Question 30. Should the agencies also consider activities in Native Land Areas undertaken in conjunction with tribal association or tribal designee plans, programs, or initiatives, in addition to the proposed criteria to consider activities in conjunction with Federal, state, local, or tribal government plans, programs, or initiatives?

Question 82. How should the agencies address the potential concern that the proposed approach may set performance expectations too low in places where all lenders, or a significant share of lenders, are underserving the market and failing to meet community credit needs? Should the agencies consider an alternative approach to setting the performance thresholds that would use a weighted average of the calibrated market benchmark and calibrated community benchmark?

Question 85. Would identifying underperforming markets appropriately counter the possibility that the market benchmarks might be set too low in some assessment areas? If so, what data points should be used to set expectations for the market benchmark? How far below this expectation should an observed market benchmark be allowed to fall before the market is designated as underperforming?

Question 86. Should the agencies consider other factors, such as oral or written comments about a bank's retail lending performance, as well as the bank's responses to those comments, in developing Retail Lending Test conclusions?

Question 104. Are there additional categories of responsive credit products and programs that should be included in the regulation for qualitative consideration?

Question 105. Should the agencies provide more specific guidance regarding what credit products and programs may be considered especially responsive, or is it preferable to provide general criteria so as not to discourage a bank from pursuing impactful and responsive activities that may deviate from the specific examples?

Question 106. Should special purpose credit programs meeting the credit needs of a bank's assessment areas be included in the regulation as an example of loan product or program that facilitates home mortgage and consumer lending for low- and moderate-income individuals?

Question 107. Are the features of cost, functionality, and inclusion of access appropriate for establishing whether a deposit product is responsive to the needs of low- and moderate-income individuals? What other features or characteristics should be considered? Should a minimum number of features be met in order to be considered 'responsive'?

Question 108. The agencies wish to encourage retail banking activities that may increase access to credit. Aside from deposit accounts, are there other products or services that may increase credit access?

Question 173. Should the agencies disclose HMDA data by race and ethnicity in large bank CRA performance evaluations?

Our emphasis is on ensuring safe small installment loans, identifying challenges and opportunities in the small mortgage market, examining loan programs for manufactured homes, and highlighting the prevalence of and challenges related to alternative financing.

Affordable small loans from banks can save millions of consumers billions of dollars

In response to **Question 108**, Pew commends the agencies for encouraging low-cost, responsive retail bank products and we strongly recommend that the agencies recognize affordable small installment loan programs at banks that are expanding access to credit. As of 2022, 7 of the top 12 banks in the US have launched or announced small loan products that stand to save consumers who otherwise use payday or similar loans billions of dollars annually.[1] These beneficial bank loans, which cost 10 to 15 times less than payday loans, should be treated positively in the context of CRA examination in both the quantitative retail lending test and the qualitative retail products and services test.

Pew has researched the small-dollar loan market for a decade and issued evidence-based policy recommendations, including standards for bank-issued small installment loans and lines of credit.[2] While all payday loan borrowers have a banking relationship, until recently, well-designed small credit options have not been widely available in the banking system. Instead, each year 12 million Americans turn to high-cost payday loans, as well as auto title and installment loans, and other alternative financial services, spending billions of dollars in fees.[3]

To encourage banks and regulators to expand access to safe small installment loans and lines of credit, in 2018, Pew published product standards based on discussions with banks of all sizes, borrowers, regulators, consumer advocates, and community organizations across the country.[4] Our research has demonstrated–and positive market developments in recent years show–that banks can issue small loans

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[1] The Pew Charitable Trusts, "Large Banks Improve Overdraft Policies and Cut Fees," (2022), https://www.pewtrusts.org/en/research-and-analysis/articles/2022/06/21/large-banks-improve-overdraft-policies-and-cut-fees.

[2] The Pew Charitable Trusts, "Payday Lending in America: Policy Solutions" (2013), https://www.pewtrusts.org/en/research-and-analysis/reports/2013/10/29/payday-lending-in-america-policy-solutions.

[3] The Pew Charitable Trusts, "Payday Lending in America: Who Borrows, Where They Borrow, and Why" (2012), https://www.pewtrusts.org/en/research-and-analysis/reports/2012/07/19/who-borrows-where-they-borrow-and-why.

[4] The Pew Charitable Trusts, "Standards Needed for Safe Small Installment Loans from Banks, Credit Unions" (2018), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2018/02/standards-needed-for-safe-small-installment-loans-from-banks-credit-unions.

sustainably with affordable payments and fair prices. For these loans to be simple for lenders to originate and borrowers to repay, it's important to minimize underwriting costs, regulatory uncertainty, and approval barriers. Designed properly, these loans can reach borrowers with damaged credit who otherwise turn to high-cost nonbank alternatives. [5] For example, by primarily using "on-us" data in underwriting decisions, rather than relying on a credit report, banks can underwrite based on account history and cash flow, maximizing loan approvals for borrowers with damaged credit while keeping operating costs and defaults very low.

