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Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
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AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.
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To Whom It May Concern,

The Consortium for Constituents with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for Federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of a society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The CCD Housing Task Force works to ensure that all people with disabilities have safe, stable, accessible, affordable, integrated housing that enables people to live in communities of their choosing, with full access to home and community-based services and supports.

Thank you for this opportunity to comment on Joint notice of proposed Rulemaking for the Community Reinvestment Act (CRA). FDIC data has documented people with disabilities are more likely than their nondisabled peers to be unbanked, lack access to credit and be low- and moderate-income (LMI). Americans with disabilities are one of the largest minority groups in the country and growing. Estimated numbers vary from 40 million to over 60 million people. COVID continues to further impact the size of the population, as a result of long-term consequences that are still being identified.

The term “disability” describes a diverse group of individuals. A person’s disability can be related to vision, hearing, movement, communication, cognition and/or psychosocial issues. A disability can occur at birth, older age or anytime in between. It can be congenital or can arise because of chronic illness, injury, malnutrition or aging. The CDC estimates that one in five people in the United States has a disability. The diversity of types and severity of disability, age of onset, income and intersection with other marginalized communities defined by race, ethnicity, gender and sexual orientation may compound discriminatory treatment that limits access to credit and financial inclusion.

The NPR issued jointly by all three regulatory agencies offers a unique opportunity for focus and response to the financial challenges faced by people with disabilities as part of a bank’s role and responsibilities under CRA. The NPR offers a number of provisions that are sensitive to the financial challenges of LMI individuals with disabilities nationwide and yet still more could be done. As a part of the disability community, we want to focus attention on the following issues:

1. **New Definition of Community Supportive Services** – The new definition of community supportive services as “general welfare activities that serve or assist low- or moderate-income

individuals, such as childcare, education, workforce development and job training programs, health services and housing services programs,” elevates the importance of these services in support of LMI populations including individuals with disabilities. Please consider entrepreneurship development as a further part of the community supportive services definition as an additional pathway out of poverty for individuals with disabilities and other LMI populations.

2. **Focus on LMI Individuals with Disabilities** – We are pleased that, in the definition of “community supportive services,” there is included “(7) Activities that benefit or serve individuals who receive or are eligible to receive Federal Supplemental Security Income, Social Security Disability Insurance or support through other Federal disability assistance programs.” Other examples of federal disability assistance programs that should be listed include Vocational Rehabilitation (VR) services and Home- and Community-Based Services (HCBS) under Medicaid waivers. Although this Paragraph 7 is one of many examples of groups and activities covered under the new definition of community supportive services, it is at least clear recognition that individuals with disabilities are and should be a target for community development activities including “childcare, education, workforce development and job training programs, and health services and housing services programs that serve or assist low- or moderate-income individuals.”
3. **Qualifying Non-exhaustive List of CRA Activities** – The Housing Task Force supports development of a non-exhaustive, but illustrative, list of activities that do qualify for CRA credit. It is important to be clear that activities not on the list do not imply that there are no other activities that would qualify. Although short-lived, the prior OCC list that was a part of the regulations that were withdrawn had multiple examples of qualifying activities that supported individuals with disabilities:
 - a. An unsecured consumer loan to a moderate-income individual for household assistive technology products and vehicle modifications to improve accessibility (Section 25.04(b)(1)(i)).
 - b. Donations to workforce development programs designed to improve employment opportunities for LMI individuals with disabilities (Section 25.04(c)(3)).
 - c. Financial capability training by bank employees to individuals with disabilities (Section 25.04(c)(9)).
 - d. Loan to upgrade equipment in a public library to accommodate LMI disabled individual patrons (Section 25.04(c)).

These examples stimulated discussions and reinforced opportunities for collaboration with banks. Examples included in the first list help reinforce to banks the eligibility and importance of CRA activities that target the disability community. The CCD Housing Task Force would encourage the agencies to include additional example of activities related to housing including but not limited to home modifications (rental and homeownership) and funding for enhanced accessibility in new construction of rental and homeownership projects.

