

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City



An ANHD White Paper
March 2014

EXECUTIVE SUMMARY

Economic Development is probably the most misunderstood and challenging category within the Community Reinvestment Act's (CRA) categories of community development. Activities that further **Equitable Economic Development** are even less understood. This paper helps demystify the economic development category and encourages more intentional investments in equitable economic development in New York City.

Equitable economic development goes beyond expanding the tax base and beyond simply creating and preserving jobs. It is about the jobs being created and the people being served. **Equitable economic development is about creating the systems and environments to create a stable middle and working-class employment base and workforce that creates a meaningful path to the middle class. It ensures that these systems and opportunities are intentionally extended to the low- and moderate-income (LMI) and underserved communities that need them most through targeted strategies for quality job creation, small business development, and workforce development and placement.**

New York City is at a pivotal moment in this time of persistent and growing economic inequality, which threatens the promise of opportunity of our City. At the same time, the City has a new administration and progressive City Council that could potentially reverse this course, especially in collaboration with other legislators, bank regulators, nonprofit organizations, and private industry. New York City has the sixth-highest level of income inequality among the biggest 50 U.S. cities, which will only increase if retail continues to be one of the lowest-paying and fastest-growing sectors in the City. The CRA has been very successful in fostering collaboration among governments, developers, nonprofit organizations, and banks, which has led to the creation of a robust affordable housing infrastructure with a wealth of CRA motivated capital to support it.

The majority of ANHD member organizations – neighborhood based community organizations and Community Development Corporations (CDCs) – have long been recognized for their expertise and central role in affordable housing development, using government-backed programs that leverage investment brought to the table by the CRA. CDCs are responding to this economic reality that directly impacts people in their neighborhoods. Many CDCs have been working on, or are expanding into, economic development.

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

The CRA states that banks have a continuing and affirmative obligation to help meet the credit needs of the LMI neighborhoods in which they do business, consistent with safe and sound business practices. **The fundamental principle of the CRA is that all communities, including LMI communities, rely on banking services and those services must be provided in an equitable manner.**

Over the 35 years since the CRA was passed, New York City has developed one of the richest ecosystems and infrastructures in the country to build and preserve affordable housing. The CRA has fostered collaboration among governments, developers, nonprofit organizations, and banks that has led to the creation of a robust infrastructure with a wealth of CRA motivated capital to support it. The housing problem is far from solved, but the barriers have less to do with private capital and more to do with furthering policies and public investment to continue to effectively leverage this capital.

It is time to develop a similar ecosystem to drive equitable economic development in New York City. **There is no reason why all stakeholders can't take the same strategic, intentional approach to economic development that has been taken for housing in order to develop the tools and resources needed to support New York City's businesses and workers.**

Community development under the CRA encompasses a wide, but very well defined, range of activities targeting LMI people and communities to increase access to affordable housing; provide community services; promote economic development; revitalize or stabilize communities; and support certain foreclosure prevention activities. In general, loans that aren't evaluated by CRA regulators as conventional small business loans (business loans of one million dollars or less) may be considered as **community development loans under the economic development category if they meet both a "size" and "purpose" test.** It meets the size test if it is determined to reach a small business as defined by SBA standards or by having revenues of one million dollars or less. To meet the purpose test, the activity must promote economic development by supporting **permanent job creation, retention, and/or improvement** for persons who are currently LMI, or in LMI geographies, or in areas targeted by governments for redevelopment. There are also a few types of activities that may not meet the strict size and purpose tests, but still qualify for CRA credit in the economic development category. Activities that support equitable economic development, but do not meet both the size and purpose test, or otherwise qualify for economic development credit, might still get CRA credit under another category.

Equitable economic development can encompass multiple sectors and strategies. One specific strategy ANHD is advocating is to create new, quality jobs in the light manufacturing sector. A fundamental piece of this strategy is to ensure that New York City has adequate space and resources for manufacturing businesses to start-up, develop, grow, and expand. Manufacturing jobs have an average salary of \$64,000 a year which adds far more wealth to the community than low-wage jobs like those found in the retail sector. Industrial spaces developed, managed, and operated by nonprofit organizations are best suited to support businesses that will create the kind of stable, good paying, quality jobs our communities need.

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

It is urgent that the City's public and private sectors come together to address this issue in a smart, systematic manner. **The same CRA that has been so effective in supporting and building a housing infrastructure was developed to be flexible and responsive to the ever-changing credit needs of cities. Thus, it can also serve as a tool to bring banks to the table once again to develop this new infrastructure for equitable economic development.**

This paper lays out and expands upon the following recommendations:

Recommendations for Bank Regulators:

1. **Clarify** what is meant by job creation for LMI people and provide tools to more readily determine if a particular deal meets the size and purpose test under the CRA:
2. **Promote High Quality Jobs in Community Development lending and investments** by looking more closely at the quality of the business environment and the jobs created, preserved or improved to gauge their impact. This includes wages, workforce development, benefits, hiring strategies, and supports for small businesses that create quality jobs.
3. One of the best ways for banks and the community to understand what qualifies for CRA credit and what is important to regulators is through the bank's CRA exams as summarized in the **Performance Evaluation (PEs)**. Regulators should raise the need for quality jobs in the **performance context**; include **economic development organizations in the Community Contacts**; **benchmark** the percentage of loans, investments, and services to each category of community development; and **highlight best practices in the PE** and in CRA literature.
4. **Give extra CRA credit for equitable economic development activities** that give LMI individuals and other underserved communities access to quality jobs and a path to the middle class.
5. **Provide more scrutiny of loans that automatically get CRA credit for Economic Development** to ensure they are truly creating quality jobs and economic opportunities to the people and communities that most need them.

Recommendations for New York City

1. NYC should **use its zoning powers to stimulate and preserve space that is appropriate for small- and medium-sized manufacturing businesses**. It should also create a set of **robust financing vehicles** that banks can contribute to, or utilize, such that developers have access to low-cost financing to build and modernize light industrial manufacturing space. The vehicles should fully qualify a bank to receive CRA credit for its contribution, or have a straightforward way to determine which pieces would qualify.
2. **Provide stable manufacturing space so that manufacturers have the certainty they need to plan for and invest in their future expansion**. This includes clear and consistent policies to preserve manufacturing land; zoning to create and preserve industrial areas and mixed-use areas with space dedicated to industrial use; and no longer allowing non-manufacturing businesses like hotels, big box superstores, and self-storage facilities on manufacturing land.

3. **Support and Prioritize Nonprofit organizations to build and manage Industrial space:** The City should give **nonprofit organizations a preference in the sale or lease of City-owned space**; create a nonprofit **Industrial Development Fund**; explore whether additional **City-owned industrial space should be managed by independent nonprofit organizations**; and **fully fund the Industrial Business Service Providers** that support the Industrial Business Zones (IBZ's).
4. **Expand targeted workforce development training** through local community organizations and CDCs, so that residents are best able to benefit from job expansion in particular sectors including, but not limited to, light manufacturing.
5. **Continue and expand support for small businesses** in NYC through **merchant incubators; services to small businesses**; and locally-driven efforts to **revitalize commercial corridors**.
6. **Provide guidance for Banks** regarding CRA-eligible financing opportunities and **tools to measure the impact** of their investments.

Recommendations for Banks:

1. **Staffing:** Banks should develop a well-resourced, high capacity community development team that understands economic development. Staff must commit to working with all stakeholders to develop a coordinated set of financing vehicles, resources, and expertise that can be tapped into by developers, lenders (CDFIs/CDCs) and small businesses themselves
2. Ensure that economic development loans, investments, and services have an **intentional strategy to create, preserve, and improve quality permanent jobs**.
3. Banks should provide direct financing as well as provide capital and expertise to public-private partnerships that lead to the **development of affordable manufacturing space**. This may happen through **existing or new financing mechanisms**. Banks should make extra effort to provide financing to **nonprofit developers of industrial space**.
4. **Increase traditional small business lending** in LMI census tracts and to the smallest businesses; increase access to affordable lines of credit; consider alternate forms of credit; provide flexibility for long-standing businesses that hit upon hard times; create products that match sector needs; have loan staff that can do intentional outreach in LMI and immigrant communities; implement a "Second look" program to refer declined borrowers to alternative lenders.
5. **To supplement traditional bank lending, banks should provide both capital and philanthropic support to nontraditional lenders and CDCs/LDCs that support these businesses.** These institutions incorporate "high-touch" models that provide extensive support to borrowers. They also provide one-on-one support, training, workforce development, and resources to help small businesses operate more efficiently and effectively. **In addition to financial support, banks can also provide in-kind support**, such as mentoring and training for small businesses as well as training and skills-building for nonprofits serving small businesses.

INTRODUCTION

Economic Development is probably the most misunderstood and challenging category within the Community Reinvestment Act's (CRA) categories of community development. Activities that further *equitable economic development* are even less understood and can actually fall under one or more of the five categories for which banks can receive community development credit under the CRA. This paper helps demystify the economic development category and encourages more intentional investments in all categories that will support successful approaches to equitable economic development and lead to new strategies and systems that will further this field in New York City. Specifically, this paper analyzes how the CRA interprets economic development, lays out the range of activities banks can engage in to support economic development, and provides a set of recommendations for the City, banks and regulators to increase investment in equitable economic development.

New York City is at a pivotal moment in this time of persistent and growing economic inequality, which threatens the promise of opportunity of our City. At the same time, the City has a new administration and progressive City Council that could potentially reverse this course, especially in collaboration with other legislators, bank regulators, nonprofit organizations and private industry. New York City has the sixth-highest level of income inequality among the biggest 50 U.S. cities; the top five percent of households make over 13 times more than the bottom 20 percent¹. Meanwhile, retail is one of the lowest-paying and fastest-growing sectors in the City. The majority of ANHD member organizations – neighborhood based community organizations and Community Development Corporations (CDCs) – have long been known and recognized for their expertise and central role in affordable housing development, using government-backed programs that leverage investment brought to the table by the CRA. Since its passage in 1977, the CRA has been very successful in fostering collaboration among government, developers, nonprofit organizations, and banks, which has led to the creation of a robust affordable housing infrastructure with a wealth of CRA motivated capital to support it. CDCs are responding to this economic reality that directly impacts people in their neighborhoods. Many CDCs have been working on, or are expanding into, economic development. The same CRA that has been so effective in building and supporting a housing infrastructure was written to be flexible and responsive to the ever-changing credit needs of cities. Thus, it can also serve as a tool to bring banks to the table once again to develop this new infrastructure for equitable economic development. Regulators must push banks to do more in this area of their CRA lending and investments and work with all stakeholders to identify practical solutions that will spark the economic development opportunities low- and moderate –income (LMI) people and communities need.

¹ <http://www.brookings.edu/research/papers/2014/02/cities-unequal-berube>

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

Equitable economic development goes beyond expanding the tax base and beyond simply creating and preserving jobs. It is about the jobs being created and the people being served. **Equitable economic development is about creating the systems and environments to create a stable middle and working-class employment base and workforce that creates a meaningful path to the middle class. It is critical that these systems and opportunities be intentionally extended to the LMI and underserved communities that need them most through targeted strategies for quality job creation, small business development, and workforce development and placement.** For example, jobs in the manufacturing and light industrial sector pay an average of \$64,000² a year. These jobs add far more wealth to the community than jobs in the faster-growing retail and service sectors.