The agencies have already taken important steps to clarify that responsible small loans from banks are welcome and encouraged. Joint guidance in May 2020 has signaled stability and clarity for lenders who, in turn, have announced or launched mass market products.[6] As a result of these inclusive changes to the banking system, a growing number of borrowers across the country are able to access credit directly from their bank instead of turning to expensive nonbank alternatives, with the potential to save billions of dollars annually. This positive outcome disproportionately benefits low-and moderate-income households as well as Black households who are more likely to have used a payday loan.[7]

Pew's national polling of both payday loan borrowers and the public demonstrate that lower-cost small installment loans from banks are a welcome development. By a margin of almost 5 to 1, Americans believe that it is good for banks to offer small loans even if the rates are higher than those for credit cards.[8] Seventy percent of Americans reported that they would view a bank more favorably if it offered a $400, three-month loan for a $60 fee. Support for bank small loans is even higher among payday loan borrowers themselves– 8 in 10 would prefer to borrow from a bank or credit union if they were equally likely to be approved, and 90% would do so if the loans cost six times less than those of payday lenders.[9]

As regulators consider a qualitative approach to evaluating consumer loans, as proposed in **Question 69**, Pew strongly encourages the agencies to maintain, incorporate and promote their well-designed Interagency Lending Principles for Offering Responsible Small-Dollar Loans issued in 2020. This guidance is enabling a growing number of banks to offer safe, small installment loans and lines of credit to their own customers. Harmonizing examinations and expectations around these products using this well-designed, existing guidance would signal further stability to market participants, help keep regulatory costs low, encourage additional uptake of small loan products throughout the banking sector, and ultimately enable banks to reach consumers who would benefit the most. At the same time, it is important to note that all available evidence shows that such loans are only a net benefit to consumers if they are structured to be repaid in multiple, affordable installments and not in a single lump-sum or balloon payment.

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[5] Comment Letter Regarding FDIC Request for Information on Small-Dollar Lending, Rin 3064-Za04, https://www.fdic.gov/regulations/laws/federal/2018/2018-small-dollar-lending-3064-za04-c-015.pdf.

[6] The Office of the Comptroller of the Currency, Small-Dollar Lending: Interagency Lending Principles for Offering Responsible Small-Dollar Loans, OCC Bulletin 2020-54 (2020), https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-54.html. For Pew's analysis of the interagency guidance see: https://www.pewtrusts.org/en/research-and-analysis/articles/2020/08/12/federal-regulators-greenlight-small-installment-loans-from-banks

[7] Applied Research Services, "Summary Roll-Up: Hb-117" (Prepared for The Pew Charitable Trusts, 2012).

[8] The Pew Charitable Trusts, "CFPB Proposal for Payday and Other Small Loans: A Survey of Americans" (2015), https://www.pewtrusts.org/~/media/assets/2015/07/cfpb_chartbook.pdf.

[9] The Pew Charitable Trusts, "Payday Loan Customers Want More Protections, Access to Lower-Cost Credit from Banks," (2017), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/04/payday-loan-customers-want-more-protections-access-to-lower-cost-credit-from-banks.

Further, bank examiners should forcefully differentiate high-quality loans made directly to a bank's own customers from the harmful loans that result from risky third-party partnerships with payday lenders known as "rent-a-bank."[10] A handful of banks are charging more than payday lenders for loans that do not meaningfully expand access to credit.[11] These loans have the highest loss rates in the banking system, indicating that they are not being made in accordance with existing regulatory principles for safe and sound lending.[12] In both CRA and routine examination, regulators should use existing authority to scrutinize rent-a-bank schemes, discourage loans with excessive loss rates, and put a stop to these high-risk arrangements that harm consumers and the banking system.

In the years ahead, the agencies can continue to ensure that safe small installment loans are widely adopted throughout the banking system. As this positive trend continues, Pew will also be exploring how lessons from the expansion of small-dollar consumer loans can inform common challenges in the small mortgage space.

The role of CRA in safe, affordable small home loans

In response to **Questions 104 and 105** regarding responsive credit products and programs that should be included in the regulation for qualitative consideration, Pew commends the agencies for including home mortgages targeted to low- or moderate-income borrowers as a category of responsive products, and for considering small mortgages under this category. To improve access to small mortgages, Pew encourages the agencies to:

1. Examine risks and opportunities to reduce barriers for lenders and make it easier for homebuyers to connect with lenders who can serve their needs.
2. Consider including Special Purpose Credit Programs (SPCPs) that support small mortgages to communities that have been underserved.
3. Encourage lending programs that are targeted to meet the needs of communities of color, manufactured home buyers, and areas where alternative financing is prevalent.

