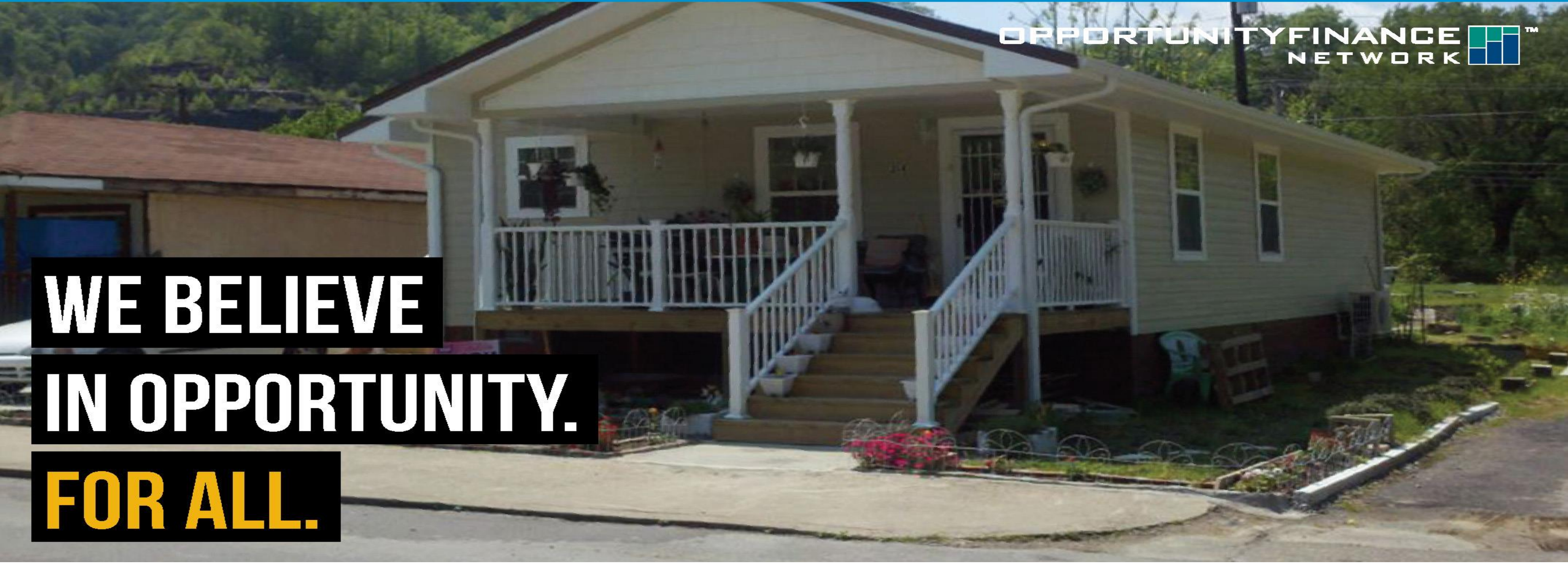


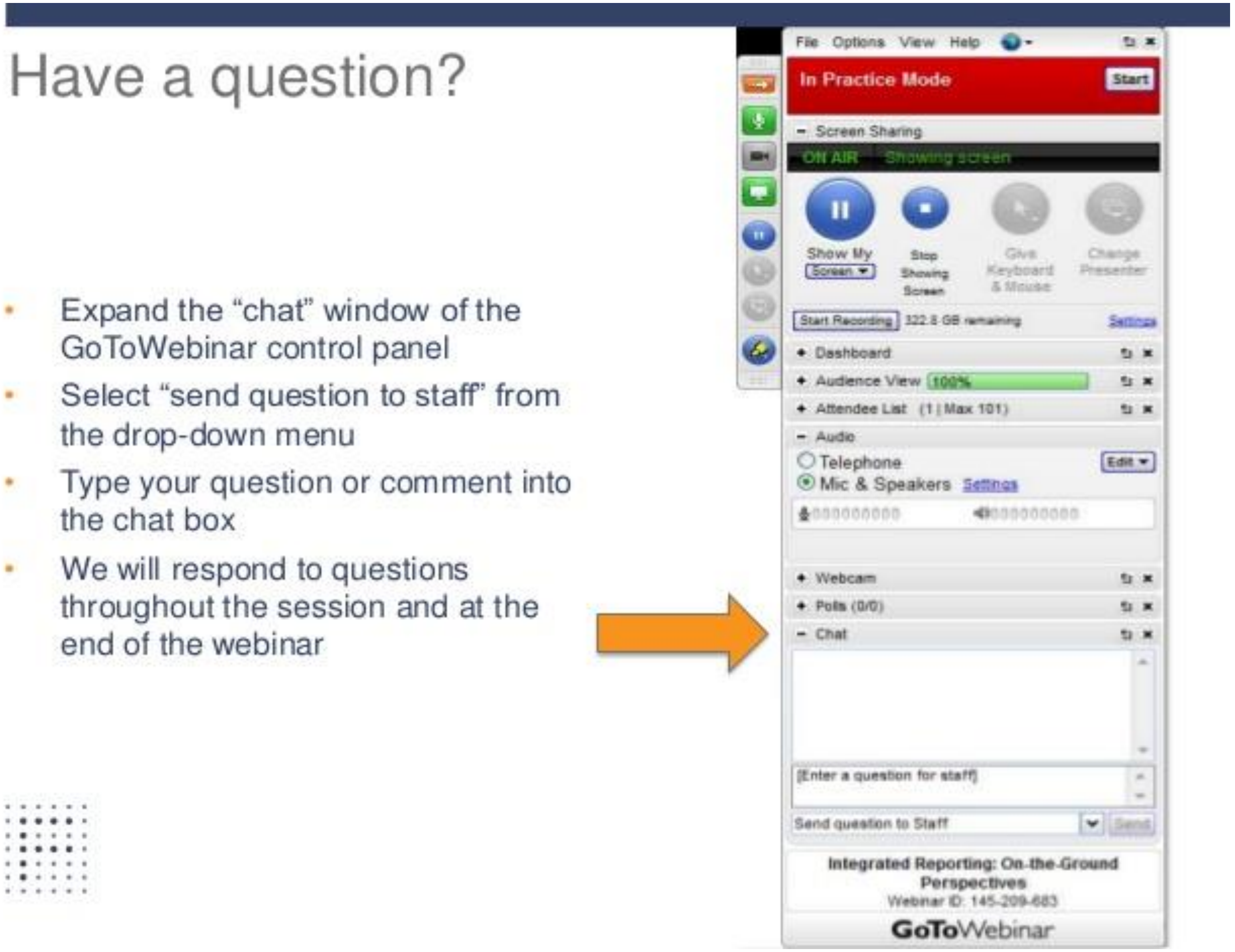
Proposed Changes to the Community Reinvestment Act (CRA)

January 7, 2020

Housekeeping

- The webinar is being recorded. The audio recording and slides will be available at ofn.org/webinars.

- All participant lines are muted during the webinar. Questions can be typed into the chat box at any time.



Overview: The Community Reinvestment Act

- The Community Reinvestment Act (CRA) became law in 1977 to combat discriminatory lending practices by banks.
- CRA requires banks to meet the credit needs of the communities they serve, including low- and moderate-income (LMI) neighborhoods, consistent with the banks’ safe and sound operations.
- The Office of the Comptroller of Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve of Governors currently enforce the CRA through a joint regulatory framework.

CRA Regulatory Reform Process

- The OCC launched the reform process in summer 2018, issuing an Advanced Notice of Proposed Rulemaking (ANPR) on changes to the regulatory framework for enforcing the CRA.

- OFN consulted extensively with our membership, ally organizations and other stakeholders to review the proposal and develop policy positions on the ANPR.

- OFN's November 2018 comment letter opposed the "one-ratio" approach in the ANPR, made specific recommendations related to CDFIs, and commented on other critical aspects such as assessment areas and CRA-qualifying activities.

CRA Regulatory Reform Process

- In a Notice of Proposed Rulemaking (NPR) released on December 12, the OCC and FDIC took the next step in a major overhaul of CRA for the first time in 25 years.
- It is extremely noteworthy that the Federal Reserve has not joined the other two regulators in issuing this rulemaking.
- The Federal Reserve may release its own CRA regulatory reform proposal as soon as this week.
- Once the NPR is published in the Federal Register, the public will have 60 days to submit comments. Recommendations will likely be due to the OCC and FDIC sometime in March.

Developing Recommendations for CRA Reform

- OFN is continuing to work with members and ally organizations to shape recommendations in response to the NPR.