The US government has long recognized that the lending, investments, and services that banks provide are crucial to the health of our communities and our economy. Because of this, banks receive significant taxpayer-backed public benefits, including access to credit from the Federal Reserve discount window and the deposit insurance from the Federal Deposit Insurance Corporation (FDIC). Finally, as we learned from the most recent financial crisis, banks also benefit from a federal safety net whereby the Federal Reserve and Treasury Department can provide emergency financing to banks in times of crisis. These benefits come with the understanding that banks will provide their services equitably in the communities in which they operate.

During the 1960's and 1970's, however, this social compact broke down dramatically as banks withdrew from low-income and minority neighborhoods. And, where banks still had a presence, they refused to make loans to people in those neighborhoods – a practice known as redlining – and reduced investment in urban neighborhoods. One only need to look at photos of the “Burning Bronx” in the 1970's to see what disinvestment looks like and to understand that readily available, sound lending is critical to a healthy housing market and community.

In response to these harmful, discriminatory practices, Congress passed a number of new laws to regulate banking practices and hold banks accountable. The Fair Housing Act of 1968 made discrimination in lending illegal and the Home Mortgage Disclosure Act (HMDA) of 1975 gave the community and regulators new tools to transparently monitor bank lending practices and enforce anti-discrimination laws. The CRA was passed in 1977 to ensure that banks provide credit and deposit services equitably to the communities in which they do business, including LMI communities. It has also created the expectation that banks provide an adequate number of community development loans, investments, and services to further these goals beyond their core lending and branch services. The CRA states that banks have a continuing and affirmative obligation to help meet the credit needs of the low- and moderate-income neighborhoods in which they do business, consistent with safe and sound business practices. Thus, if a bank takes deposits or does business in a neighborhood, it must provide all of its services equitably. **The fundamental principle of the CRA is that all communities, including LMI communities, rely on banking services and those services must be provided in an equitable manner.**

² NYC Press Release, “Mayor Bloomberg and Speaker Quinn Announce 22 New Initiatives to Help Small Industrial Businesses Stay and Grow in New York City”, June 7, 2013: <http://on.nyc.gov/1hM9vfk>

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

ANHD represents 95 nonprofit community organizations and Community Development Corporations (CDCs) that have dedicated much of their expertise and resources to building and maintaining affordable housing as well as organizing to increase access to safe, affordable housing. ANHD was part of the social movement that led to the passage of the CRA and has witnessed with great appreciation the enormous benefits of the law. In the past 25 years, over 300,000 units of affordable housing have been built across the five boroughs using a mix of government subsidies that leveraged private bank investments brought to the table as a direct result of the CRA. The community development movement has been at the forefront of this housing development. CDC's account for roughly a third of this housing, and the housing they develop is permanently affordable and deeply affordable to reach the people who need it most.

Over the years, these same neighborhood-based organizations have taken on many other areas of work that respond to the local needs of their communities, including locally-driven equitable economic development, childcare, education for youth and adults, and many other efforts to improve their neighborhoods. Much of this work has been made possible by leveraging private bank reinvestment that was brought to the table as a direct result of the CRA.

THE BASICS OF THE CRA AND WHAT THE CRA SAYS ABOUT ECONOMIC DEVELOPMENT

Larger banks typically undergo a CRA examination every 2-3 years that evaluates their lending, investments and services to ensure that they are equitably and adequately serving LMI people and communities within their assessment areas. Smaller banks may be examined less frequently. Assessment areas are defined by where banks have branches and take deposits. In general, banks receive the most rigorous review in the assessment areas where they have the most branches. Each bank is regulated and examined by one of three federal agencies – the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC), or the Federal Reserve Board. New York State-chartered banks are also regulated and examined by the New York State Department of Financial Services (DFS) whose exams usually take place concurrent with the banks' federal exams.

In general, large retail commercial and savings banks receive a three-pronged test consisting of the “Lending test”, “Investment Test”, and “Service Test”, each of which includes a community development component. Small Intermediate Banks evaluate all community development activities in one test, while small banks are not evaluated on their community development activities at all. Wholesale and limited purpose banks (such as credit card banks) are evaluated by CRA regulators solely on their community development loans, investments and services, and not on core lending and branching.

For many banks, the **Lending test** carries the most weight overall. It evaluates the volume and distribution of the bank's core lending as well as the quantity and quality of community development lending. This part of the exam evaluates

- (1) the volume and distribution of 1-4 family home purchase, refinance, and home improvement loans to LMI borrowers and in LMI geographies;
- (2) the volume and distribution of multifamily apartment building home purchase, refinance, and home improvement loans in LMI geographies; and
- (3) the volume and distribution of small business loans by loan size, in LMI geographies, and to businesses with revenues of one million dollars or less.

Regulators next evaluate the volume, quality, responsiveness, and level of complexity and innovativeness of the bank's **community development loans**, which are loans determined to have a community development purpose but do not fall under one of the three categories above³ (community development will be discussed in more detail later in this section).

³ Multifamily lending is the only exception in which a loan can be “double-counted”. A multifamily loan determined to provide affordable housing can also count as a community development loan.

For retail banks undergoing the large bank test, community development loans may have a positive, neutral, or negative impact on an institution's lending test rating. Regulators go on to say that "strong performance in retail lending may compensate for weak performance in community development lending and, conversely, strong community development lending may compensate for weak retail lending performance."⁴ This means that if a bank does not rate very highly on the volume and distribution of its core lending, its score could go up if it demonstrates a level of community development lending that is innovative, complex, and responsive to community needs. Likewise, its rating could go down if the bank does not demonstrate such a level of community development lending. Conversely, if their volume and distribution of core lending to LMI people and in LMI geographies is particularly strong, the community development portion of the test may not carry as much weight. However, given its potential to positively impact the overall lending test rating, many banks seek opportunities to increase the volume and quality of their community development lending activity.

The **Investment test** evaluates the volume, quality, and level of complexity and innovativeness of community development investments. The **service test** evaluates the distribution of branches in LMI geographies, with some discussion of how the products and services equitably meet the needs of LMI consumers and geographies. Responsive and innovative community development services can also improve a bank's rating on the service test portion of the exam. Again, wholesale and limited purpose banks are only evaluated on their community development loans, investments, and services and not on their retail lending or services.

Economic Development is probably the most misunderstood and challenging category within community development, partly because of the regulation itself and partly because of the inherent challenges in creating quality jobs for people of all incomes and backgrounds. There is no one approach that will create quality jobs to build wealth and a path to the middle class for underserved people and communities.

According to the CRA regulations, community development encompasses a wide, but very well defined, range of activities targeting LMI people and communities. Community development is specifically defined as being activities that

- (1) increase access to affordable housing (homeownership and rental);
- (2) provide community services to LMI individuals;
- (3) promote economic development by financing small businesses or farms;
- (4) revitalize or stabilize LMI geographies, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies designated by the three federal regulators; and
- (5) support certain foreclosure prevention activities.

⁴ November 2013 "Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice" published by the Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC). Page 22, retrieved from: <http://www.ffiec.gov/cra/pdf/2010-4903.pdf>

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

ANHD's definition of economic development differs somewhat from that of federal regulators, and it is important to understand both. Economic development under the CRA is largely about small businesses, but regulations issued by federal interagency guidelines outline some loans and investments that qualify for CRA credit under the economic development category that can be done through larger businesses. CRA also tends to focus more on making credit available to small businesses and the number of jobs impacted, and less on the types of jobs LMI communities need to grow and thrive. Likewise, some loans and investments that could support stable, quality jobs may not meet the strict definition of economic development, but could still qualify for CRA credit under another category. This paper attempts to break down the types of activities that CRA recognizes as economic development, as well as other CRA categories that would allow banks to invest in equitable economic development.

Conventional Small Business Lending

First and foremost, banks that make small business loans have an obligation to lend equitably. According to the CRA, small business loans are actually small loans to businesses, where a small loan is defined as a loan of one million dollars or less. These are commercial real estate loans secured by non-residential, non-farm property and Commercial and Industrial (C&I) loans which may be secured (but not by real estate) or unsecured.

Small business loans are then evaluated on a number of criteria: (1) the proportion of loans within the assessment area, (2) the distribution of loans within low-, moderate-, middle- and upper-income census tracts, (3) the proportion of loans to *small businesses* where a small business is defined as one with gross annual revenues of one million dollars or less, and (4) the distribution of loans by loan amount (less than \$100 thousand, \$100 thousand - \$250 thousand, \$250 thousand - \$1 Million).

It must be noted that, as valuable as this data is, it is also extremely limited, which makes it challenging to use as a test of bank response to small business credit needs. For one thing, data is not reported at the census tract level. Loans are aggregated at the county level with a breakdown of how many of those loans were made in LMI tracts. But it is impossible to know how many loans a bank made in a particular census tract or neighborhood. Second, loan originations, refinancings, renewals, and lines of credit are all treated equally; there are not separate categories to distinguish them. Similarly, business credit cards are treated the same as traditional bank loans/lines of credit, even though they could potentially have significantly higher interest rates, especially if someone is late on a payment at one point. Finally, the reporting does not make transparent many pieces of data that would help the public better evaluate the impact of a bank's lending practices, including, but not limited to, the actual size of the business in terms of revenue and/or number of employees in the business; income (sales) data of the business borrower; income level of owner and/or employees; race or gender of the business owner; the type of business; or demand for loans as measured by the number of applications filed, denied, and withdrawn.

ANHD looks forward to the implementation of Section 1071 of the Dodd Frank Wall Street Reform and Consumer Protection Act of 2010. This provision requires lending institutions to collect and disclose more data on small business lending, akin to what HMDA provides for home mortgages. The stated purpose of this section "is to facilitate enforcement of fair lending laws and enable communities, governmental entities, and creditors to identify business and community development needs and opportunities of women-owned, minority-owned, and small businesses."⁵ ANHD is part of a consortium of advocates who will be providing feedback to the CFPB as they implement this section to help ensure that it truly addresses the small business data reporting and transparency issues.

⁵ HR 4173 – Dodd Frank Wall Street Reform and Consumer Protection Act, Sec. 1071, retrieved from: <http://thomas.loc.gov/cgi-bin/bdquery/z?d111:H.R.4173>:

CRA Credit for Economic Development Loans, Investments, and Services under the Community Development Tests

As mentioned above, economic development is one of five broad categories of community development, sometimes referred to as “hooks” or “buckets”.

In general, loans that don’t fall under the conventional small business lending category may be considered as community development loans. Loans and investments can get credit under the economic development category if they meet both a “size” and “purpose” test⁶. When the loan or investment is made to an intermediary, then the final recipient must be serving small businesses that meet the size and purpose tests.