Access to affordable financing is a key step to achieving individual homeownership goals. Although homebuyers pay for their homes in many ways, mortgages remain the primary pathway and the gold standard for purchasing a home. However, for those seeking low-cost homes, securing small mortgages–those for $150,000 and below–can be difficult.

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[10] The Pew Charitable Trusts, "Proposed Interagency Guidance on Third-Party Relationships: Risk Management Federal Reserve Board Docket No. Op-1752," (2021), https://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2021/10/18/stop-harmful-rent-a-bank-partnerships-pew-experts-advise. Pew has previously commented on the potential dangers of third-party relationships in the small-dollar credit market and how to establish clear guidelines that minimize those risks.
[11] The Pew Charitable Trusts, "Several Banks Are Charging More Than Payday Lenders for Small Loans," (2022), https://www.pewtrusts.org/en/research-and-analysis/articles/2022/04/19/several-banks-are-charging-more-than-payday-lenders-for-small-loans.
[12] The Pew Charitable Trusts, "Rent-a-Bank Payday Loans Have Highest Loss Rates in Banking System," (2022), https://www.pewtrusts.org/en/research-and-analysis/articles/2022/06/23/rent-a-bank-payday-loans-have-highest-loss-rates-in-banking-system.

Sales in most communities include a significant share of low-cost homes; however, data from Urban Institute show that the share of mortgages originated to purchase low-cost homes is significantly lower than the share of mortgages on higher priced homes.[13] That analysis found that in 2015 only 27.5% of homes sold for $70,000 or less, were financed with a mortgage. In contrast, 79.3% of homes sold for more than $70,000, were bought with a mortgage in the same year. As the agencies note, the lack of small mortgages affects low- and moderate-income first-time homebuyers and those in areas where housing prices are generally lower, such as rural areas. But the problem is not limited to these communities. The lack of small mortgages also disadvantages Black and Hispanic families and manufactured home buyers, looking for low-cost housing–regardless of where they reside.

Many homebuyers who cannot access mortgages end up turning to alternative forms of finance to purchase their low-cost homes, such as personal property loans for manufactured homes, lease purchase agreements, and land contracts.[14] Pew's recent national survey on alternative financing found that 36 million Americans have used these arrangements, which can be riskier and costlier for borrowers, at some point to attempt to purchase a home.[15] The survey found disparities in reliance on alternative financing by race, ethnicity, and income, reflecting inequities found in the mortgage market more broadly. For instance, low-income borrowers and Hispanic home borrowers, in particular, are more likely to have used these arrangements than any other race or ethnicity.[16]

There are several reasons for the relatively lower levels of small versus large mortgages. For example, some lenders have pointed to high fixed origination costs, limits to loan officer compensation, and poor habitability of low-priced properties which make it difficult to finance their purchase.[17] When these structural factors are combined with regulatory and compliance risks, they reduce incentives to originate more small mortgages.

The disproportionate lack of access to mortgages and reliance on alternative finance warrants policy approaches that emphasize increasing the availability of small mortgages. Although more research is needed to understand the distributional impacts of the shortage of small mortgages, it is likely that an affirmative expansion of small mortgage access will broadly benefit historically underserved and disinvested communities. Given the disparities in access to small mortgages and alternative financing and the demand for safe, affordable financing for low-cost homes, it will be important to consider pilots and other programs that center disinvested and underserved populations, potentially such as SPCPs.

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[13] A. McCargo et al., "Small-Dollar Mortgages for Single-Family Residential Properties" (Urban Institute, 2018), 4, https://www.urban.org/research/publication/small-dollar-mortgages-single-family-residential-properties.

[14] The Pew Charitable Trusts, "What Has Research Shown About Alternative Home Financing in the U.S.?" (2022), 1-3, https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/04/what-has-research-shown-about-alternative-home-financing-in-the-us. Personal property loans are used to finance just the manufactured home and not the land beneath it. They are often one of the only financing options for manufactured housing buyers whose homes are on family, rented land, or tribal lands but even some who own their land use this financing type.

[15] The Pew Charitable Trusts, "Millions of Americans Have Used Risky Financing Arrangements to Buy Homes" (2022), https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2022/04/millions-of-americans-have-used-risky-financing-arrangements-to-buy-homes.

[16] The Pew Charitable Trusts, "Hispanic Homebuyers Most Likely to Use Risky Financing; New Survey Sheds Light on Use of Alternative Financing among Latino Households," April 27, 2022, https://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2022/04/hispanic-homebuyers-most-likely-to-use-risky-financing.

[17] M. Volkova, "Hud's Small-Dollar Mortgage Plan Still Hazy," *HousingWire*, July 19, 2022, https://www.housingwire.com/articles/huds-small-dollar-mortgage-plan-still-hazy/.

Multiple approaches will be needed to increase access to small mortgages and help solve the serious homeownership and financing inequities.