4. **Impact Review Factors** – There are 10 impact factors proposed that will influence community investment and service scores. Among the 10 factors are whether the activity serves persistent poverty counties, supports Treasury-certified CDFIs, serves LMI individuals and families, is a

qualifying grant or donation and others which could benefit LMI individuals with disabilities. The disability community urges the addition of an 11th impact factor for the Community Development Financing and Services Tests that specifically reviews “whether the activity serves LMI individuals with disabilities.” Unfortunately, there is no proposed weighting of impact factors analysis in comparison to specific metrics for quantitative measures.

5. **Promote and Encourage Public Engagement** – Community groups be allowed, in addition to banks, to be able to suggest revisions and additions to the illustrative nonexclusive list of CRA qualifying activities with justifications. Banks should be encouraged to work with community groups and suggest proposals together. There should be regular requests for public comment on proposed revisions and additions to the list. Examiners should make a part of their regular exam routine outreach to historically underserved groups defined by race, ethnicity and/or disability to provide documentation of unmet individual and community needs. Public written and oral comments that provide evidence of patterns (positive and/or negative) regarding access to credit and bank response should be a factor in conclusions for retail lending and services tests.
6. **Applicability of the Americans with Disabilities Act (ADA)** – As part of the anti-discrimination and consumer protection legal reviews, the agencies added the Military Lending Act in the list of laws to be included in the fair lending review. The addition of the ADA should also be considered and be a part of fair lending reviews.
7. **Rental Housing in Conjunction with Government Programs** – In *Question 3*, the Notice asks whether the proposed standard of government programs having a “stated purpose or bona fide intent” of providing affordable housing for low- or moderate-income (or, under the alternative discussed above, for low-, moderate- or middle-income) individuals appropriate, or is a different standard more appropriate for considering government programs that provide affordable housing? The CCD Housing Task Force response is that merely having a “stated purpose or bona fide intent” is not sufficient. A government program **must require** that the assistance it is providing to multifamily housing actually benefits low- and moderate-income households. All current federal affordable housing programs do require that assisted housing benefit some segment of the low- or moderate-income population. While we are not familiar with all state and local government programs or subsidies, it would be important for those limited resources to do more than have a “stated purpose or bona fide intent,” they should require provision of affordable housing for low- and moderate-income households. Community development credit should not be provided unless a government program requires low- and moderate-income households benefit.

In *Question 3*, the Notice also asks whether these activities should be required to include verification that at least a majority of occupants of affordable units are low- or moderate-income individuals? The CCD Housing Task Force responds that if units assisted by government programs are designated as “affordable,” then the government entity must verify that 100 percent of the assisted “affordable” units are occupied by low- or moderate-income households. Only requiring verification that a “majority” of the designated “affordable” units are occupied by income-eligible households leaves too many assisted units open to occupancy by over-income households.

8. In *Question 4*. The Notices asks that “In qualifying affordable rental housing activities in conjunction with a government program, should the agencies consider activities that provide affordable housing to middle-income individuals in *high opportunity areas*, in nonmetropolitan counties, or in other geographies?” The CCD Housing Task Force strongly opposes considering activities that provide affordable housing to middle-income households regardless of geography. The market addresses the housing needs of middle-income households, especially in high opportunity areas.

We note further that other sections of the Notice request feedback on using geography as a proxy and/or incentive. The CCD Housing Task Force notes that while affordable housing should be available in all geographies, currently in what is identified as high opportunity areas, omits key geographies that are more accessible for people with disabilities. Many people with disabilities and other lower-income communities rely on public transportation, services and other amenities more readily available in urban areas. Some people are not able to drive and others cannot afford to own, insure or drive a car. Today, in most of the United States, accessible public transportation, is more readily available in more urban areas and less available in “high opportunity” areas. In addition, services and other aspects of community living are often not readily accessible in less dense geographies. To the extent affordable housing becomes more concentrated in areas without accessible public transportation and services, it will be less available to people with disabilities.

9. The CCD Housing Task Force urges the CRA to address racial and disability disparities by collecting race, ethnicity and disability related data and evaluating banks on their lending across these groups.

The CCD Housing Task Force also supports the comments of the CCD Financial Security Task Force which have been submitted separately.

Vibrant communities are best supported when economic opportunities are inclusive of LMI populations, including people with disabilities. Unless the challenges of LMI people with disabilities are intentionally addressed, people with disabilities will be unintentionally excluded from the financial system and overlooked as a target of community development activities.

Sincerely,

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