Size Test: An institution’s loan, investment, or service meets the “size test” if it finances, either directly or through an intermediary, entities that either meet the size eligibility standards of the Small Business Administration’s Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of one million dollars or less. By Small Business Administration (SBA) standards, a business is determined to be a small business by either the number of employees, or maximum amount of receipts, and varies greatly by industry. A small manufacturing business, for example, can have up to 500 employees and a fruit and vegetable market can bring in up to seven million dollars in receipts. If not using SBA definitions, a small business is typically defined by having revenues of one million dollars or less, but SBIC’s allow for businesses with revenues up to two million dollars.

Purpose Test: To meet the “purpose test,” the institution’s loan, investment, or service must promote economic development as defined by the CRA. Activities are considered to promote economic development if they support **permanent job creation, retention, and/or improvement**

- For persons who are currently LMI,
- **Or** in LMI geographies,
- **Or** in areas targeted for redevelopment by federal, state, or local governments.

The regulators presume that any loan to or investment in a **SBDC, SBIC, Rural Business Investment Company, New Markets Venture Capital Company, or New Markets Tax Credit-eligible Community Development Entity** promotes economic development.

Additionally, loans to businesses when made as part of the **SBA’s 504 Certified Development Company** program automatically qualify for CRA credit as an economic development loan. However, it must be noted that an SBA 504 loan is like any small business loans, such that if the amount is one million dollars or less, it will likely be evaluated under the CRA small business lending test and not as a community development loan.

⁶ Large banks must report business loans of one million dollars or less under the CRA small business portion of the lending test; loans above that amount can be presented for consideration as community development loans. Intermediate Small Banks and Wholesale banks can typically present any business loan for consideration as a community development loan.

A loan or investment to build or renovate a building for **light manufacturing or industrial space**, or any other commercial space, could potentially receive CRA credit under the economic development category if the purpose of the loan / investment explicitly shows that the space will serve small businesses in order to create, preserve, or improve jobs for LMI people or geographies.

Banks are assessed on both the quantity and quality of their community development activity. Thus, examiners must also make qualitative assessments of an institution's leadership in community development matters and the complexity, responsiveness, and impact of the community development activities of the institution. For investments, regulators look at the dollar amount invested; the innovativeness or complexity of qualified investments; the responsiveness of qualified investments to community needs; and the degree to which the qualified investments are not routinely provided by private investors.

Other categories of CRA can also be used to support equitable economic development

- **Neighborhood Revitalization and Stabilization:** Activities that revitalize or stabilize LMI geographies are activities that **help to attract new, or retain existing, businesses or residents**. Banks can receive CRA credit for loans or investments on buildings that will house new or existing businesses, including the construction or renovation of space for industrial or light manufacturing businesses, when they are done with a community development purpose such that they benefit LMI people or geographies. That is, if the loan or investment does not meet both the *size* and *purpose* tests for economic development, or otherwise fall into one of the approved financing vehicles explicitly qualifying for economic development credit, it may also qualify for CRA credit under neighborhood stabilization and revitalization. One example often cited in CRA literature is a loan for an anchor business, such as a pharmacy or grocery store, in a low- or moderate-income area (or a nearby area) that employs or serves residents of the area and, thus, stabilizes the area, may be considered to have a community development purpose. Thus, if the space is done with the purpose of creating jobs and services in or near an LMI tract, it could count in this category.
- **Community Service:** A philanthropic grant to a municipality or to a nonprofit for **workforce development** is also not likely to receive CRA credit under the category of economic development, unless the organization specifically serves small businesses to create, preserve, or improve jobs for LMI people or geographies. However, workforce development for LMI individuals or people in LMI geographies would fall under the community service category and thus receive CRA credit.

THE CASE FOR EQUITABLE ECONOMIC DEVELOPMENT IN THE CRA

The CRA was originally very focused on housing and bank branches, particularly in response to the redlining practices happening at the time the law was passed. In the 1970's, banks were largely avoiding lower-income communities and, in the areas where they had a presence and were taking deposits, they were not making home loans. Nearly 20 years later (in 1996), small business lending was recognized as a critical piece of equitable bank investment and this data became incorporated and more widely available, albeit in a more limited form.

Because of this history, community development has traditionally been seen by some as synonymous with affordable housing, particularly in New York City where the housing crisis has been, and continues to be, acute. That fact, coupled with the strong government, financial, and community infrastructure developed in part by the nonprofit CDC sector, has resulted in many CRA dollars going to affordable housing. That being said, ANHD believes that banks are not meeting community needs at an adequate level across many different community needs, including economic development. Community development loans and investments are necessary both to continue the important housing work in our City and to develop and expand activities that further equitable economic development.

In 2011 alone, locally held deposits (national for wholesale banks) among 24 of the city's largest banks was \$714.6 billion. Collectively, these banks reinvested \$9.7 billion into New York City, which accounts for just 1.4% of all deposits. This reinvestment includes 1-4 family loans to LMI borrowers; multifamily rental housing loans in LMI tracts; small business lending in LMI tracts, and community development loans, investments, and grants serving LMI people and neighborhoods. If these same banks were to collectively reinvest just 5% of their deposits, that amount would increase to over \$35 billion. And as always, quality matters just as much as the quantity of dollars reinvested.

ANHD continues to monitor and advocate for more CRA dollars and expertise to support affordable housing throughout the City, but community development activities must comprehensively support the entire community. Housing, good jobs, and community services are all needed to improve the lives of LMI people and communities. For this reason, ANHD is simultaneously monitoring investment towards other areas of community development, including equitable economic development. This increased focus on economic development as a community development strategy comes at a time of persistent and growing economic inequality in New York City where there are increasingly few job opportunities for working families in between higher-paying professional jobs and low-end service sector jobs.

The Community Reinvestment Act, Bank Reinvestment, and the Opportunity of Equitable Economic Development in New York City

Increasingly, community development organizations like CDC's are capable of engaging in a wider variety of comprehensive community development activities. In response to this new economic environment and the work CDCs have already begun, ANHD recently commissioned a study of its member organizations to assess their capacity and interest in incorporating or adding economic development activities into their mission and coordinating the work among members⁷. The majority of ANHD member organizations surveyed have developed an unprecedented level of expertise in the area of affordable housing – from building housing for very-low, low- and moderate-income New Yorkers to managing that housing responsibly to advocating for policies and practices to build and preserve even more.

These groups well know that housing is but one piece of the community development needs of New York City neighborhoods. The report revealed that many of these same groups have also been working on, or are expanding into, equitable economic development. A major priority that emerged from this study was a desire for a more coordinated effort among the CDC community to build upon their strengths and expand their grassroots efforts in three main aspects of equitable economic development: (1) improvements to the business environment and direct technical assistance to businesses that ensure that they are equipped to grow and support their communities while also providing jobs to local residents. This includes specific strategies for both the industrial and manufacturing sector and the commercial and retail sector; (2) investing in a community's human resources through skills training and job placement to ensure that local residents are best positioned to fill the jobs needed by local businesses; and (3) grassroots organizing to ensure that the necessary policies, resources, and political support are available for equitable economic development activities. As one ANHD member said, *"We have developed a great set of tools for affordable housing. It is time for us to expand those tools and more completely address other issues, like economic development and the lack of quality jobs, which deny equal opportunity to our neighborhoods."*⁸

Economic development can encompass multiple sectors and strategies, many of which when done intentionally could be beneficial to local communities. One specific strategy ANHD is advocating is for the new administration to develop and support a comprehensive economic development strategy to create 75,000 new, quality jobs in the light manufacturing sector over the next eight years for the New Yorkers and the outer-borough communities that most need them.

Zoning for quality jobs should be a priority for the City, but instead of zoning for jobs, 1,800 acres of manufacturing land have been rezoned for high-end residential use in the past eleven years⁹. At the same time, land currently zoned for manufacturing use is increasingly being used as-of right and sometimes illegally for non-manufacturing uses, including housing; hotels; big box superstores, and self-storage facilities. This not only destroys the potential quality jobs on that rezoned land, it also incites real estate speculation in the remaining industrial areas and destroys the quality jobs where

⁷ Ortiz, L., Foggin, M., Leighton, N. (report prepared for ANHD by Larisa Ortiz Associates, with input from Public Works Partners), November 2013, "Roadmap for Equitable Economic Development: Expanding the Toolkit of the Community Development Movement."

⁸ Ibid.

⁹ Pratt Center for Community Development. "Protecting New York's Threatened Manufacturing Space." (April 16, 2009)

developers often purposely underutilize the industrial capacity of the land, or even hold it vacant for long periods of time, in order to support their claims that the manufacturing land should be rezoned as residential.

The City and its financial institutions should be supporting a vibrant manufacturing sector as a key part of any comprehensive strategy for rebuilding our middle class. A new crop of urban manufacturers are growing across the City, encompassing a wide range of products important to New York City, including smaller-scale food manufacturers, custom cabinetry, breweries, sustainable green building materials, and innovative fashion and beauty product fabricators.

This “**New Industrial New York**” represents the best of what local small- and medium-scale manufacturing has to offer to any urban environment. It is increasingly recognized that a vibrant urban manufacturing sector inherently has a local competitive advantage that the large, disbursed manufacturing channels cannot match. When done well, urban manufacturing provides flexible, productive, high-capacity products and services that can best respond to local, regional, and even global industry needs. They do this while at the same time expanding the economic base, particularly for people who might otherwise be trapped in lower-wage service-sector jobs for lack of education, skills, or opportunity. Manufacturing and light industrial jobs have an average salary of \$64,000¹⁰ a year which adds far more wealth to the community than low-wage jobs like those found in the retail sector.

New York City has expended considerable resources in expanding the retail sector, citing job creation as one of the benefits. However, many of these are not the jobs New Yorkers need to get ahead. For one thing, from 2002 to 2012, retail wages in NYC declined 5.6% while average wages across all sectors rose 3.5% over this same period¹¹. A recent study by the Retail Action Project delved deeper into this subject by surveying 436 workers from 230 large retail employers¹². They found that the median wage for retail workers was \$9.50 an hour and just over half earned less than \$10 an hour. Only 29% of the workers surveyed received health benefits and fewer than half had any paid time off or sick days. The disparities were greater for women and people of color. Add to that the fact that 60% of the workers surveyed were hired part-time and becomes clear that these are not the jobs that will move LMI people into the middle class.

On the other hand, 75,000 new quality industrial jobs can create stable good-paying jobs and expand the City’s fiscal base to generate over \$750 million in gross direct fiscal revenue¹³. There are currently 188 million square feet of vacant city- and privately-owned land zoned for light manufacturing and industrial use that could support an average of one job per 1,500 square feet if city zoning policy and industrial economic development policies had a systematic and multi-faceted approach¹⁴. The poor quality

¹⁰ NYC Press Release, “Mayor Bloomberg and Speaker Quinn Announce 22 New Initiatives to Help Small Industrial Businesses Stay and Grow in New York City”, June 7, 2013: <http://on.nyc.gov/1hM9vfk>

¹¹ Ibid.

