



COMMENTS ON FEDERAL RESERVE BOARD COMMUNITY REINVESTMENT ACT NOTICE
OF PROPOSED RULEMAKING

BY THE NATIONAL DISABILITY FINANCE COALITION

August 1, 2022

FEDERAL RESERVE SYSTEM 12 CFR Part 228 [Regulation BB; Docket No. R-1769] RIN 7100-AG29

DEPARTMENT OF THE TREASURY Office of the Comptroller of the Currency 12 CFR Part 25 [Docket ID OCC-2022-0002] RIN 1557-AF15

FEDERAL DEPOSIT INSURANCE CORPORATION 12 CFR Part 345 RIN 3064-AF81 Community Reinvestment Act

ACTION: Notice of proposed rulemaking; request for comment

Who we are: The National Disability Finance Coalition (NDFC) is the only national organization in the United States supporting community development financial institutions (CDFIs) that serve the historically underserved target market of people with disabilities (PWD), their families, and the communities in which they live, work, and go to school. Launched in 2015 and incorporated in 2017, NDCF operates as a 501c3 membership network of CDFIs, financial institutions, disability service providers, and individuals with disabilities addressing the unique set of challenges faced by people with disabilities and their families. The NDFC network represents over 100 organizations across the United States, including over 40 organizations that have received dedicated funding from the CDFI Fund (DF-FA) to advance lending and development services to people with disabilities.

Background: As the Federal Reserve Bank, Office of the Comptroller of the Currency, and FDIC work together to modernize the Community Reinvestment Act, NDFC strongly encourages the Regulators to provide greater clarity and guidance for regulated banks to respond to the historical patterns of exclusion and lack of fair and equal access to credit, capital, and financial services for people with disabilities (PWD).¹

¹ Wide range of research from National Disability Institute outlines the barriers faced by PWD to access financial services and the disproportionate rates of economic hardship experienced by PWD. <https://www.nationaldisabilityinstitute.org/reports/>; The World Bank references higher rates of socioeconomic hardship faced by PWD. <https://www.worldbank.org/en/topic/disability>

Thirty-two years ago, the Americans with Disabilities Act (ADA) was passed as a civil rights law to prohibit discrimination against individuals with disabilities in all areas of public life, including jobs, schools, housing, and transportation. As the CRA was also passed as a civil rights law more than 40 years ago, it seems appropriate to consider the overlapping and aligned goals of both pieces of legislation to create a more just society during this process.

Under CRA, banks have a responsibility to respond with investment, lending, and services to help support the economic recovery of LMI communities and populations. CRA modernization is long overdue to address economic recovery and opportunity for some **60 million working-age adults with disabilities** who are disproportionately living in long-term poverty. In addition, and **one in five families in this country live with a family member with a disability**, with the economic burdens associated with their care. With the aging of our population and its consequent increase in disabilities and the impact of long-Covid on the physical and mental health of millions of Americans, ² **disability will affect more people, families, and communities across our country in the years and decades ahead.**

Unless the challenges of people with disabilities are *intentionally addressed* as an essential part of evaluation of bank performance, people with disabilities will be *unintentionally excluded* from the financial system and be overlooked as a target of community development activities. As examples, financial institutions have **not routinely targeted these critical community development activities:**

- Affordable, accessible, and supportive housing for people with physical, mental, and/or behavioral disabilities;
- Affordable consumer finance terms for assistive technology, home modifications, or wheelchair adaptations for people with disabilities to enable them to live, work, and go to school;
- Small business capital and/or technical assistance for disability-owned businesses;
- Disability-focused workforce development and financial literacy training tailored to people with disabilities.

Each of these examples of needed financial services help lift people out of poverty, prevent them from falling further into hardship, and align with the purposes and goals of the Community Reinvestment Act.

Comments: On behalf of our members, NDFC seeks to bring needed attention to specific issues if people with disabilities are going to have equal opportunity to access credit, benefit from diverse community development activities, and be a focus of future bank performance evaluations by regulators.

- 1. Explicit consideration for people with disabilities in CRA lending, investment, and services.** People with disabilities and their families face significant barriers accessing traditional financial products and services, accumulating assets or savings, financing a home, an education, or a business, or purchasing an accessible vehicle. In addition to the challenges faced by individuals, the institutions that serve the diverse needs of people with disabilities

² United States House of Representatives Financial Services Committee Memorandum references multiples sources to support growing number of PWD and financial burdens they face. <https://financialservices.house.gov/uploadedfiles/hhrq-117-ba13-20220524-sd002.pdf>

and their families have a difficult time securing the capital needed to develop, renovate, and maintain affordable housing, community facilities, and workspaces.

As referenced above, over 60 million adults live with a disability, nearly one-quarter of the U.S. population.³ This number is expected to rise as the population ages and the effects of long-Covid impact the physical and mental health of millions of Americans.