We welcome the inclusion of small mortgages in CRA as one example of responsive credit products or programs lenders can offer and encourage the agencies to consider adding SPCPs meeting the communities' small mortgage needs, especially, as another example of loan products or programs that facilitate home mortgages. CRA can further encourage lenders to consider the unique needs of borrowers who rely on small mortgages but have typically been underserved when designing these products, in particular the needs of communities of color, manufactured home buyers, and areas where alternative financing is prevalent. Below we highlight some of the ways CRA could take these into account.

Manufactured housing is an important source of homeownership for key CRA populations but financing challenges reduce access

About 18 million Americans live in mobile or manufactured homes. Today, manufactured housing construction is guided by the federal building code set by the Department of Housing and Urban Development (often referred to as "HUD code") and are the modern version of the pre-1976 "mobile home."[18] These homes are more likely to be a source of housing for low- to moderate-income families, those living in rural counties, and residents of tribal communities. For example, mobile and manufactured homes represent 13% of occupied housing in rural areas.[19] They also account for about 17% of homes on tribal reservation land tracts.[20] All of these communities are key populations that have been highlighted by this NPR as needing improved access to financing.[21]

Manufactured home buyers face unique obstacles to obtaining safe, affordable financing, which can undermine the potential of this low-cost housing stock. Specifically, denial rates are extremely high, there is a lack of loan supply, and personal property loans (which finance just the home) have higher interest rates and carry fewer consumer protections than mortgages.[22] This NPR presents an important

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[18] U.S. Department of Housing and Urban Development, "Frequently Asked Questions (General)," accessed Sept. 23, 2021, https://www.hud.gov/program_offices/housing/rmra/mhs/faqs.

[19] Housing Assistance Council, "Rural Research Brief: The Latest Research from the Housing Assistance Council" (2020), 2, https://ruralhome.org/wp-content/uploads/2021/05/Manufactured_Housing_RRB.pdf.

[20] D. Ryan, "The Opportunity and Challenge of Manufactured Housing in Indian Country," Prosperity Now, August 8, 2019, https://prosperitynow.org/blog/opportunity-and-challenge-manufactured-housing-indian-country#:~:text=So%20it's%20not%20surprising%20that,lands%20live%20in%20manufactured%20housing.

[21] Fannie Mae, "Manufactured Housing Landscape" (2020), https://multifamily.fanniemae.com/news-insights/multifamily-market-commentary/manufactured-housing-landscape-2020#:~:text=This%20translates%20to%20%2455%20per,similarly%20sized%20site%2Dbuilt%20home; R.M. Todd, "Race, Location, and Manufactured-Home Loans on American Indian Reservations" (Federal Reserve Bank of Minneapolis, 2018), https://www.minneapolisfed.org/article/2018/race-location-and-manufactured-home-loans-on-american-indian-reservations.

[22] S. Riley, A. Freeman, and J. Dorrance, "Is Manufactured Home Financing Hard to Get? An Exploratory Analysis of Home Purchase Loan Applications" (The University of North Carolina at Chapel Hill, 2021), https://www.pewtrusts.org/-/media/assets/2022/02/is-manufactured-home-financing-hard-to-get-unc-center-for-community-capital.pdf; The Pew Charitable Trusts, letter to Federal Housing Finance Agency, "Pew Suggests Ways to Improve the Manufactured Housing Market," July 16, 2021, https://www.pewtrusts.org/en/research-and-analysis/speeches-and-testimony/2021/07/16/pew-suggests-ways-to-improve-the-manufactured-housing-market.

opportunity to explicitly address the challenges that impede access to manufactured home loans for these borrowers. In the absence of manufactured home financing details, it is not clear that CRA will incentivize banks to adequately serve the needs of these underserved populations.

Most manufactured home loans are denied

Research indicates that demand for manufactured home financing outstrips supply, at least in part, due to the underserved populations who tend to purchase them, housing type, and the financing needed. Research from the University of North Carolina's Center for Community Capital and Pew shows that it can be quite difficult to obtain a loan to purchase a manufactured home. Completed loan applications (including all information necessary to underwrite and make a loan decision) are denied nearly 8 times more often for manufactured home buyers (54%) than for those purchasing site-built homes (7%).[23] This is driven by especially high denial rates for conventional mortgage and personal property loans (those without government insurance, such as Federal Housing Administration or Veterans Affairs loans).[24]

This research also revealed that Black, Hispanic, and Indigenous applicants were more likely to be denied–a difference that persisted even after controlling for factors such as borrower characteristics, state, and year of application.[25] Furthermore, the Consumer Financial Protection Bureau (CFPB) found that manufactured home buyers are held to a higher credit standard: "Sub-prime consumers who applied for financing on a site-built home were more likely to be approved for a loan than super-prime consumers with [personal property loan] applications or prime consumers with MH mortgage applications."[26] As a result, there are likely many credit-ready individuals unable to purchase a manufactured home due to higher credit requirements and denial rates, likely impacting Black, Hispanic, and Indigenous more than White applicants.