¹² Retail Action Project, “Discounted Jobs: How Retailers Sell Workers Short” 2012, <http://retailactionproject.org/2012/01/discounted-jobs-how-retailers-sell-workers-short-executive-summary/>

¹³ New York City Economic Development Corporation “The New Industrial NYC.” last modified on June 7, 2011, http://www.nycedc.com/system/files/files/industry/IndustrialOverview_6-6-11.pdf.

¹⁴ New York City Economic Development Corporation 2013.

of retail jobs is particularly troubling given that retail is the fastest-growing industry in the City and currently the third largest employer in the City, accounting for 10 percent of all jobs, second only to the Professional, Scientific, and Technical Services and Health Care and Social Assistance sectors¹⁵.

A fundamental piece of a strategy to expand the industrial sector is to ensure that New York City has adequate space and resources for small and medium manufacturing businesses. There needs to be business incubator space and support systems for new and emerging businesses. The City should also be prepared to support businesses as they grow, thus enabling them to relocate to larger spaces and ideally hire more workers. Such a strategy requires cooperation and participation from multiple entities, including a robust flow of capital and grants from the financial sector, leveraged by public, private, and nonprofit investments, development, and expertise.

ANHD also believes that industrial spaces developed, managed, and operated by nonprofit organizations are best suited to support businesses that will create the kind of stable, good paying, quality jobs our communities need. The Brooklyn Navy Yard and Greenpoint Manufacturing Development Corporation (GMDC) are two models that should be replicated because they provide small and mid-sized industrial spaces at affordable rents. In addition, The Brooklyn Navy Yard helps businesses connect to financing and technical support and incorporates an intentional strategy to employ local LMI residents. The fact that both are at full capacity with waiting lists demonstrates the need for such spaces in our City. Similarly, a study by the Pratt Center for Community Development of 80 industrial businesses in the Gowanus area of Brooklyn found that many businesses there are experiencing positive growth and committed to continued growth. Two-thirds of businesses plan on adding employees in the next three years. Two-thirds also reported they would look for space again in Gowanus, while 44% would look elsewhere in Brooklyn, indicating more demand for industrial space¹⁶.

Of course, expanding manufacturing is just one strategy to create quality jobs. New Yorkers and the organizations dedicated to serving and empowering them need a broader set of tools to create and sustain quality jobs through financing, technical assistance, and affordable space.

Over the 35 years since the CRA was passed, New York City has developed one of the richest ecosystems in the country to build and preserve affordable housing. The CRA has fostered collaboration among governments, developers, nonprofit organizations, and banks that has led to the creation of a robust infrastructure with a wealth of CRA motivated capital to support it. NYC has a well-established set of nonprofit CDCs and for-profit developers who have experience in building and preserving housing, using all available resources – public and private. Large and sophisticated intermediaries such as the Local Initiatives Support Corporation (LISC), Enterprise, Community Preservation Corporation (CPC), and the Low Income Investment Fund (LIIF) have the

¹⁵ New York City Economic Development Corporation “Industry Trends & Insights: Retail in NYC”, December 2013, <https://www.nycedc.com/resources/economic-research-analysis/industry-trends-insights>

¹⁶ Pratt Center, “Gowanus BOA: Industrial Business Survey Analysis”, 2012

capacity and experience to help finance affordable housing through tax credits, below-market loans, grants, and training and capacity building. Myriad federal, state, and city programs and agencies have been developed to support this housing infrastructure, including but not limited to the rent-regulation system; capital investments; bond financing and other mechanisms to provide below-market-rate loans; tax abatements such as 421-a and J-51; tax credits such as LIHTC; Section 8 vouchers; Inclusionary Zoning policies; disposition of city-owned properties; and zoning changes to allow for more residential buildings. Finally, a number of banks now have sophisticated community development teams that truly understand this system and how to engage in a meaningful way. This is not to say that the housing problem is solved – far from it – but the barriers have less to do with private capital and more to do with furthering policies and public investment to continue to effectively leverage this capital.

It is time to develop a similar ecosystem to drive equitable economic development in New York City. Certainly economic programs and initiatives exist, but they are more independent and disparate. Housing, while still difficult to build and preserve, is much more straightforward. Housing is considered affordable if it costs less than 30% of one's income. Certain populations also have different needs and thus have led to a set of tools for general affordable housing, senior housing, and supportive housing. The needs and approaches to economic development are much more varied and much less straightforward. For example, few metrics exist on what makes for an affordable rent for manufacturing or commercial space and how that leads to preserving stable, good-paying jobs and creating more such jobs for LMI New Yorkers. As mentioned above, the city has become very segregated between higher-paying jobs that often require one or more degrees and much lower-paying service-sector jobs that require little education but will not support a family and have few opportunities for career advancement.

While economic development under the CRA includes small business lending, equitable economic development involves much more. In general, business creation and development is currently riskier than affordable housing development, but with a strong, coordinated strategy that involves public and private investment, the opportunity exists to reduce that risk dramatically. **There is no reason why all stakeholders can't take the same strategic, intentional approach to economic development that has been taken for housing in order to develop the tools and resources needed to support New York City's businesses and workers.** ANHD has long recognized the strategic role that local, neighborhood based CDC's play in affordable housing. These and similar nonprofit organizations are uniquely positioned to create, improve, and manage industrial and commercial space; deploy responsible capital; and provide technical assistance and training to give more businesses and sectors the chance to succeed in the long term.

ECONOMIC DEVELOPMENT ACTIVITIES CAN TAKE MANY FORMS UNDER THE CRA

The CRA allows for many ways that banks can contribute to economic development. The following are examples of the types of Community Development loans and investments that qualify under the Economic Development category. These same structures are often used for multiple categories under the CRA and can contribute to quality jobs in NYC. And, as mentioned above, small business loans of one million dollars or less will most likely be counted and evaluated as CRA small business loans, and thus cannot be counted as community development loans, even if they meet the size and purpose test. The recommendations section of this paper discusses the types of activities that would have the greatest impact in New York City.

- Direct loans to businesses for over one million dollars (loans of one million dollars or less typically get evaluated as CRA small business loans and not community development loans)
- Loans to businesses when made as part of the **SBA's 504 Certified Development Company program**. A 504 loan can be used for: (a) The purchase of land, including existing buildings; (b) The purchase of improvements, including grading, street improvements, utilities, parking lots and landscaping; (c) The construction of new facilities or modernizing, renovating or converting existing facilities; (d) The purchase of long-term machinery and equipment.
- Loans to nonprofit organizations primarily serving community development needs, specifically promoting economic development.
- Loans to or investments with financial intermediaries that **primarily lend or facilitate lending to promote economic development**, including:
 - **Community Development Corporations (CDCs) and Local Development Corporations (LDCs)**
 - **New Markets Tax Credit (NMTC) entities**: The NMTC was created as an effort to stimulate private investment and economic growth in low income urban neighborhoods and rural communities to support and grow businesses, create jobs, and sustain healthy local economies. The NMTC attracts capital to these communities by providing private investors with a 39% federal tax credit for investments made in businesses or economic development projects distressed communities, typically defined as being census tracts where the poverty rate is at least 20% or where median family incomes are at or below 80% of the area median¹⁷.
 - **Community Development Financial Institutions (CDFIs)**. According to the CDFI Fund "CDFIs are specialized financial institutions that work in market niches that have not been adequately served by traditional financial

¹⁷ <http://nmtccoalition.org/2012/01/09/nmtc-fact-sheet/>

institutions. CDFIs provide a wide range of financial products and services, including mortgage financing for first-time homebuyers, financing for needed community facilities, commercial loans and investments to start or expand small businesses, loans to rehabilitate rental housing, and financial services needed by low-income households and local businesses.”¹⁸

- **Minority- and women-owned** financial institutions,
- Low-income or community development **credit unions**.
- **Equity Equivalent Investments (EQ2s)**. EQ2s can be described as long-term, subordinated loans with specific conditions that allow them to function like equity. For nonprofits seeking new ways to raise equity, EQ2s provide an alternative to grants and could play a critical role in closing the gap that prevents nonprofit industrial developers from preserving space for high quality jobs.
- **Community loans funds or pools**: Loan pools “are seen as a way to help financial institutions efficiently and effectively meet requirements of the CRA investment test... CRA-qualified community development loans and investments often carry a slightly higher risk, making them less attractive from a safety-and-soundness perspective.... The existence of multiple investors creates a shared-risk environment that allows for more flexible loan criteria than with one financial institution.”¹⁹
- Organizations that promote economic development by **financing small businesses**. CRA specifically includes Small Business Investment Corporations (SBICs) in this category.
- Community development venture capital companies that promote economic development by financing small businesses.
- **Local and state governments** for economic development activities.
- Borrowers to finance **environmental clean-up or redevelopment of an industrial site** as part of an effort to revitalize the community in which the property is located. **Brownfield cleanup** often qualifies if it’s in an LMI geography. It must be noted that brownfield cleanup itself is typically considered neighborhood revitalization, and not economic development, because the cleanup isn’t financing small businesses to create, preserve or improve permanent jobs.
- **State and municipal obligations** (such as revenue bonds) that specifically support economic development or community development. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Another example is the purchase of a local government mortgage revenue bond that will fund a loan from the city to a nonprofit corporation that provides community services and **job training**.
- **Nonprofit organizations supporting activities essential to helping LMI individuals or geographies** to use credit or sustain economic development, such as, day-care facilities and job-training programs that enable LMI individuals to work.

¹⁸ http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=9

¹⁹ <http://www.stlouisfed.org/publications/br/articles/?id=612>

CHALLENGES TO UNDERSTANDING WHAT QUALIFIES FOR ECONOMIC DEVELOPMENT CREDIT UNDER THE CRA

Both banks and regulators have spoken of various challenges to receiving CRA Credit for economic development, especially given the burden of proof on the banks to support why a particular loan or activity qualifies for CRA credit in general, and economic development credit in particular.

Some banks do not understand that they must meet both the “size” and “purpose” test in order for a loan or investment to get qualified as an **economic development** loan or investment. This is a very specific test. Activities are considered to promote economic development if they support **Permanent job creation, retention, and/or improvement** for persons who are **currently LMI**, in **LMI geographies**, or in **areas targeted for redevelopment** by federal, state, or local governments.

Some loans automatically get economic development credit. These include investments in NMTC’s and SBIC’s as well as SBA 504 loans. However, if a loan does not fall into those categories, banks must provide clear evidence and support as to why a deal meets a community development purpose, and more specifically, an economic development purpose. A loan to a business or to promote business in an LMI geography does not automatically qualify as an economic development loan if it does not demonstrate a clear plan to create, retain, or improve jobs in that LMI area or for LMI people. The same applies to a loan that preserves or creates middle income jobs, but not jobs for LMI people. Some banks are seeking guidance on how to demonstrate that the purpose of the loan or investment is to promote permanent jobs that will be created, retained, or improved for LMI people or in LMI geographies.

Also, while there are clear metrics to determine if an apartment is affordable and to whom it is affordable, no such metric exists for business rent. The regulations are also unclear with respect to jobs for LMI people, especially the quality of those jobs. For example, technically a new minimum wage job is creating a job for an LMI person who will remain LMI, but that is not going to help that person or family get out of poverty. On the other hand, a job created for a formerly LMI person to move into middle-income job, or into a lower-wage job with a clear path to better pay and/or benefits would have a longer-term positive impact on the person and community.