The FDIC has studied this issue for many years, providing statistics such as the following to illustrate the systemic barriers faced by PWD and their unequal access to investment capital and financial services in the 2019 Household Survey:⁴

1. Households with a disability were more than three times as likely to be unbanked as households with no disability (16.2% versus 4.5%).
2. Households with disabilities were more likely to rely on bank tellers and less likely to use online or mobile options. 47% of households with a disability used online or mobile as the primary method to access their account compared with 66% of households with no disability.
3. About half of working-age disabled households (49%) used bank credit cards, compared with 76% of working-age nondisabled households.
4. 40% of working-age disabled households were denied credit, offered less than they applied for, or did not apply for fear of being turned down, compared to 23% of working-age nondisabled households.

While the majority of PWD live in poverty, as the FDIC statistics indicate, even those PWD who can hold a good paying job experience disproportionate financial vulnerabilities due to the high costs of living with a disability, such as the expenses of accessible van conversions, assistive technology, and home renovations. In many cases, these individuals might not fall with the LMI designation, but would still be well served by being designated as an allowable activity or market for CRA.

The unique needs faced by people with disabilities require the specialized type of lending that CDFIs focused on this target market offer and excel at providing. Yet since PWD is not an explicit target market for CRA consideration, banks do not prioritize supporting organizations that serve these needs of people with disabilities. This oversight translates into less available investment capital, financial products, and services to PWD.

Without specifically identifying people with disabilities as a part of CRA target populations, banks will likely overlook the specific needs of this population. For example, they may miss the unique challenges of providing housing that is both accessible and affordable. They may fail to ensure their retail banking apps meet the accessibility needs of people with a variety of functional limitations. Their financial education programs may not appreciate the complexities of making informed financial decisions faced by people with disabilities.

³ <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html>

⁴ FDIC 2019 Household Survey <https://www.fdic.gov/analysis/household-survey/2019report.pdf>

Without specifying this population in a modernized CRA, regulators will not consider whether the financial needs of people with disabilities are being met when evaluating bank performance in lending practices retail banking services, and related community development investments that impact this large segment of the underserved population.

2. The NPR discusses the applicability of other relevant laws but does not mention the Americans with Disabilities Act.

In the NPR, there is discussion of adding to the list of existing laws other statutes such as UDAAP, the Military Lending Act and the Servicemembers Civil Relief Act to help assess whether there is evidence of discriminatory or other illegal credit practices.

The NPR fails to mention the applicability of the Americans with Disabilities Act, Pub. L. No. 101-336, which requires that banks ensure equal access to services. This includes, for example, making reasonable accommodations including, but not limited to, alternative formats for materials, accessible phone communications with video relay and ADA-compliant websites. In addition, fintech must include a full range of accessibility features that allows it to be navigated by people with a variety of disabilities. For example, it needs to be navigable by screen readers used by people who are blind, captioned videos that are accessible to people with hearing impairments and materials in simple language accessible to people with intellectual, developmental, or learning disabilities. In the absence of robust accessibility features, this important component of LMI and underserved customers will not have equal opportunity to use mainstream banking innovations.

Since the passage of the ADA in 1990, banks and retailers have faced legal action, based on ADA violations, under both Title II and III of the law. Issues covered include, but are not limited to, inaccessible telephone communications and inaccessible websites and discriminatory decisions not to extend credit to people with disabilities. These lawsuits have resulted in settlement agreements that have changed the way banks address some of these issues. However, despite its importance, the NPR fails to specifically reference applicability of the ADA. As a result, it fails to remind banks of their legal responsibility to address the needs of this often-overlooked population. Not only should the ADA be listed, but it also should become a routine area of exploration in bank performance evaluations by regulators.

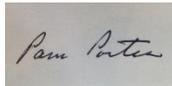
3. The list of sample CRA activities in the final rule should contain specific examples of people with disabilities benefitting from investments, lending and/or service activities in housing, assistive technology and/or transportation.

As examples, investments, lending, and/or services activities can address these needs of people with disabilities: 1) Housing: There is a great need of affordable and accessible housing. People with disabilities want to live in the community, and people want to age in

place. 2) Assistive technology: The Center for Technology and Disability⁵ outlines the types of technology which make it possible for people to work, go to school, live more self-sufficiently, and participate in the community. 3) Transportation: Adapted vehicles make it possible for people with disabilities to get out into the community, go to medical appointments, go to work, etc.

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

Sincerely,

A rectangular box containing a handwritten signature in cursive script that reads "Pam Porter".

Pam Porter, Executive Director on behalf of

National Disability Finance Coalition and its Board

Charles D. Hammerman, Disability Opportunity Fund, Board Chair

Susan Tachau, Pennsylvania Assistive Technology Foundation, Board Vice Chair

Cheryl Cherry, Independent

Angela Dowell, Chicago Community Loan Fund

Carla Mannings, Amalgamated Bank

Danny Housely, Shepherd Center

Emerson Sekins, Northwest Access Fund, Board Treasurer

Jack Brummel, Northwest Access Fund

Lisa Williams, IFF, Board Secretary

Roxane Herrera, Camino Financial

1. Center on Technology and Disability. (2018). *Assistive technology 101*. Retrieved September 28, 2018, from https://www.ctdinstitute.org/sites/default/files/file_attachments/CTD-AT101-V4.pdf (PDF 1.75 MB)