

RespectAbility Responds to Proposed Regulatory Changes to Support Disability Entrepreneurship

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Washington, D.C., August 5 - RespectAbility comments on the Notion of Proposed Rulemaking (NPR) in updating the Community Reinvestment Act of 1977 (CRA). The CRA is in place for financial institutions to provide economic development and support in the communities they serve. The FDIC, Federal Reserve System, and Comptroller of the Currency requested public feedback to amend the CRA and modernize its regulations to address the society of today.

By law, regulated banks are required to meet the needs of the communities they serve. As such, the CRA provides financial institutions guidelines to meet the demands of their customers, including the low-to-moderate income (LMI) population. “People with disabilities are disproportionately LMI and 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” ([Center for Disability-Inclusive Community Development](#)).

Financial institutions must provide the affirmative obligation of access to capital. Acquiring funding is a vital aspect to successful entrepreneurship. Self-employment is a lifeline for individuals with disabilities. It provides the fundamental human needs of safety, security, and freedom. These needs have been historically unsatisfied in traditional employment for the disabled community. Disability entrepreneurship can provide independence, flexibility, and financial security. The NPR is the opportunity to advocate for the inclusion of the disability population within financial institutions.

Public comments are being accepted until 11:59 PM on Friday, August 5, 2022. For more information on the NPR, CRA, or to view these comments, visit the [Federal Register website](#).

RespectAbility’s testimony is presented below:



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AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.
Agency/Docket Number: Docket ID OCC-2022-0002

To Whom It May Concern,

RespectAbility appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) updating the Community Reinvestment Act (CRA).

In the pre-pandemic era, job seekers with disabilities had turned to self-employment in far higher numbers than their nondisabled peers. They did so because it brought autonomy to their career and solved systematic barriers to employment that hold back people with disabilities. Promoting self-employment and entrepreneurship among the disabled community highlights solutions to traditional jobs. In addition, several disability organizations advocate for including people with disabilities as a specific category under the Community Reinvestment Act (CRA) rules to advance diversity in entrepreneurship. So it is appropriate to begin digging deep into that work as an equitable workforce strategy.

Entrepreneurship and self-employment can be valuable and viable options for people with disabilities looking to enter the job market on their terms. According to the Bureau of Labor Statistics, people with disabilities are self-employed at nearly twice that of their nondisabled peers. In addition, as of the 2019 American Community Survey, approximately 700,000 workers with disabilities were self-employed, enjoying the flexibility and opportunities that entrepreneurship provides.

Approximately 70 percent of people with disabilities want to work, and thousands could become entrepreneurs if they can develop their skills and access capital. However, potential entrepreneurs with disabilities need resources, assets, and support to translate their entrepreneurial ideas into viable businesses.

Financial inclusion and job security are vital to everyone, including the 60+ million Americans with disabilities and our families. We deserve a seat at the table and a meal in front of us!

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 11 key issues:

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.

Workforce Development Services – Inclusion of workforce development services within the new definition of community supportive services means that workforce development will no longer be tied exclusively to supporting or financing small businesses and farms and would receive added consideration for bank CRA activities. Investment of funding for workforce development for people with disabilities and other low-income and disadvantaged populations should be a standard part of impact reviews in the community development tests.

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."

Presumption of LMI Coverage by Proxy – Historically, banks have been challenged during performance reviews with regulators regarding their level of documentation that the individuals served are LMI. In the NPR, there is a list of activities that create presumptive proof that individuals being served by a variety of means-tested federal programs would be sufficient proof of LMI status. LMI individuals with disabilities would also be included under other activities listed that benefit an LMI population, such as the Supplemental Nutrition Assistance Program (SNAP), Medicaid, Department of Agriculture's National School Lunch Program and HUD's Section 8 program. These examples of services that individuals with disabilities are eligible to receive should serve as proxies for banks to have presumptive proof of LMI coverage.

Qualifying Non-exhaustive List of CRA Activities – NDI 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:

- 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)).

- Donations to workforce development programs designed to improve employment opportunities for LMI individuals with disabilities (Section 25.04(c)(3)).

- Financial capability training by bank employees to individuals with disabilities (Section 25.04(c)(9)).

- 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.

Accessibility and Affordability of Retail Products and Services – Only large banks with assets of more than \$10 billion will be evaluated for digital and other delivery systems. The approach of using quantitative measures to evaluate distribution of digital account activity across census tracts of various income levels is a starting point. Large banks with assets below \$10 billion with at least one-third of their deposit activity that is

digital should also have the digital component of the large bank exam. The regulators should qualitatively consider the range of banks' digital and other delivery systems including online, mobile and telephone banking for not just the largest banks. A bank should explain its strategies and initiatives to meet LMI consumer needs through digital and other delivery systems including marketing and outreach to LMI individuals to increase uptake of the channels, as well as partnerships with community-based organizations serving targeted populations including individuals with disabilities.

Accessibility and affordability of responsive products and services should be compared and contrasted between LMI and non-LMI neighborhoods at the assessment area level. Branch availability, services offered, branch openings and closings and banking hours and services responsive to LMI customers, including customers with disabilities, should be a part of the bank examiner evaluation in the retail services and products test.

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.

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.

Financial Literacy Remain Focused on LMI Individuals – NDI and the disability community strongly opposes CRA credit for financial literacy activities including education and counseling services for individuals without regard to income levels. People with disabilities have benefitted from collaborations with banks of all sizes offering financial education and counseling services both through funding and staff volunteer activities. CRA must remain focused on original intent to support LMI populations. This expansion of who will be eligible will most likely diminish the extent of current and potential future efforts that have been growing with LMI individuals with disabilities and other underserved populations defined by race and/or ethnicity.

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.

Ratings – No bank should receive an outstanding rating without both the community development financing and services and retail lending and services and products subtests demonstrating improved levels of quantitative and qualitative measures of direct response to individual and community needs of LMI populations with disability within and across assessment areas.

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.

Thank you for your attention to and support of our comments.

Sincerely,

Rostom Dadian
Public Policy Associate
RespectAbility