Whatever category the loan or investment falls under, it must support equitable economic development, so as to create the types of quality jobs and infrastructure to support those businesses and workers. This is what NYC needs to rebuild the middle class and create pathways to opportunity for many New Yorkers who have few options available to them except for lower-paying service sector jobs.

RECOMMENDATIONS FOR BANK REGULATORS, NEW YORK CITY, AND BANKS TO SUPPORT EQUITABLE ECONOMIC DEVELOPMENT

As mentioned above, it has taken over 35 years of deliberate, intentional work across multiple sectors to create the infrastructure to finance affordable housing construction, preservation, and management. Much of this work was made possible because of the CRA, which brought banks to the table to develop and support this housing ecosystem which is constantly evolving and improving.

In the face of rising poverty, growing income inequality, and a rapid loss of just the type of space and resources our city needs to create and retain quality jobs, it is urgent that the City's public and private sectors come together to address this issue in a similarly smart, systematic manner. **The same CRA that has been so effective in supporting and building a housing infrastructure was developed to be flexible and responsive to the ever-changing credit needs of cities. Thus, it can also serve as a tool to bring banks to the table once again to develop this new infrastructure for equitable economic development.** Regulators must push banks to do more in this area of their CRA lending and investments. Investing in small businesses may be inherently riskier than housing, but that is no excuse not to identify practical solutions that will spark the economic development opportunities needed by our LMI communities.

Similar to housing, an economic development infrastructure will require the collaboration of the public and private sectors to:

- Establish land use and zoning policies, initiatives, funding, and financing mechanisms, including (but not limited to) capital investments, credit enhancements, tax abatements to incentivize investment and offset risk;
- Provide financing, grants, and expertise directly and through intermediaries;
- Construct, rehabilitate, and manage space for light manufacturing businesses. A priority must be placed on nonprofit organizations to manage the space such that the tenant manufacturers have the stability they need to invest and thereby create jobs, and more of the investment goes back into the community to sustain and build the industry further;
- Support small businesses with commercial revitalization, loans, and technical support;
- Provide targeted workforce development training and placement.

Recommendations for Bank Regulators:

1. **Clarify what is meant by job creation for LMI people and provide tools to measure this:** CRA regulations require permanent job creation, preservation, or improvement for LMI people or in LMI geographies. The regulations do not specify if the jobs for LMI people means that the people were formerly earning a salary that is considered low- or moderate-income, or if the job created pays a wage that keeps the employee earning a low- or moderate income.

Also provide banks with tools to measure and demonstrate that a particular deal meets the size and purpose test under CRA. Concrete advice and tools for banks might help them feel more comfortable that a deal would get CRA credit for economic development.

2. **Promote High Quality Jobs in Community Development lending and investments:**

Regulators should be looking more closely at the quality of the business environment and the jobs created, preserved or improved to gauge their impact:

- Wages: Building upon the recommendations above, CRA should promote jobs that pay a decent wage, or can provide a path to better income opportunities in the future, either by increased income, skills, or responsibilities.
- Benefits for employees and their families (healthcare, sick days, vacation, etc)
- Hiring strategies to reach out to, train, hire/retain LMI people who face barriers to employment including, but not limited to immigrants, people of color, long-term unemployed, criminal background, and single parents.
- How many jobs are retained, not just created (success rate)
- Was the rent affordable to promote job creation or retention to LMI people and geographies

3. **Modifications to information within the CRA Performance Evaluation (PE's):** At the conclusion of each CRA exam, regulators publish a Performance Evaluation (PE) with the bank's overall CRA rating, the ratings of individual assessment areas, and some discussion as to what went into the ratings. One of the best ways for banks and the community to understand what qualifies for CRA credit and what is important to regulators is through the PE's.
 - o **Performance Context to Demonstrate Demand:** The performance context provides an opportunity for regulators and community organizations to highlight the credit needs of individual communities. We recommend that regulators delve deeper into the need for equitable economic development opportunities, looking beyond simply unemployment numbers.

Studies have shown that industries such as light manufacturing offer the promise of better paying jobs that could be made available to lower-skilled, lower-income individuals and should be encouraged. However, **more research is needed** to further demonstrate where resources should go and how they should be deployed to have the greatest impact possible. Such research should be supported by public and private funding sources.

- o **Include economic development organizations in the Community**
Contacts: Regulators speak with one or more community contact as a part of each bank's CRA exam. Community contacts are organizations independent from the bank that can help round out the performance context by providing information about community credit needs and opportunities financial institutions may have to help meet those needs. They can also provide feedback on the bank's CRA record of meeting the credit needs of and services to LMI communities. When choosing community contacts, it is important that regulators include community based nonprofit organizations that focus on and understand equitable economic development.
- o **Uniform benchmarking:** Some PE's show the breakdown of the percentage of loans, investments, and services to each category of community development – this would be very helpful information to have on each exam.
- o **Highlight best practices:** The CRA exam also serve as an opportunity to highlight to community organizations, regulators, and other institutions what types of loans, investments, and services are considered innovative, responsive, and/or complex. Some PE's contain many examples, and others very few. It would be helpful if all PE's contained more details about such investments, with the corresponding category for which they got the CRA credit, as a way to further incentivize these types of activities, and also inform banks as to what types of activities they should be increasing.

Best practices should be ones that lead to jobs that will have the greatest impact on the workers and communities, with the greatest emphasis placed on decent wages, benefits, and pathways into the middle class. They should also include intentional job creation strategies, rather than ones where it is an ancillary benefit. This can also be done by providing more examples in CRA literature and in the FFIEC's CRA Q&A document that is widely read by CRA officers and compliance staff at banks as well as other stakeholders (*See Appendix B for more details on this document*)

4. **Give extra CRA credit for equitable economic development.** ANHD has long called for– and continues to call for – CRA examiners to give more weight to community development loans, investments and services done with neighborhood-based organizations such as CDCs and grassroots community organizations. Banks should also receive additional CRA credit for intentional activities that create opportunities for equitable economic development that give LMI people and underserved communities access to quality jobs and a path to the middle class.
5. **More scrutiny of loans that automatically get CRA credit for Economic Development**
 - o ***New Markets Tax Credits (NMTC)***: ANHD recognizes that NMTC investments can be a meaningful vehicle to promote community development in New York City. However, it is unclear why they automatically count as an *economic development* investment, given the wide range of projects that qualify for NMTC's, including charter schools and retail businesses that, while providing services and perhaps even new jobs, are not part of an intentional strategy to create quality jobs for LMI residents and in LMI neighborhoods.
 - o ***Small Business Investment Corporations (SBICs)***: It is even less clear why investments in SBIC's automatically qualify as economic development without proving that they meet the purpose test. Similar to small business lending, all lending is important, but if the goal of the economic development category of CRA is to create and preserve jobs for LMI people and geographies, this particular investment does not appear to automatically meet that purpose in many cases. A publication by the Federal Reserve Board of San Francisco states that "Despite their broader investment mandate, SBICs were effectively exempted from the purpose test by the regulators who created a presumption 'that any loan to or investment in a ... Small Business Investment Company promotes economic development' and is potentially a qualified CRA investment."²⁰ In fact, fewer than half of the loans by SBIC's directly benefit LMI people and geographies, maybe fewer than a quarter. In FY 2012, for example, debenture and other SBIC investments provided \$3.1 billion in financing to over 1,000 small businesses; **29% of those small businesses were located in LMI areas or were businesses owned by women, minorities or veterans**²¹. We believe that each investment in an SBIC, as in any other CRA-qualified investment, should be evaluated on its merits based on the stated goals of the economic development section of the CRA. If the fund is investing in businesses that will create, preserve, or improve jobs for LMI people and neighborhoods, it should get credit, otherwise it should not.

²⁰ <http://www.frbsf.org/community-development/initiatives/community-development-finance/investment-vehicles/small-business-investment-companies/>

²¹ <http://www.sba.gov/sites/default/files/files/SBIC%20Program%20FY%202012%20Annual%20Report.pdf> accessed from <http://www.sba.gov/inv/annualreport>

Recommendations for New York City

1. **Financing and Zoning for light industrial / manufacturing space:** NYC should use its zoning powers to stimulate and preserve space that is appropriate for small- and medium-sized manufacturing businesses. It should also create a set of **robust financing vehicles** that banks can contribute to, or utilize, such that developers have access to grants, low-cost financing, and tax benefits to build and modernize light industrial manufacturing space for small and medium size businesses that will benefit LMI people and communities. The vehicles should be structured so they fully qualify a bank to receive CRA credit for its contribution, or have a straightforward way to determine which pieces of that contribution would qualify.
2. **Provide stable manufacturing space so that manufacturers have the certainty they need to plan for and invest in their future expansion:**
 - a. Establish a clear and consistent policy of ending the rezoning of manufacturing land to allow residential or commercial uses;
 - b. Create stability in the most dense industrial areas to prevent real estate speculation and non-industrial uses from driving up rents²²;
 - c. Create areas that support mixed-uses to maintain a balance of residential, commercial and manufacturing spaces²³. While many manufacturers may seek large spaces in a lower-cost, more homogenous industrial environment, many others may prefer to be close to their customers, work with different types of businesses, and have the amenities of a residential/commercial neighborhood. For these businesses, a diversity of uses and spaces could stimulate innovation, and the development of new products and markets. These mixed-use areas would require that a percentage of the space in each building or the district as a whole be dedicated to manufacturing.
 - d. Rigorously enforce the standards for a zoning variance and impose tougher fines for illegal conversions.
 - e. No longer permit hotels, big box superstores, or self-storage facilities to be built or opened within manufacturing zones. They are not manufacturing businesses and do not create the volume or quality of jobs that will support a family. This is especially so for self-storage facilities that take up large amounts of land and create very few jobs.

²² For more information on industrial land use and programmatic strategies, please see Building A Vibrant Manufacturing Sector, Pratt Center for Community Development (July 17, 2013) at <http://prattcenter.net/issue-brief/building-vibrant-manufacturing-sector>

²³ Ibid.

3. **Support and Prioritize Nonprofit organizations to build and manage Industrial space:**

Two very successful examples are Greenpoint Manufacturing and Design Center (GMDC) and the Brooklyn Navy Yard Development Corporation (BNY). Both GMDC and BNY have a triple bottom line mission that guides investment, leasing, and programmatic decisions such that they achieve fiscal responsibility while creating jobs and increasing the environmental sustainability of their operations. A recent study of the Brooklyn Navy Yard by the Pratt Center found that the number of jobs generated by the Yard and its economic impact on the City increased by approximately 400% over a ten year period. The study found that BNY's success derived from pursuing its mission-based commitment through providing stable affordable space, investing in green infrastructure, accessing City and State incentives and including job creation potential in tenant selection²⁴.