- Opportunities to Participate in Developing OFN's Policy Positions
  - TODAY's Staying Connected call – Thursday, January 7 2:00-3:30PM EST
  - Staying Connected call – Thursday, January 23 2:00-3:00PM EST
  - Circulate Draft Comments to OFN members – Early February

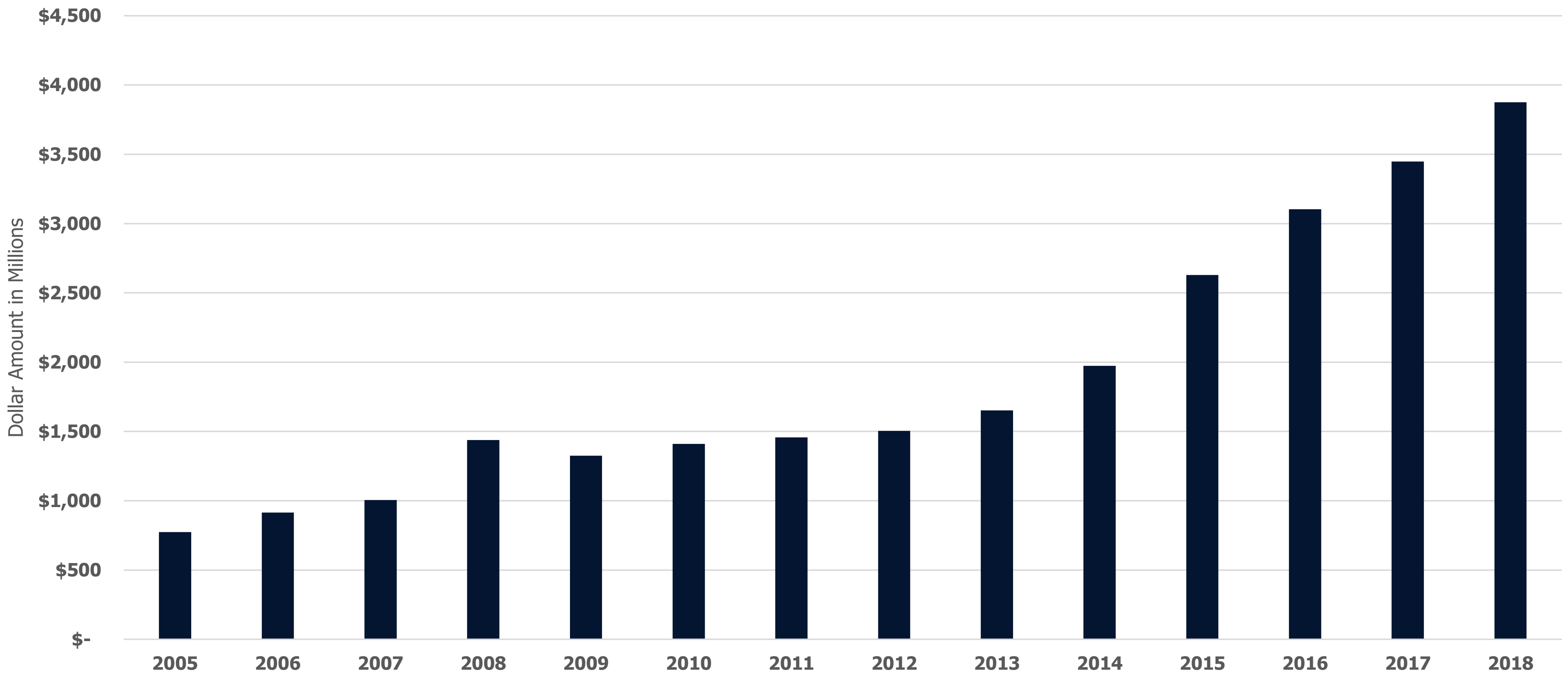
Proposed Changes Cause Significant Concern

- The CRA has been an important policy tool in the community development landscape and on CDFI capitalization.