Many CRA lenders currently make some manufactured home loans

Lending for these homes is currently very concentrated with the top five lenders making over 40% of purchase loans (75% of personal property and 18% of mortgages).[27] As noted above, because denial rates and credit standards are higher for manufactured home buyers than site-built home buyers, it is reasonable to consider that additional lenders and more loans could improve access to credit for low- to moderate-income families and those living on rural or tribal lands. Many depositories overseen by the

[23] S. Riley, A. Freeman, and J. Dorrance, "Is Manufactured Home Financing Hard to Get?; an Exploratory Analysis of Home Purchase Loan Applications" (The University of North Carolina at Chapel Hill; Center for Community Capital, 2021), 44, https://www.pewtrusts.org/en/research-and-analysis/white-papers/2022/02/lenders-deny-more-than-half-of-loan-applications-for-the-purchase-of-manufactured-homes.
[24] Riley, Freeman, and Dorrance, "Is Manufactured Home Financing Hard to Get? An Exploratory Analysis of Home Purchase Loan Applications," 46, 59. Ninety-nine percent of originated personal property loans are conventional.
[25] Ibid.
[26] Consumer Financial Protection Bureau, "Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data" (2021), 16, https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf.
[27] Ibid., 44.

agencies already make manufactured home loans; thus, CRA could create better incentives for these companies to expand their lending in this area.

Looking at home purchase loans for primary residence manufactured homes, Home Mortgage Disclosure Act (HMDA) data show that between 2018-2020, 1,751 depositories and subsidiaries overseen by the FDIC, Federal Reserve Board, or OCC, originated at least one first-lien manufactured primary home purchase loan. However, just 2% (41) of these companies made 100 or more of these loans over this same time period. In total, these companies originated over 52,000 loans (15% of overall manufactured home lending).

Including manufactured housing under single-family and affordable housing definitions

Single-family housing is not defined in the proposal but is generally considered as residences with one to four units. The lack of definition creates uncertainty about which financing products are eligible for credit for varying home types. As the U.S. continues to grapple with a serious housing shortage, manufactured housing and other lower-cost homes can be part of the solution. However, safe, affordable financing has not kept pace with these types of homes. Without more specificity regarding the definition of single-family housing and the inclusion or exclusion of manufactured and other low-cost homes, it will be difficult for lenders to develop safe, affordable financing options. And these financing challenges can undermine the potential for these homes to tackle the housing supply challenges in the U.S. market. This is not to say that these new home types need to be included but rather there should be some definition to make their inclusion or exclusion clearer to lenders.

In addition, as the agencies consider the definition of affordable housing with respect to manufactured housing, as proposed in **Question 10**, Pew encourages them to include activities supporting resident-owned Communities (MHROCs) and manufactured housing loans on tribal lands, including those made in conjunction with plans, programs, or initiatives through designees of tribal government to promote community development activity in Native Land Areas.

The agencies have acknowledged, in the NPR, challenges with housing and infrastructure on tribally owned land and the need to increase community development lending in these areas. However, there is no mention of the prevalence of manufactured housing in these areas, the significant hurdles that individual homebuyers face in securing financing to purchase a home or how lack of lending may be contributing to challenges with the aging housing stock. As noted earlier, 17% of households on tribal lands live in manufactured homes.[28] However, in 2016 around 75% of American Indian and Alaska Native (AIAN) home purchase loan applications were for financing manufactured housing but the majority were denied.[29] Mortgage lenders struggle originating loans to purchase these properties because of land

[28] Ryan, "The Opportunity and Challenge of Manufactured Housing in Indian Country."

[29] K. Johnson and R.M. Todd, "Manufactured-Home Lending to American Indians in Indian Country Remains Highly Concentrated; Two Lenders Owned by Clayton Homes Finance a High Share of Manufactured Homes Bought by American Indians and Alaska Native on or near American Indian Reservations" (Federal Reserve Bank of Minneapolis, 2017), https://www.minneapolisfed.org/article/2017/the-market-for-manufactured-home-loans-to-american-indian-and-alaska-native-borrowers-in-indian-country-remains-highly-concentrated.

ownership and market dynamics. As a result, nearly all these home purchases use a personal property loan from just a handful of lenders.[30]

Our preliminary research in this field also suggests that more could be done to improve the market for both mortgages and personal property loans. Freddie Mac has noted an interest in developing mortgage lending for homes on tribal land. As there is alignment in goals between CRA and Duty to Serve, this could be an important area of collaboration to create loan programs that would qualify not only for purchase from Freddie Mac but also receive additional CRA credit.[31] In addition, well-designed loan products for safe and affordable personal property loans could stimulate increased lender competition to provide personal property loans that are systemically sound and beneficial to consumers in terms of lower costs and improved outcomes. Development of CRA credit for mortgages or personal property loans for homes on tribal lands could be undertaken in conjunction with plans, programs, or initiatives through designees of tribal government to ensure that the lending needs of their communities are adequately addressed.