- a. Give nonprofit organizations committed to industrial development a preference in the sale or lease of City-owned space.
- b. Create a not-for-profit **Industrial Development Fund** to provide recoverable grants to nonprofits for pre-development costs and grants to write down acquisition and renovation costs to close the gaps in long-term financing.
- c. Explore whether additional City-owned industrial space should be managed by independent nonprofit organizations. This would not only improve management of the industrial properties, but allow for a more strategic and comprehensive development approach that fosters particular industrial clusters, targets areas for specific market segments, and increases the leverage of private funds for industrial development by dedicating rent revenues so that they can be bonded out to finance capital improvements.
- d. Fully fund the **Industrial Business Service Providers (IBSP's)** that support the Industrial Business Zones (IBZ's). These organizations support hundreds of manufacturing businesses within their zones as well as many other businesses in the area. They provide assistance in securing loans, tax abatements, grants, and technical support.

²⁴ Pratt Center: Building a Vibrant Manufacturing Sector

4. **Expand targeted workforce development training**, through local community development corporations, so that residents are best able to benefit from job expansion in particular sectors including, but not limited, to light manufacturing. **Match workforce training programs** with identified skills and needs of growing sectors to promote local-based hiring and training to career alignment.
5. **Continue and expand support for small businesses in NYC**
 - a. **Support the expansion of local based merchant incubators through neighborhood-based community development organizations** for local business to help them in all facets of expanding and improving their business operations. Assist businesses in negotiating leases, finding qualified workers, developing workforce training programs, enrolling in city programs, applying for city contracts, and identifying local supply chains.
 - b. **Continue and expand services to small businesses through technical support, training, and access to capital.** This can be done through the City's Business Solutions Centers as well as through neighborhood-based organizations such as CDCs, LDCs, and CDFIs.
 - c. **Equitably support locally-driven efforts to revitalize and stabilize commercial corridors** through Business Improvement Districts (BIDs), merchant associations, and chambers of commerce.
6. **Resources for Banks regarding CRA:** Provide **Guidance** to understand CRA-eligible financing opportunities to support light manufacturing and **tools** to measure job creation and retention, including its impact on LMI people and individuals.

Recommendations for Banks:

1. **Staffing:** Banks should develop a well-resourced, high capacity community development team that understands economic development. Especially given the lack of a connected infrastructure and ecosystem for economic development in NYC, staff need to have a good understanding of the landscape – which agencies and organizations are doing the best work, where additional investment and capital would help, which loan programs work best, and how to access government subsidies and incentives.

Staff must commit to working with government, for-profit, and nonprofit partners to develop a coordinated set of financing vehicles, resources, and expertise that can be tapped into by developers, lenders (CDFIs/CDCs) and small businesses themselves

2. **Ensure that Economic Development loans, investments, and services have an intentional strategy to create, preserve, and improve quality permanent jobs.**

All jobs are not equal and CRA should place a greater emphasis on jobs with decent wages, benefits, and a path to the middle class. Thus, the projects should entail intentional hiring, training, and staffing strategies that reach out to and equip underserved populations to access and keep these jobs.

3. **Financing for Manufacturing Space:**

NYC is losing manufacturing space at a rapid pace, and much of the space in existence is too large for a small manufacturing business to occupy, particularly one that is just starting. It is critical that NYC provide a range of small and medium manufacturing space to incubate new businesses and provide them a place to go when they grow out of that initial space.

Developers need access to long-term, low-interest financing in order to develop and improve manufacturing space and the surrounding infrastructure. Banks should provide direct financing and also provide capital and expertise to public-private partnerships that lead to the development of such space. This may happen through existing vehicles, such as NMTC projects, bond financed projects, and loan pools. It may also require the development of a new financing mechanism that will most certainly require bank participation to succeed.

- a. **Prioritize Nonprofit developers:** Banks should also make extra effort to provide financing to nonprofit developers of industrial space. Two very successful examples cited above are the Greenpoint Manufacturing and Design Center (GMDC) and the Brooklyn Navy Yard Development Corporation (BNY). Both GMDC and BNY have a triple bottom line mission that guides investment, leasing, and programmatic decisions such that they achieve fiscal responsibility while creating jobs and increasing the environmental sustainability of their operations.

- b. **Affordable Space:** Provide financing for projects that will create affordable space for entrepreneurs. The cost of industrial and retail space can be prohibitive for many small businesses, especially as speculative practices have raised the cost of land in areas where more expensive housing or office space could replace it.

4. Financing small businesses:

Small businesses have historically been, and continue to be, economic drivers of the City. Their success is critical to the economic development of NYC across all populations. Additionally, immigrants make up a large and growing segment of the city's entrepreneurs in multiple sectors.

Within small businesses, a new crop of urban manufacturers are growing across the city. The industrial sector of large-scale steel mills and pharmaceutical plants are being replaced with smaller-scale food manufactures, custom cabinetry, breweries, sustainable green building materials, and innovative fashion and beauty product fabricators. These jobs present opportunities for many New Yorkers.

Banks should be making all efforts to reach out to and serve small businesses throughout the City:

Increase access to small business lending, including the manufacturing sector, particularly for very small businesses and immigrant businesses, recognizing that some of these may be less formal businesses.

- a. Increase traditional small business lending in LMI census tracts and to the smallest businesses, defined as having revenues of one million dollars or less by the CRA in this category
- b. Increase access to affordable lines of credit
- c. Consider alternate forms of credit to evaluate whether the borrower is likely to repay the loan. For example, look at a business owner's personal credit history and/or bill paying history if the business has never taken out a loan.
- d. Provide flexibility for long-standing businesses that hit upon hard times, especially in light of the most recent economic crisis.
- e. Create products that match sector needs. For example, manufacturers often need purchase order financing. Typically, "purchase order loans" carry a high interest rate, but a bank that understands the market and the business could make a more affordable line of credit available at a lower rate.

- f. Have trained, accessible loan staff that can do intentional outreach in LMI and immigrant communities: speak multiple languages, explain products clearly, conduct more holistic analysis of credit, quick turnaround time on loan decisions, and coaching and assistance to get a business to access a loan in the future.
 - g. Implement a “Second look” program for times when a business truly cannot receive a loan from the bank. Refer these borrowers to alternative lenders that may be able to assist.
5. **To supplement traditional bank lending, banks should provide both capital and philanthropic support to nontraditional lenders as well as CDCs and LDCs that support these businesses.** These institutions incorporate “high-touch” models that provide extensive support to borrowers to prepare them to take out a loan, ensure successful completion of the loan, and beyond that to help them grow and prosper

Nontraditional lenders , including micro-lenders, CDFIs, and credit unions, often provide affordable loans and services critical to supporting small businesses, including:

- a. Affordable lines of credit to individuals and businesses that do not qualify for traditional bank loans;
- b. Holistic analysis of credit: Consider alternate forms of credit to evaluate whether the borrower is likely to repay the loan. For example, look at a business owner’s personal credit history and/or bill paying history if the business has never taken out a loan or if the business is too new to have a strong history;
- c. More flexible underwriting in general;
- d. Staff who speak multiple languages, can explain products clearly, conduct more holistic analysis of credit, coaching and assistance to help the business access loans;
- e. Connect businesses to traditional bank products when they become eligible;
- f. Connect businesses to training programs, grants, and other supports.

Mission driven nonprofit organizations also do what banks do not. In addition to the credit mentioned above, they:

- a. Provide one-on-one support to businesses that receive loans to give them the best chance of success and ultimately to become “bankable”;
- b. Conduct training one-on-one and in class settings to business owners;
- c. At times provide wrap-around/back-end services that new or even established businesses do not have the expertise or resources to do themselves (payroll, accounting, etc);
- d. Workforce Development to staff the small businesses they work with and prepare residents for all jobs available to them. Banks should support **targeted workforce development training** through local CDCs and community organizations. They should seek workforce training programs that match with the identified skills and needs of growing manufacturing and industrial sectors to promote local-based hiring and training to career alignment.

In addition to financial support, banks can also provide in-kind support:

- a. Leverage the extensive training and expertise of a financial institution including, but not limited to: Extensive training that allows nonprofit employees to work within a financial institution for a year; allow bank employees a year off to work with a nonprofit to conduct specific tasks as well as provide training to continue the work; implement systems that would work well across the financial sector for banks and nonprofit institutions;
- b. Mentoring for small business owners;
- c. Small Business education: financial education, training, development support;
- d. Local sourcing for bank operations.

CONCLUSION

Equitable economic development goes beyond expanding the tax base and beyond simply creating and preserving jobs. It is about the jobs being created and the people being served. Equitable economic development is about creating the systems and environments to create a stable middle and working-class employment base and workforce that creates a meaningful path to the middle class. It is critical that these systems and opportunities be intentionally extended to the LMI and underserved communities that need them most through targeted strategies for quality job creation, small business development, and workforce development and placement.

Economic Development is probably the most misunderstood and challenging category within the CRA's categories of community development. Activities that further *equitable economic development* are even less understood and can actually fall under one or more of the five categories for which banks can receive community development credit under the CRA.

This paper explained how the CRA interprets economic development, laid out the range of activities banks can engage in to support economic development, and provided a set of recommendations for the City, banks and regulators to increase investment in equitable economic development.

Over 35 years of deliberate, intentional work across multiple sectors has helped to create a robust ecosystem and infrastructure to finance affordable housing construction, preservation, and management. Much of this work was made possible because of the CRA, which brought banks to the table to develop and support this housing ecosystem which is constantly evolving and improving. In the face of rising poverty, growing income inequality, and a rapid loss of just the type of space and resources our city needs to create and retain quality jobs, it is urgent that the City's public and private sectors come together to address this issue in a similarly smart, systematic manner. The same CRA that has been so effective in supporting and building a housing infrastructure can also serve as a tool to work collaboratively with government, nonprofits, for-profit developers, and banks to develop this new infrastructure for equitable economic development.

Similar to housing, an economic development infrastructure will require the collaboration of the public and private sectors to:

- Establish land use and zoning policies, initiatives, funding, and financing mechanisms, including (but not limited to) capital investments, credit enhancements, tax abatements to incentivize investment and offset risk;
- Provide financing, grants, and expertise directly and through intermediaries;
- Construct, rehabilitate, and manage space for light manufacturing businesses. A priority must be placed on nonprofit organizations to manage the space such that the tenant manufacturers have the stability they need to invest and thereby create jobs, and more of the investment goes back into the community to sustain and build the industry further;
- Support small businesses with commercial revitalization, loans, and technical support;
- Provide targeted workforce development training and placement.

ANHD looks forward to working closely with all stakeholders to implement these recommendations, and thus create more economic opportunity for residents and neighborhoods throughout New York City.

APPENDIX A:

Three Examples of Banks Implementing Best Practices to further Equitable Economic Development in New York City

The best efforts are ones in which the banks are **coordinating closely with nonprofit and government partners**. When multiple institutions are involved, the opportunity exists for cross-collaboration, learning, and ideas sharing, and possibly leveraging resources to have an even greater outcome.