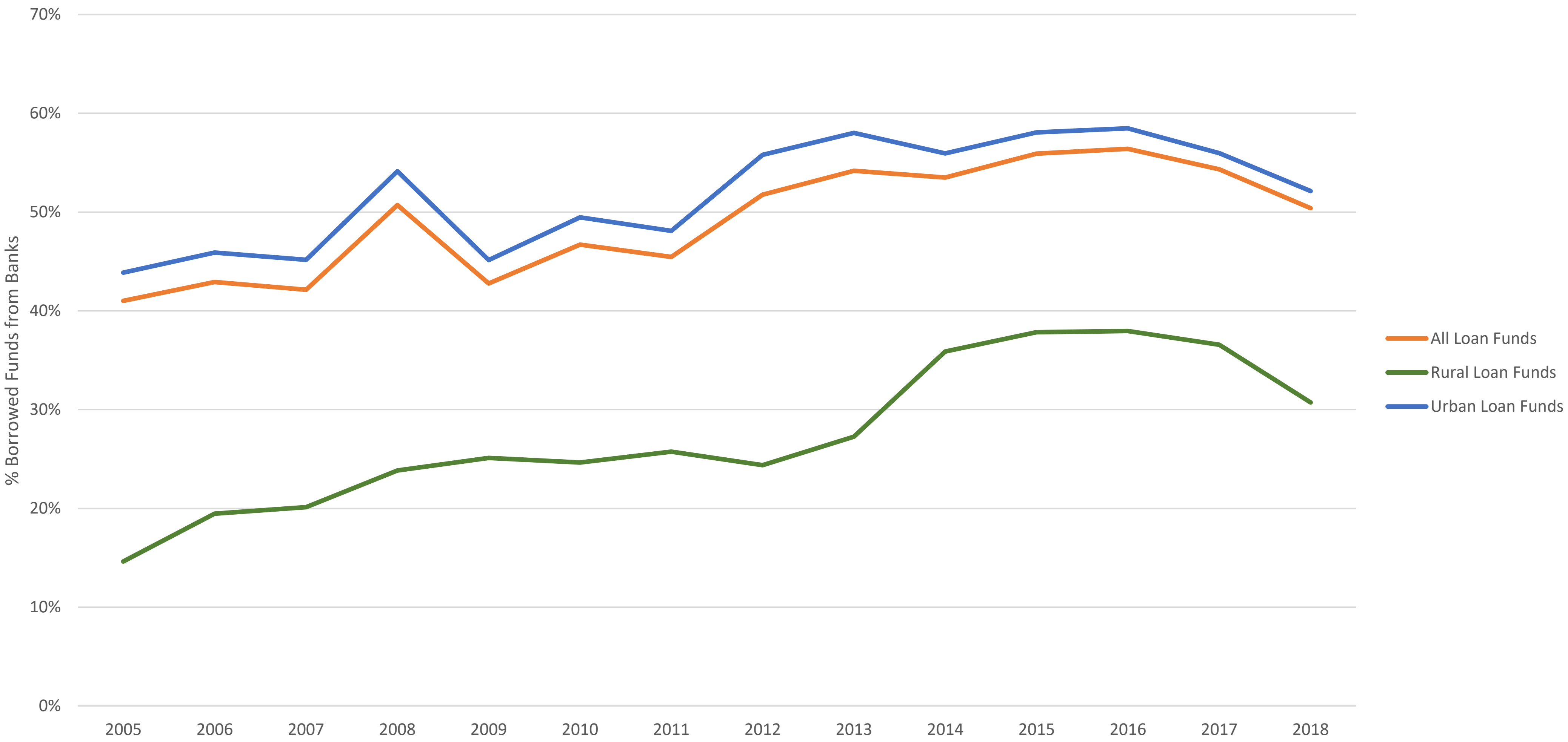
- Similar to the ANPR, OFN is concerned that the dollar-based metrics approach in the Notice of Proposed Rulemaking will result in less investment and lending in low- and moderate income communities, both for retail lending and community development.

- Some proposed changes could impact CDFI-bank relationships and CDFI capitalization, as CDFI borrowing from banks has increased dramatically in recent years.

Dollar Amount of Borrowed Funds from Banks: OFN Member Loan Funds, 2005-2018



Percentage of Borrowed Funds from Banks: OFN Member Loan Funds, 2005-2018



Reforming CRA Regulations: Proposed Changes

- Key provisions:
  - Performance Standards – **How** to measure CRA activity
  - Redefining Assessment Areas – **Where** it counts
  - Expanding CRA-Qualifying Activities – **What** counts

Metric-Based Performance Standards

- The NPR solicits public comment on the new performance standards (metrics-based system) for determining a bank's CRA rating.

- The new performance standards would assess the distribution (number) of qualifying retail loans to LMI people and places and the impact (dollar amount) of a bank's qualifying activities.

- The process evaluates a bank's CRA performance at the bank and assessment area level using a metric-based approach that compares all the bank's CRA activities (numerator) to its domestic retail deposits (denominator).

Proposed Metric for Determining a Bank's CRA Rating

$$\frac{\text{Dollar Volume of CRA Eligible Activities}}{\text{Dollar Volume of a Bank's Retail Deposits}}$$

$\frac{6}{100}$ = Satisfactory

$\frac{11}{100}$ = Outstanding

Measuring Community Development

- The proposal includes a Community Development (CD) minimum that requires the total amount of CD loans and CD investments divided by retail domestic deposits to be not less than 2 percent.

- Banks must meet or exceed that 2 percent threshold in over 50% of their assessment areas and at the overall bank level to receive an “Outstanding” or “Satisfactory” rating.

- The separate community development test that certain banks must meet under current regulations is eliminated.