Defining safe and affordable lending products

We encourage the agencies to consider guidance on mortgage and personal property loans for single-family manufactured housing as responsive products under the category of home mortgages targeted to low- or moderate-income borrowers, as proposed in **Questions 104 and 105**. Pew further encourages the agencies to consider an appropriate standard of cost, functionality, and inclusion of access, as proposed in **Question 107**, if personal property loans for manufactured housing are specified as a responsive product.

Land ownership arrangements can make obtaining a loan to purchase a manufactured home more difficult. About half of manufactured home residents own both their home and land, about one-quarter own the home but not the land, and the rest rent both the home and the land.[32] Between 2014-2018, about two-thirds of residential manufactured homes were placed on private land and the others were sited in parks or communities.[33]

Mortgage financing for manufactured homes is possible when the home and land are owned together as real estate. These should be included in CRA with the same guidelines as mortgages for site-built homes. Personal property loans are used to finance just the homes themselves, mostly by those who do not

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[30] R.M. Todd and Kevin Johnson, "Race, Location, and Manufactured-Home Loans on American Indian Reservations" (Federal Reserve Bank of Minneapolis, 2018), https://www.minneapolisfed.org/article/2018/race-location-and-manufactured-home-loans-on-american-indian-reservations.
[31] Freddie Mac, "Duty to Serve Underserved Markets Plan, 2022-2024" (2022), MH1, MH12, MH13, https://www.fhfa.gov/PolicyProgramsResearch/Programs/Documents/FreddieMac2022-24DTSPlan-April2022.pdf.
[32] K.A. Park, "Real and Personal: The Effect of Land in Manufactured Housing Loan Default Risk" (U.S. Department of Housing and Urban Development, 2021), 19, https://deliverypdf.ssrn.com/delivery.php?ID=740102120112122024008094000084084098016073055036039026094122100075069093031125026111057021116004010037021071031026011083102024041086005060042088098116003004122077089062011064009092031107068010126124101094086087113122095001027006092030065028086067069009&EXT=pdf&INDEX=TRUE.
[33] Fannie Mae, "Manufactured Housing Landscape."

own their land (meaning they likely live on rented, family-owned, or tribal lands), although 17% of landowners have these loans on their homes even though they could in theory qualify for a mortgage.

Personal property loans represent an important source of financing for many manufactured home buyers; however, they also often have higher interest rates and fewer consumer protections, especially in default. Research by the CFPB finds that personal property loan and manufactured home mortgage borrowers have similar credit scores, incomes, and debt-to-income ratios. Yet, in 2019, the median interest rate on personal property loans was 8.6% compared with 4.9% for manufactured home mortgages.[34] And in 2018, 90% of personal property loans were considered "high priced mortgage loans."[35]

Given some of the risks with personal property loans, the agencies should consider instituting specific guidelines for these loans to ensure they are safe and affordable if they are to count toward CRA credit. At a minimum, the agencies should consider the same CRA credit eligibility guidelines for personal property loans as they do for mortgage financing.

Loans for manufactured housing communities with minimum resident consumer protections

In addition to lending to individual homeowners, lenders often provide financing for manufactured housing communities (MHCs) and resident-owned communities (MHROCs). The agencies should be clear whether CRA credit will be given for such financing and any specific parameters that should apply. For MHCs owned or purchased by corporations, it is important that land renter protections are considered for a loan to be eligible for CRA credit. This is especially true because the majority of land renters own their homes outright yet there are often few restrictions on land rent increases or eviction.[36] Though these homes are thought of as "mobile," they cost thousands to move and the process can be difficult or impossible depending on the structure.[37] However, in the case when a for profit corporation is purchasing an MHC, it is the residents themselves, and generally not the land buyer, who are underserved by financial institutions. In the absence of additional lot protections, these residents can be evicted from their (often fully) owned homes due to redevelopment or increases in lot rents. Fannie Mae and Freddie Mac have dealt with this challenge by implementing Tenant Site Lease Protections, which provide required land renter protections for any MHC loan that they purchase. CRA could consider adopting similar or more robust requirements on any loan used to finance such a community to help bolster protections for land renters.[38]

[34] Consumer Financial Protection Bureau, "Manufactured Housing Finance," 25.
[35] L. George (Director of Research and Information, Housing Assistance Council), testimony before the The Departments of Transportation, and House and Urban Development, and Related Agencies (117th Congress), https://docs.house.gov/meetings/AP/AP20/20220526/114841/HHRG-117-AP20-Wstate-GeorgeL-20220526.pdf.
[36] Freddie Mac Multifamily, "Spotlight on Underserved Markets: Tenant Protections in Manufactured Housing Communities" (2021), https://mf.freddiemac.com/docs/tenant-protections-manufactured-housing-communities.pdf.
[37] Prosperity Now, "Facts About Manufactured Housing - 2019," https://prosperitynow.org/resources/facts-about-manufactured-housing-2019.
[38] For example, minimum requirements from Fannie Mae and Freddie Mac include: one-year renewable term for the site lease, 30-day written notice of rent increases, 5-day grace period for late rent payments. In addition rights of the tenant include the ability to sell the manufactured home without having to move it out of the MHC, sublease the manufactured home or assign the site lease to a buyer (provided the buyer meets the minimum MHC