These are a few examples of banks investing in equitable economic development in NYC:

Deutsche Bank / Deutsche Bank Americas Foundation

Deutsche Bank's Community development team consistently partners with and supports local CDC's and CDFI's with philanthropic grants and low-cost capital, understanding that both are needed. They have done so for a broad set of organizations and also as part of more targeted programs. A few such examples include

1. Partnership with NYCEDC to support and operate Competition THRIVE. The competition is designed to address the challenges faced by the City's immigrant entrepreneurs, which commonly include access to credit, financial management, language barriers, and access to business networks²⁵. Through the program, five finalists are awarded seed funding to pilot their program for six months and create a business plan. After the six month pilot period, one grand prize winner and a runner-up are granted larger amounts of funding and promotional services to further scale their programs.
2. **The Green Carts Microenterprise Intermediary Program:** Approximately three million New Yorkers live in neighborhoods with limited access to fresh fruits and vegetables. Low-income communities that suffer from a shortage of supermarkets and grocery stores also have higher rates of diet-related diseases, such as diabetes and obesity. The city has responded to this crisis with the NYC Green Carts program. The creation of 1,000 new vending permits will allow a fresh crop of entrepreneurs to operate mobile food carts selling fresh produce in underserved areas. To help with this initiative, Deutsche Bank created the Green Carts Microenterprise Intermediary Program, awarding several grants and making program-related investments (akin to a low-interest loan) to community-based organizations that offer technical assistance to vendors negotiating the licensing process and contending with the other challenges of getting a small business off the ground. One such investment went to the **Business Outreach Center (BOC) Network**, a citywide micro-enterprise/small business development organization, to create a microloan program for NYC Green Cart vendors to enable them to purchase wireless Electronic Benefit Transfer (EBT) card readers. Electronic transfers to EBT debit cards are the primary mechanism for low-income people to receive government benefits, such as USDA's Supplemental Nutrition Assistance Program (SNAP, formerly known as the federal Food Stamp Program).

²⁵ <http://www.nycedc.com/program/competition-thrive>

Goldman Sachs / Urban Investment Group

Goldman Sachs is an active New Markets Tax Credit (NMTC) investor where at least some of these investments have been used to support quality jobs. They also developed the 10,000 Small Business initiative, which is broad in scale, while at the same time adaptable to specific industries. Some examples include:

1. The 10K Small business initiative has also been adapted to various sectors, including one that is of particular importance to NYC. Through a partnership with NYCEDC, they developed the Food Manufacturers Growth Fund to assist small businesses in the food manufacturing field. **EWVIDCO**, a nonprofit industrial business resource center in Northern Brooklyn, is an official Technical Assistance Partner for the Growth Fund. EWVIDCO assists in the recruitment, training and packaging of loan applications on behalf of businesses they have identified for the Fund. One critique offered of the 10K small businesses program in general is that it is not reaching businesses most in need of such assistance. By the time a business has revenue and 4 employees, they are likely bankable or close to being so, thus we encourage Goldman Sachs to continue the program and consider ways to make it available to more businesses that need similar supports.
2. **The Brooklyn Navy Yard** is a noted example of such a project where public investments and financing have been used to leverage private investments from multiple financial institutions over the years to support light manufacturing in NYC. It provides a model that should be replicated.

The Brooklyn Navy Yard is a 300-acre industrial park on the Brooklyn waterfront, owned by the City of New York and managed by the nonprofit **Brooklyn Navy Yard Development Corporation (BNYDC)**. BNYDC's mission is to promote local economic development and job creation, develop underutilized areas and oversee modernization of the Yard's infrastructure and assets while maintaining its historical integrity. The site is now home to over 330 industrial tenants employing more than 6,400 people. In addition to the site management, BNYDC has operated an on-site Employment Center for over 10 years, placing more than 1,600 people with its 330 tenants, a significant percentage of whom were residents of the surrounding New York City Housing Authority (NYCHA) buildings or formerly incarcerated. BNYDC has partnered with a consortium of job training providers led by Brooklyn Workforce Innovations that provides unique opportunities to create synergy with tenants in the Yard, to develop on-site apprenticeship programs, and to offer both soft- and hard-skills training.

In September 2012, Goldman Sachs' Urban Investment Group (UIG) made a NMTC equity investment to finance the renovation of Building 128 in the Brooklyn Navy Yard to convert a complex of three vacant connected steel buildings into a modern light industrial facility located in the Brooklyn Navy Yard. Following this investment, UIG made an additional Historic Tax Credit equity investment into Building 128 in August 2013.

²⁶ <http://brooklynnavyyard.org/the-navy-yard/bnydc-mission/>

Citibank / Citi Community Development

1. Starting in 2010, Citibank partnered with the NYC Department of Small Business Services to discuss how the resources of Citi could assist New York City small businesses and entrepreneurs obtain the technical assistance and financing they need to start, operate and expand during challenging times. This led to the creation of the **NYC Business Solutions Centers** as well as activities that the bank could do to assist small businesses, including capacity building, skill based mentoring and business referrals, was developed. Citi has provided ongoing funding and support to this initiative. The majority of the centers are located in LMI census tracts, thus helping LMI small business owners have better access to financing, be able to streamline their operations, improve their capacity to create and retain jobs and continue to provide essential products/services to the surrounding community.
2. Citi Community Development awarded a philanthropic grant to the **Made In NYC initiative**, a program of the Pratt Center for Community Development. Made In NYC seeks to strengthen the manufacturing sector through a local branding campaign that both facilitates local sourcing between businesses and encourages consumers to shop for locally made products. A strong local manufacturing sector provides opportunities for entrepreneurship and innovation, as well as employment opportunities for New York City's extraordinarily diverse workforce and gives the City much of its character and soul. First and foremost, the initiative promotes and advertises local manufacturing businesses. It also serves as a resource to manufacturers by providing education, sourcing and supply chain connections, and networking opportunities. A recent survey of 69 of the businesses in the Made In NYC database found that the majority are hiring LMI workers, and likely at above minimum wage. Given that the average wages in the manufacturing sector are well above those of the service and retail sector and manufacturing jobs often provide a path to career improvement, this initiative has the potential to increase opportunities for meaningful employment to LMI New Yorkers, ultimately moving more families into the middle class.
3. In January 2012, Citi funded research by the **Center for an Urban Future** to study how small businesses—especially business owned by LMI owners, or in LMI communities—could take advantage of new technologies to generate more revenue, create jobs, change their lives, and help change the local communities in which they operate. The study, *Smarter Small Businesses for a Stronger Economy*, examined the specific gaps in technology adoption for firms owned by LMI New Yorkers, including immigrant and minority business owners. The research showed that a significant number of small businesses have yet to take advantage of these technologies and outlined a series of recommendations for what government agencies, the private sector, and philanthropic interests could do to help small firms and nonprofits implement these technologies. This funded research initiative led to the creation of the Citi-funded NYC Small Business Technology Coalition—a partnership among Citi, five nonprofit partners, and the NYC Department of Small Business Services to launch or expand technology-related assistance to help LMI entrepreneurs in NYC lower operating costs, manage operations more efficiently, reach new customers, and be more competitive. Assistance ranges from adopting new customer management systems, digital payroll and bookkeeping programs, and open source software; establishing modern websites; and creating a social media strategy. All the NYC Small Business Technology Coalition members are nonprofits geographically located in LMI communities and currently serve LMI entrepreneurs and small business owners.

APPENDIX B:

Excerpts relevant to Economic Development from the CRA Question & Answer documents published by the Federal Financial Institutions Examination Council (FFIEC)²⁷

The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions

§__.12(g)—2: *Must a community development activity occur inside a low- or moderate-income area, designated disaster area, or underserved or distressed nonmetropolitan middle-income area in order for an institution to receive CRA consideration for the activity?*

A2. No. Community development includes activities, regardless of their location, that provide affordable housing for, or community services **targeted to, low- or moderate-income individuals** and activities that **promote economic development by financing small businesses** and farms. **Activities that stabilize or revitalize particular low- or moderate-income areas, designated disaster areas,** or underserved or distressed nonmetropolitan middle-income areas (**including by creating, retaining, or improving jobs for low- or moderate-income persons**) also qualify as community development, even if the activities are not located in these areas. **One example is financing a supermarket** that serves as an **anchor store** in a small strip mall located at the edge of a middle-income area, if the mall stabilizes the adjacent low-income community by providing needed shopping services that are not otherwise available in the low-income community.

§__.12(g)—3: *Does the regulation provide flexibility in considering performance in high-cost areas?*

A3. Yes, the flexibility of the performance standards allows examiners to account in their evaluations for conditions in high-cost areas. Examiners consider lending and services to individuals and geographies of all income levels and businesses of all sizes and revenues. In addition, **the flexibility in the requirement that community development loans, community development services, and qualified investments have as their “primary” purpose community development allows examiners to account for conditions in high-cost areas.** For example, examiners could take into account the fact that activities address a credit shortage among middle-income people or areas caused by the disproportionately high cost of building, maintaining or acquiring a house when determining whether an institution’s loan to or investment in an organization that funds affordable housing for middle-income people or areas, as well as low- and moderate-income people or areas, has as its primary purpose community development. See also Q&A §__.12(h)—8 for more information on “primary purpose.”

²⁷ “The Interagency Questions and Answers are grouped by the provision of the CRA regulations that they discuss, are presented in the same order as the regulatory provisions, and employ an abbreviated method of citing to the regulations. For example, the small bank performance standards for national banks appear at 12 CFR 25.26; for Federal Reserve System member banks supervised by the Board, they appear at 12 CFR 228.26; for state nonmember banks, they appear at 12 CFR 345.26; and for thrifts, the small savings association performance standards appear at 12 CFR 563e.26. Accordingly, the citation would be to 12 CFR __.26.” For additional information and a link to the original documents visit <https://www.ffiec.gov/cra/qnadoc.htm>

§__.12(g)(3)—1: *“Community development” includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Are all activities that finance businesses and farms that meet these size eligibility standards considered to be community development?*

A1. No. The concept of “community development” under 12 CFR II.12(g)(3) involves both a “size” test and a “purpose” test. **An institution’s loan, investment, or service meets the “size” test if it finances, either directly or through an intermediary, entities that either meet the size eligibility standards of the Small Business Administration’s Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of \$1 million or less. To meet the “purpose test,” the institution’s loan, investment, or service **must promote economic development.** These activities are considered to promote economic development if they support **permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/ or improvement either in low- or moderate-income geographies or in areas targeted for redevelopment by Federal, state, local, or tribal governments.****

The agencies will presume that any loan to or investment in a SBDC, SBIC, Rural Business Investment Company, New Markets Venture Capital Company, or New Markets Tax Credit-eligible Community Development Entity promotes economic development. (But also refer to Q&As §__.42(b)(2)—2, §__.12(h)—2, and §__.12(h)—3 for more information about which loans may be considered community development loans.)

In addition to their quantitative assessment of the amount of a financial institution’s community development activities, examiners must make **qualitative assessments of an institution’s leadership in community development matters and the complexity, responsiveness, and impact of the community development activities of the institution.** In reaching a conclusion about the impact of an institution’s community development activities, examiners may, for example, determine that a loan to a small business in a low- or moderate-income geography that provides needed jobs and services in that area may have a greater impact and be more responsive to the community credit needs than does a loan to a small business in the same geography that does not directly provide additional jobs or services to the community.