Proposed Performance Measurement System

- A ratio based on the dollar volume of a bank's CRA activities is insufficiently responsive to local market needs and economic conditions. Instead of the specific credit needs of a local market driving a bank's CRA activities, "performance context" (in the words of the current CRA regulation) becomes an afterthought.

- A ratio based approach devalues smaller, more impactful, loans such as those involving CDFIs or those made in LMI markets where incomes and home values are lower.

Redefining Assessment Areas

- Under the current system, a bank's Assessment Area (AA) is largely determined by its deposit-taking, branch or HQs location.

- The proposal would create "facility-based" Assessment Areas and a new category of "deposit-based" Assessment Areas.
  - Facility-based AAs – Banks still required to have AAs around their main office, branches, or non-branch deposit-taking facilities as well as the surrounding areas where banks have originated or purchased a substantial portion of their loans
  - Deposit-based AAs - Banks that receive 50 percent or more of retail domestic deposits outside of facility-based AAs would be required to delineate deposit-based AAs where they receive five percent or more of their retail domestic deposits.

Redefining Assessment Areas

- Banks need to meet the performance measures (6% for a Satisfactory and 11% for an Outstanding, with Community Development activity accounting for 2%) for a majority of their assessment areas. In other words, banks could fail in 49% of their AAs and still receive a Satisfactory or Outstanding rating.

- Banks can get credit for CRA activities outside of their AAs at the bank-level CRA performance evaluation.
  - Example: Lending in Indian Country

Qualifying Activities: What Counts

- The proposed rule greatly expands the activities that are eligible for CRA credit, especially community development activities.

- New framework would create a non-exhaustive list of qualifying activities to provide greater certainty regarding which community development activities receive CRA credit.

- Proposal outlines process for updating the list and periodic public input on qualified activities.

Qualifying Activities: What Counts

- The expanded list of eligible activities in conjunction with metric-based performance standards could be problematic for certain impactful but smaller dollar community development activities.

- Some activities can “partially” or “primarily” benefit LMI communities.

- Shift in focus from direct benefits to LMI people and places to larger projects and activities with more diffuse benefits.

Qualifying Activity: Retail Lending

- Retail lending includes mortgage lending, small loans to businesses, small loans to farms, consumer lending (if greater than 15% of a banks total lending).

- Consumer loans include car loans, student loans, and credit card loans.

- Mortgage loans to higher income borrowers in LMI census tracts will no longer count.

- Threshold for small business loans and small farm loans increased from $1 million to $2 million for both the size of the loan and the size of business/farm.

Qualifying Activities: Community Development

- The proposal significantly expands which activities qualify as community development.
  - Affordable housing including mortgage-backed securities
  - Naturally Occurring Affordable Housing
  - Lending in Indian Country
  - Ventures undertaken in cooperation with LICUs, MDIs, WDIs and CDFIs
  - Essential community facilities that partially or primarily benefit or serve LMI individuals or areas of identified need
  - Essential infrastructure that benefits or serves LMI individuals or areas of identified need
  - Investments in qualified opportunity funds that benefit low- or moderate-income qualified opportunity zones

CDFI-Specific Qualifying Activities

- Under the proposed rule, certified CDFIs will receive the same treatment as minority and women owned financial institutions and low-income credit unions. Investments in certified CDFIs will receive CRA consideration regardless of the geographic location of the CDFI or the market it serves.

- Further, the proposal would double the value of qualifying activities involving CDFIs, CD investments (not including mortgage-backed securities or municipal bonds), and other affordable housing-related CD loans.

Record Keeping and Reporting

- The proposed rule requires significant new data collection and reporting for banks.

- Banks will be required to collect and report on qualifying retail loans (including consumer loans), community development loans, community development investments, and community development services.

- New reporting could provide rich source of data on banks community development and retail lending activity in LMI communities.

Performance Context

- Currently, performance context is a critical part of a banks CRA strategy. Performance context is still included in the proposal but its importance is greatly diminished.
- Regulatory agencies will consider performance context to adjust a bank's rating upward or downward.
- Banks can also be downgraded based on evidence of discriminatory or other illegal credit practices.
- Proposal removes opportunities for meaningful public input by counting performance context "on the margins".

Get Involved: Advocacy Opportunities

- CDFI industry must engage in this critical policy conversation.

- Submit comments from your organization
  - OFN will provide sample comments
  - Every letter counts
  - Customize your comments

- Other Ways to Engage
  - Contact your Members of Congress to express your concerns
  - Draft op-eds, blogs
  - Use social media to share your thoughts

Questions?

- Contact Us

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