Loans for resident-owned communities could also be considered. In these cases, the owners of the homes themselves are the buyers or owners of the community. Freddie Mac has found that MHROCs are "one of the few sources of naturally occurring affordable housing in the country not subject to market-based rent increases."[39] Yet these purchases by residents can be quite challenging as finding financing is difficult. Specific CRA products to serve such purchases could bolster the possibility of community financing for MHROCs.

Alignment with federal initiatives

There has been an increase in focus at the federal level on both financing and production of manufactured housing, and the revision of CRA presents an opportunity to further bolster financing in this market. Increased collaboration to understand specific product and underserved population needs could improve CRA proposal and outcomes. Specifically, collaboration across agencies and institutions, including the Federal Housing Finance Agency, Federal Housing Administration, CFPB, Government Sponsored Enterprises that focus on Duty to Serve, and the Minneapolis Federal Reserve Center for Indian Country Development, could be especially fruitful as they have researched manufactured housing (noted throughout this comment letter) and specific challenges for underserved communities. Other important resources include, but are not limited to, housing finance researchers, such as Pew, Urban Institute, Lincoln Institute of Land Policy, Housing Assistance Council, and Prosperity Now.

In summary, to improve access to manufactured home financing, we recommend taking the following steps regarding CRA credit:

1. Define what constitutes a "single-family" home and consider explicitly including manufactured housing; as part of an affordable housing definition, consider including resident-owned communities and loans for manufactured homes on tribal lands.
2. Consider including manufactured housing mortgages and personal property loans as responsive products, with a standard of safety and affordability (for single- and multi-family financing, including manufactured home communities), to ensure that CRA supports beneficial loan supply for underserved borrowers and communities.
3. Examine whether giving additional credit for loans that meet certain criteria and serve the most underserved borrowers and communities could improve lender incentives to make loans in this market.

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rules and regulations and credit quality for financing), post "for sale" signs on the manufactured home, sell the manufactured home in place within 45 days after eviction, and receive at least 60 days' notice of any planned sale or closure of the MHC. Fannie Mae, "Tenant Site Lease Protections," accessed Aug. 1, 2022, https://multifamily.fanniemae.com/financing-options/specialty-financing/manufactured-housing/tenant-site-lease-protections-pricing-initiative.

[39] Freddie Mac Multifamily, "Spotlight on Underserved Markets: Manufactured Housing Resident-Owned Communities" (2019), 1, https://mf.freddiemac.com/docs/dts_mhroc_report.pdf.

4. Collaborate with other federal agencies to ensure CRA is in alignment regarding manufactured home financing.

Need for broader approach to understanding communities' financing needs for all home types

In response to **Questions 82, 85 and 86** regarding the use of local data in the retail lending test evaluation framework, Pew encourages the agencies to address the potential concern that performance expectations may be set too low in places where all lenders, or a significant share of lenders, are failing to meet community small mortgage needs. The agencies could consider other factors in setting expectations for the benchmarks.

The agencies' proposal to use local community and market data to tailor CRA retail lending expectations to the assessment areas in which a bank lends should encourage lending that is more in line with community needs. Additional factors, like the prevalence of alternative finance and low levels of small mortgage lending in a market, that would not be captured in the proposed metrics and benchmarks could offer a broader picture of communities housing finance needs. The agencies are proposing to measure opportunities for mortgage lending based on the percentage of owner-occupied residential units in low-and-moderate income census tracts as recorded in the American Communities Survey (ACS). However, homeownership and mortgages are not synonymous because people come by their homeownership arrangements using alternative financing such as land contracts or rent-to-own arrangements. Our survey work has shown that many buyers who use an alternative financing arrangement still view themselves as the owner and are likely to report having a loan. Yet many of these arrangements do not transfer title (legal homeownership) until the home is completely paid off.[40] As a result, in some places where there is a lack of lending the ACS may show high "homeownership", yet these may be the most underserved by traditional lending.

