

Testimony of Kim D. Saunders
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Before the House Financial Services Subcommittee on Consumer
Protection and Financial Institutions

“Modern-Day Redlining: The Burden on Underbanked and Excluded
Communities in New York”

March 6, 2020

Chairman Meeks, Ranking Member Luetkemeyer and members of the Subcommittee, good morning and thank you for this opportunity to testify on the practical impacts of the Community Reinvestment Act. My name is Kim Saunders and I am President and CEO of the National Bankers Association (“NBA”). The NBA is the leading trade association for the country’s Minority Depository Institutions (“MDIs”). Our mission is to serve as an advocate for the nation's MDIs on all legislative and regulatory matters concerning and affecting our member institutions and the communities they serve. Many of our member institutions are also CDFIs and many of our member institutions become banks of last resort for consumers and businesses who are underserved by traditional banks and financial service providers.

THE NATIONAL BANKERS ASSOCIATION SUPPORT A STRONG CRA

In enacting CRA, Congress stated that the purpose of CRA was to ensure that regulated financial institutions demonstrate that they “serve the convenience and needs of the communities in which they are chartered to do business.” As such, these institutions have a “continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.” CRA has made great strides in ensuring access to credit in low and moderate income (“LMI”) communities and among minority and low-income borrowers. Systemic economic and social challenges, however, perpetuate to lack of access to fair services for many and allow predatory providers to thrive. Given growing economic inequity in urban, rural and Native American communities, it is important to get CRA reform right.

The NBA strongly support the purposes and objectives of CRA. Enacted 40 years ago, CRA has been instrumental in ensuring LMI communities have access to credit and financial services, but the last significant regulatory overhaul of CRA occurred two decades ago. In that time, the financial services industry has radically changed but, CRA has not. We strongly support modernization that ensures CRA does not lose effectiveness for LMI communities and that also creates a regulatory framework that streamlines financial institutions’ ability to comply with the CRA. The success of CRA reform effort should be measured by whether it will result in more credit and services delivered to LMI communities that doesn’t create unnecessary regulatory burdens on the financial institutions that best serve these communities.

THE NBA RECOMMENDS UPDATING CRA AND PRESERVING FLEXIBILITY

NBA members believe that the current framework for CRA is effective but needs modernization to reflect changes in the financial service landscape. We strongly agree with the notion expressed by regulators and lawmakers alike, that CRA examinations should be conducted in a more clear, consistent and transparent manner. We believe; however, this result can be best achieved by modifying the existing framework – versus inventing a new system.

We have great concerns about the proposed “metric based, single ratio” framework outlined in the OCC’s ANPR; and thus, oppose its adoption. We believe the proposed “single ratio” metric is too simplistic to fit all banks and all communities. We believe the proposed system will reduce banks’ flexibility to respond to local market conditions. We believe that a single ratio

would encourage a minimalist approach to CRA compliance where financial institutions would be more focused on hitting their ratio than thinking comprehensively about potential approaches for meeting the credit needs of LMI communities that the current framework requires.

While imperfect, the strength of the existing framework is that it is flexible. Each bank can develop a strategy that fits its business model, local economic conditions and opportunities. The distressed urban, rural, and Native communities that CDFIs and MDIs serve are often “outliners” relative to more prosperous suburban and robust, high-growth communities. Thus, a formula that fits high or middle-income places is unlikely to fit the communities we serve. No matter how sophisticated, we do not believe a formula-based approach is likely to adequately capture the nuances of every community – and could result in harm to our banks and communities.

We believe that the CRA can continue to be a powerful tool to promote investment in LMI communities. To this end, we would like to share with the Subcommittee the following recommended changes we plan to officially submit to federal regulator on this very important topic.

Clarifying and expanding what qualifies for CRA credit

The Association agrees with a number of proposed modernization reforms that would expand the type of activity that qualifies for CRA credit ranging from adding criterion for homebuyer financial literacy programs to investments in federally designated Opportunity Zones. We respectfully request that the Agencies consider the following amendments to the proposal’s section regarding clarifying and expanding what qualifies for CRA credit:

- **Adding a criterion for financial literacy programs, education, counseling and/or technical assistance for minority entrepreneurs.** The proposal references expanding CRA credit for various types of financial literacy programs, but they are generally geared toward homeownership. We support including homeownership literacy programming, but we also recommend expanding qualifying financial literacy programming to include financial literacy, education, and technical assistance supporting minority entrepreneurs. Many of our institutions already work closely with minority entrepreneurs in every way imaginable that currently does not receive CRA credit. The challenges that minority entrepreneurs face in becoming “bankable” is well-documented as is the role that MDIs and CDFIs play in supporting minority entrepreneurs. All activity geared toward supporting minority entrepreneurs should qualify for CRA credit much in the same way that the proposal would expand the CRA eligibility for virtually all homeownership literacy programming.
- **Specifically providing for a multiplier for capital investments in MDIs – irrespective of an MDI’s location.** The proposal seeks comments on the kinds of activity that potentially warrant CRA multipliers to encourage banks to engage in certain types of activity. The Association takes the position that our institutions over-index in the impact that our activity has in meeting the credit needs of LMI and/or communities of color. And, like many minority-owned businesses, our member institutions often encounter significant barriers to raising capital due in part to the mission-oriented lending our banks tend to engage in. The Act has long provided for CRA credit for capital investments in

MDIs, but the instances where institutions have taken advantage of this provision to make capital investments in MDIs has been sporadic at best. To that end, we believe that a multiplier for capital investments in MDIs sends the appropriate signal to the potential bank investors and it would directly support the community development work that CRA seeks to encourage and that MDIs already engage in. We also recommend that capital investments in MDIs be CRA-eligible activity even if an MDI is not in the CRA assessment area of the institution making the capital investment. This reflects the limited geographic reach of many MDIs, and if adopted, would maximize the potential opportunities for CRA-qualified capital investment in MDIs.

- **Clarifying that both loan participations sold to and from MDIs constitutes qualifying CRA activity.** Existing law is unclear as to whether loan participations sold to MDIs from non-MDIs is CRA-qualifying activity. Loan participations sold to MDIs allow our member institutions to diversify and strengthen their balance sheets such that they can better meet the credit needs of the LMI communities they serve. Therefore, we recommend that the non-exhaustive, illustrative list of CRA-qualifying activity specifically state that loan participations both sold to and from MDIs should be considered CRA-qualifying cooperation with an MDI.
- **Specifically providing for deposit and savings products designed to meet the banking needs of LMI customers.** The proposal seeks comments on the range of retail banking services provided—such as checking accounts, savings accounts, and certificates of deposit—and how they should be considered under the proposal and how they should be considered in an institution’s performance context. Many of our Association members have developed deposit, savings, and credit products tailored to the unique banking needs of the LMI communities we serve. For example, NBA member institution Carver State Bank provides “Second Chance” checking accounts designed to provide checking accounts to customers who have mismanaged bank accounts in the past but are deserving of a second chance. Carver does not receive CRA credit for these accounts. Regulators talk often about banking the unbanked or underbanked, and we believe that retail banking services tailored to the unique needs of LMI communities should qualify for CRA credit as they often form the building blocks for credit for LMI customers.
- **Providing an objective method to measure CRA activity.** Our member institutions take pride in providing financing for small businesses and nonprofits in LMI communities who very rarely are seeking large-dollar investments. Small business loans and micro-loans are the lifeblood of many small businesses in LMI areas. They take more time and effort, but ultimately reach a greater number of LMI people. The dollar amount of small loans will not add up to one large infrastructure project, so the proposal in effect discourages banks from putting in the work to make smaller loans. Shifting CRA toward a volume-based system penalizes smaller institutions like many of our members institutions and forces our institutions to pursue larger projects that would be more difficult to secure. If enacted as drafted, the proposed regulations would also create incentive to leave many of our core customers’ credit needs unmet given that the cost for underwriting many small business loans is relatively fixed – further pushing institutions to seek out larger deals in order to comply with CRA. In order to avoid this, we believe

that the proposed regulations should require that a certain number and/or percentage of small business loans be required in order to be considered “Satisfactory” or “Outstanding.”

CONCLUSION

The NBA again applauds the Subcommittee for holding this important hearing and for the full Committee’s ongoing efforts to assert and reassert the importance of the CRA in the modern lending marketplace. CRA has made great strides in ensuring access to credit in low and moderate income (“LMI”) communities and among minority and low-income borrowers. Systemic economic and social challenges, however, perpetuate to lack of access to fair services for many and allow predatory providers to thrive. Given growing economic inequity in urban, rural and Native American communities, it is important to get CRA reform right.

In this regard, the NBA and its members banks look forward to working closely with the Committee and Subcommittee to ensure a modernization that ensures CRA does not lose effectiveness for LMI communities and that also creates a regulatory framework that streamlines financial institutions’ ability to comply with the CRA. Thank you again for the opportunity to testify. I will be pleased to answer any questions.