§__.12(g)(4)(i)—1: *What activities are considered to “revitalize or stabilize” a low- or moderate-income geography, and how are those activities considered?*

A1. Activities that revitalize or stabilize a low- or moderate-income geography are activities that **help to attract new, or retain existing, businesses or residents.** Examiners will presume that an activity revitalizes or stabilizes a low- or moderate-income geography if the activity has been approved by the governing board of an Enterprise Community or Empowerment Zone (designated pursuant to 26 U.S.C. § 1391) and is consistent with the board’s strategic plan. They will make the same presumption if the activity has received

similar official designation as consistent with a federal, state, local, or tribal government plan for the revitalization or stabilization of the low- or moderate-income geography. For example, foreclosure prevention programs with the objective of providing affordable, sustainable, long-term loan restructurings or modifications to homeowners in low- or moderate-income geographies, consistent with safe and sound banking practices, may help to revitalize or stabilize those geographies.

To determine whether other activities revitalize or stabilize a low- or moderate-income geography, examiners will evaluate **the activity's actual impact on the geography, if information about this is available. If not, examiners will determine whether the activity is consistent with the community's formal or informal plans for the revitalization and stabilization of the low- or moderate-income geography.** For more information on what activities revitalize or stabilize a low- or moderate-income geography, see Q&As §__.12(g)—2 and §__.12(h)—5.

§__.12(h)—1: *What are examples of community development loans?*

A1. Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons;
- Not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs;
- Borrowers to construct or rehabilitate community facilities that are located in low- and moderate-income areas or that serve primarily low- and moderate-income individuals;
- **Financial intermediaries including Community Development Financial Institutions (CDFIs), New Markets Tax Credit-eligible Community Development Entities, Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development;**
- **Local, state, and tribal governments for community development activities;**
- **Borrowers to finance environmental clean-up or redevelopment of an industrial site** as part of an effort to revitalize the low- or moderate-income community in which the property is located; and
- **Businesses, in an amount greater than \$1 million, when made as part of the Small Business Administration's 504 Certified Development Company program.**

The rehabilitation and construction of affordable housing or community facilities, referred to above, may include the abatement or remediation of, or other actions to correct, environmental hazards, such as lead-based paint, that are present in the housing, facilities, or site.

§__.12(h)—3: *May an intermediate small institution that is not subject to HMDA reporting have home mortgage loans considered as community development loans? Similarly, may an intermediate small institution have small business and small farm loans and consumer loans considered as community development loans?*

A3. Yes. In instances where **intermediate small institutions are not required to report HMDA or small business or small farm loans, these loans may be considered, at the institution’s option, as community development loans, provided they meet the regulatory definition of “community development.”** ... However, if the institution opts to be evaluated under the lending, investment, and service tests applicable to large institutions, it may not choose to have home mortgage, small business, small farm, or consumer loans considered as community development loans.

Intermediate small institutions may choose individual loans within their portfolio for community development consideration. Examiners will evaluate an intermediate small institution’s community development activities within the context of the responsiveness of the activity to the community development needs of the institution’s assessment area.

§__.12(h)—5: *The regulation indicates that community development includes “activities that revitalize or stabilize low- or moderate-income geographies.” Do all loans in a low- to moderate-income geography have a stabilizing effect?*

A5. No. Some loans may provide only indirect or short-term benefits to low- or moderate-income individuals in a low- or moderate-income geography. These loans are not considered to have a community development purpose. For example, a loan for upper-income housing in a low- or moderate-income area is not considered to have a community development purpose simply because of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents. On the other hand, **a loan for an anchor business in a low- or moderate-income area (or a nearby area) that employs or serves residents of the area and, thus, stabilizes the area, may be considered to have a community development purpose.** For example, in a low-income area, a loan for a pharmacy that employs and serves residents of the area promotes community development.

§__.12(h)—6: *Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?*

A6. No. The regulations recognize that community development organizations and programs are efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multistate basis. Therefore, **an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s).** The institution's assessment area(s) need not receive an immediate or direct benefit from the institution's specific participation in the broader organization or activity, provided that the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area(s).

In addition, a retail institution that, considering its performance context, has adequately addressed the community development needs of its assessment area(s) will receive consideration for certain other community development activities. These community development activities must benefit geographies or individuals located somewhere within a broader statewide or regional area that includes the institution's assessment area(s). Examiners will consider these activities even if they will not benefit the institution's assessment area(s).

§__.12(h)—8: *What is meant by the term "primary purpose" as that term is used to define what constitutes a community development loan, a qualified investment, or a community development service?*

A8. A loan, investment, or service has as its primary purpose community development when it is designed for the **express purpose of revitalizing or stabilizing low- or moderate-income areas, designated disaster areas**, or underserved or distressed nonmetropolitan middle-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or **promoting economic development by financing small businesses and farms that meet the requirements set forth in 12 CFR. II.12(g).** To determine whether an activity is designed for an express community development purpose, the agencies apply one of two approaches.

First, if a **majority of the dollars or beneficiaries of the activity are identifiable to one or more of the enumerated community development purposes**, then the activity will be considered to possess the requisite primary purpose. Alternatively, where the measurable portion of any benefit bestowed or dollars applied to the community development purpose is less than a majority of the entire activity's benefits or dollar value, then the activity may still be considered to possess the requisite primary purpose, and the institution may receive

CRA consideration for the entire activity, if (1) **the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more of the enumerated community development purposes;** (2) the activity is **specifically structured (given any relevant market or legal constraints or performance context factors) to achieve the expressed community development purpose;** and (3) **the activity accomplishes, or is reasonably certain to accomplish, the community development purpose involved.** Generally, a loan, investment, or service will be determined to have a “primary purpose” of community development only if it meets the criteria described above.

The fact that an activity provides indirect or short-term benefits to low- or moderate-income persons does not make the activity community development, nor does the mere presence of such indirect or short-term benefits constitute a primary purpose of community development. Financial institutions that want examiners to consider certain activities should be prepared to demonstrate the activities’ qualifications.

§__.22(b)(4) – 2 (NEW): *How do examiners consider community development loans in the evaluation of an institution’s record of lending under the lending test applicable to **large institutions**?*

A2. An institution’s record of making community development loans may have a **positive, neutral, or negative impact on the lending test rating.** Community development lending is one of five performance criteria in the lending test criteria and, as such, it is considered at every examination. As with all lending test criteria, examiners evaluate an institution’s record of making community development loans in the context of an institution’s business model, the needs of its community, and the availability of community development opportunities in its assessment area(s) or the broader statewide or regional area(s) that includes the assessment area(s). For example, in some cases community development lending could have either a neutral or negative impact when the volume and number of community development loans are not adequate, depending on the performance context, while in other cases, it would have a positive impact when the institution is a leader in community development lending. **Additionally, strong performance in retail lending may compensate for weak performance in community development lending, and conversely, strong community development lending may compensate for weak retail lending performance.**

§__.12(t)—2: *Are mortgage-backed securities or municipal bonds “qualified investments”?*

A2. As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, **mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments**. Municipal bonds or other securities with a primary purpose of community development need not be housing-related.

For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment.

§__.12(t)—4: *What are examples of qualified investments?*

A4. Examples of qualified investments include, but are not limited to, **investments, grants, deposits, or shares in or to:**

- **Financial intermediaries (including Community Development Financial Institutions (CDFIs), New Markets Tax Credit-eligible Community Development Entities, Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development**, such as a CDFI that promotes economic development on an Indian reservation;
- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- **Organizations**, including, for example, Small Business Investment Companies (SBICs), specialized SBICs, and Rural Business Investment Companies (RBICs) that **promote economic development by financing small businesses**;
- **Community development venture capital companies that promote economic development by financing small businesses**;
- Facilities that promote community development by providing community services for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women’s centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;

- **State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;**
- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, homeownership, home maintenance, and other financial literacy programs; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to **utilize credit or to sustain economic development**, such as, **for example, day care operations and job training programs that enable low- or moderate-income individuals to work.**

§__.12(v)—1: *Are loans to nonprofit organizations considered small business loans or are they considered community development loans?*

A1. To be considered a small business loan, a loan must meet the definition of “loan to small business” in the instructions in the “Consolidated Reports of Conditions and Income” (Call Report) and “Thrift Financial Report” (TFR). **In general, a loan to a nonprofit organization, for business or farm purposes, where the loan is secured by nonfarm nonresidential property and the original amount of the loan is \$1 million or less, if a business loan, or \$500,000 or less, if a farm loan, would be reported in the Call Report and TFR as a small business or small farm loan.**

If a loan to a nonprofit organization is reportable as a small business or small farm loan, it cannot also be considered as a community development loan, except by a wholesale or limited purpose institution. Loans to nonprofit organizations that are not small business or small farm loans for Call Report and TFR purposes may be considered as community development loans if they meet the regulatory definition of “community development.”

§__.22(a)(2)—1: *How are lending commitments (such as letters of credit) evaluated under the regulation?*

A1. The agencies consider lending commitments (such as letters of credit) only **at the option of the institution, regardless of examination type. Commitments must be legally binding between an institution and a borrower in order to be considered.** Information about lending commitments will be used by examiners to enhance their understanding of an institution’s performance, but will be evaluated separately from the loans.

§__.22(b)(5)—1: *What is the range of practices that examiners may consider in evaluating the innovativeness or flexibility of an institution's lending under the lending test applicable to large institutions?*

One Example: In connection with a small business lending program in a low- or moderate-income area and consistent with safe and sound lending practices, an institution may implement a program under which, in addition to providing financing, the **institution also contracts with the small business borrowers. Such a contracting arrangement would not, standing alone, qualify for CRA consideration. However, it may be favorably considered as an innovation that augments the loan program's success and effectiveness**, and improves the program's ability to serve community development purposes by helping to promote economic development through support of small business activities and revitalization or stabilization of low- or moderate-income geographies

§__.21(a)—2: *Are all community development activities weighted equally by examiners?*

A2. No. Examiners will consider the **responsiveness to credit and community development needs**, as well as the **innovativeness and complexity**, if applicable, of an institution's community development lending, qualified investments, and community development services. These criteria include consideration of the degree to which they **serve as a catalyst for other community development activities**. The criteria are designed to add a qualitative element to the evaluation of an institution's performance.

("Innovativeness" and "complexity" are not factors in the community development test applicable to intermediate small institutions.)

§__.23(e)—2: *How do examiners evaluate an institution's qualified investment in a fund, the primary purpose of which is community development, as defined in the CRA regulations?*

A2. When evaluating qualified investments that benefit an institution's assessment area(s) or a broader statewide or regional area that includes its assessment area(s), examiners will look at the following four performance criteria:

- (1) The dollar amount of qualified investments;
- (2) The **innovativeness or complexity** of qualified investments;
- (3) The **responsiveness** of qualified investments to credit and community development needs; and
- (4) The **degree to which the qualified investments are not routinely provided by private investors**.