As highlighted earlier, though most people use a mortgage to pay for their home, tens of millions have used alternative financing arrangements. 1 in 5 home borrowers has used alternative financing at least once in their life, while 1 in 15 home borrowers are currently in these arrangements.[41] While some users have successfully converted to homeownership using these arrangements, evidence shows these often introduce risk for buyers, such as hidden costs, threat of eviction, and a loss of equity. Additionally, in some of these arrangements, the buyer lacks clear ownership of the property because transactions are not recorded or because the seller—and not the buyer as would be the case for a traditional mortgage transaction—holds the title or deed to the home for the duration of the financing term. In other instances, such as seller-financed mortgages and personal property loans for manufactured homes, the seller gives the buyer the title or deed at the time of sale, but other consumer protection issues can arise.[42]

Many jurisdictions do not consider buyers to be homeowners if they do not have the title or deed in hand. This makes the arrangements legally ambiguous, and buyers can have difficulty establishing ownership. Alternative financing borrowers living in site-built homes and those with manufactured homes titled as personal property are often left out of federal and state protections and programs

[40] The Pew Charitable Trusts, "What Has Research Shown About Alternative Home Financing in the U.S.?," 2-3.
[41] The Pew Charitable Trusts, "Millions of Americans Have Used Risky Financing Arrangements to Buy Homes," 2, 7.
[42] The Pew Charitable Trusts, "What Has Research Shown About Alternative Home Financing in the U.S.?."

because they do not have federally backed mortgages. For example, virtually none of these arrangements was eligible for the federal COVID-19 protections in the CARES Act, and they were largely omitted from pandemic-related legislation at the state level.[43]

The small mortgage gap and the substitution of alternative financing should be taken into account when assessing levels of mortgage lending needs in communities, because the disproportionate use of these arrangements by some borrowers reflects disparities in access to mortgages and leaves such families at greater risk of loss of home and wealth. Focusing on homeownership without understanding the use of alternative financing risks the community being continually underserved by traditional sources of lending. Because the American Community Survey also collects data on whether the homeowner has a loan on their home, one way to gauge both demand for lending and lack of mortgages and other home loans could be to compare the number of homeowners in a given area who report a loan compared to the number of HMDA reportable loans in the same area.[44]

Collecting data on racial disparities

In response to **Question 173** regarding data collection and reporting requirements, Pew encourages the agencies to consider disclosure of HMDA data by race and ethnicity in all banks' CRA performance evaluations, to increase the clarity, consistency, and transparency of the process. Data on distribution of small mortgages by race and ethnicity is important to ensure access to small mortgages increases in an equitable manner.

According to HMDA data, the majority of small mortgages go to White borrowers. Conversely, Black and Hispanic families are underserved in small mortgages relative to their shares of the population. Urban Institute's analysis of HMDA data shows that between 2009 and 2016, among borrowers with loan amounts up to $70,000, 76% are White, while only 7% are Black and 10% are Hispanic.[45] According to the 2020 U.S. Census data, 57.8% of the population was White alone non-Hispanic, 18.7% was Hispanic or Latino, and 12.1% were Black or African American.[46] These inequalities may limit the ability of Black and Hispanic households to become homeowners.

There is an unmet demand for low-cost housing among families of color. For instance, Black and Hispanic families are more likely to live in low-cost neighborhoods. Historical residential segregation and decades of discriminatory practices in real estate markets all contribute to low property values in Black

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[43] Bourke and Siegel, "Protections for Owners of Manufactured Homes Are Uncertain."; J.J. Choi and L. Goodman, "22 Million Renters and Owners of Manufactured Homes Are Mostly Left out of Pandemic Assistance" (2020), https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance.
[44] Note that ACS measures whether a household owns a home and has some loan on it (regardless of when the financing was originated) whereas HMDA is the loan level detail from application to outcome – originated or not. As a result, these measures can't be compared directly but rather a usual amount of home loan origination given homeownership rates could be calculated and areas could be compared to that expected calculation to determine if lending is lacking.
[45] McCargo et al., "Small-Dollar Mortgages for Single-Family Residential Properties."
[46] E. Jensen et al., "2020 U.S. Population More Racially and Ethnically Diverse Than Measured in 2010" (U.S. Census Bureau, 2021), https://www.census.gov/library/stories/2021/08/2020-united-states-population-more-racially-ethnically-diverse-than-2010.html.

and Hispanic neighborhoods.[47] The shortage of small mortgages leaves them with few options to achieve property ownership.

As highlighted earlier, Black and Hispanic borrowers have experienced disproportionately lower access to small mortgages and rely more on alternative finance. Difficulties in accessing credit have had long-term impacts on the ability of these households to own homes and build intergenerational wealth. Yet, such data aren't considered on CRA evaluations. Data on race and ethnicity are collected for HMDA but using them for CRA performance evaluation could be key to understanding disparities in lending by race and ethnicity. In addition, data on CRA lending (with personally identifiable information redacted) including race and ethnicity could be made publicly available to allow increased research and determine the impact of CRA for key populations. This information could help make the impact of CRA more transparent and more responsive to community needs. This would also help align CRA with measures being implemented by other agencies to improve racial equity in housing.

Thank you again for the opportunity to comment on the proposed changes to CRA. We look forward to continuing to engage on these topics with the agencies as our work develops.