Center for Responsible Lending
and
Center for Community Self-Help

Comment to the Board of Governors of the Federal Reserve System
on Community Reinvestment Act, Advance Notice of Proposed Rulemaking

Docket Number R-1723, RIN 7100-AF94

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The Center for Responsible Lending (CRL) and the Center for Community Self-Help (Self-Help) appreciate the Federal Reserve Board's (Board) approach to modernizing the regulations implementing the Community Reinvestment Act (CRA). CRL is a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. For 40 years, Self-Help has created asset-building opportunities for low-income individuals, rural communities, women, and families of color. In total, Self-Help has provided over $9 billion in financing to 172,000 homebuyers, small businesses, and nonprofit organizations and serves more than 160,000 mostly low-income families through 72 credit union branches in North Carolina, California, Florida, Illinois, South Carolina, Virginia, Washington, and Wisconsin.

While CRL and Self-Help encourage the Board to strengthen or reconsider particular proposals, the Board's thoughtfulness in crafting the Advance Notice of Proposed Rulemaking (ANPR) is evident. We applaud the Board's focus on racial equity, fair lending, and ensuring that CRA credit is focused on meeting community needs. We continue to urge the Board, OCC, and FDIC to come together around a common CRA regulatory proposal with broad stakeholder support. The ANPR is an important step toward that goal.

I. Background

At the outset, it is imperative to acknowledge the historical context for passage of CRA, as the Board notes in the ANPR. CRA was one in a series of landmark civil rights legislation[1] and is a critical tool to help our nation work toward overcoming the legacy of redlining. Regrettably, today's racial wealth gap and lending disparities are in large part the result of decades of government policies and practices that enabled the redlining of communities of color for most of the 20th century. In the post-Depression era, federal policies that created housing opportunities for returning veterans and their families discriminated against and explicitly excluded people of color from the benefits of government-supported housing programs. Among these programs were public housing, the Home Owners Loan Corporation (HOLC), and mortgage insurance through the Federal Housing Administration (FHA). Not only did this redlining segregate residential neighborhoods across the United States, but it granted whites the ability to build wealth through homeownership while denying equal opportunities for families of color to build similar home equity over the same period.

As a result, whites amassed an economic advantage in the form of home equity that has been passed on to future generations through intergenerational wealth transfers. In 2016, the median white family had more than ten times the wealth of the median Black family.[2] In fact, the racial wealth gap between Black and white families grew from about $100,000 in 1992 to $154,000 in 2016.[3] The median white family

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[1] 42 U.S.C. § 3601 *et seq* (Fair Housing Act); 15 U.S.C. § 1691 *et seq* (Equal Credit Opportunity Act); 12 U.S.C. § 2801 *et seq* (Home Mortgage Disclosure Act).

[2] Nick Noel, Duwain Pinder, Shelley Stewart III, and Jason Wright, *The Economic Impact of Closing the Racial Wealth Gap*, McKinsey & Company, August 2019, Exhibit 1 at p. 5, https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap.

[3] *Id.*

gained significantly more wealth, with the median increasing by $54,000, while median wealth for Black families did not grow in real terms over the same time period.[4] The racial wealth gap contributes to the fact that in the 46 largest housing markets in the country, a median income Black household could only afford 25 percent of homes on the market last year in comparison to the 57 percent that a median income white household could afford.[5] There is a stark disparity in the homeownership rate between whites and people of color, particularly for Black and Latino borrowers. The white homeownership rate is 72.1% while the rate is 42% and 48.1% for Black and Latino borrowers respectively.[6] Disparities in homeownership are a key contributor to the ongoing racial wealth gap and home equity still plays a central role in shaping family wealth for the middle class.

Furthermore, the COVID-19 crisis is having a disproportionate impact on families of color, by nearly every metric. Data has shown that the virus is infecting and killing people of color at a much higher rate.[7] People of color are overrepresented among essential workers who are generally not able to work from home and are more likely to encounter the virus.[8] Since the start of the pandemic, the number of Black business owners has dropped by 440,000 or 41%, compared to a 17% decline in white small business owners.[9] Moreover, the U.S. Census Bureau's Household Pulse Survey reports that 24.4% of Black borrowers, 19.9% of Hispanic borrowers, and 14.2% of Asian borrowers are not current on their mortgage payments, compared to 8% of white borrowers.[10] Analysis from the National Women's Law Center consistently shows that Asian, Black, and Latina women are more likely to be behind on mortgage payments than white, non-Hispanic men.[11] Families of color who are hardest hit by COVID-19

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[4] *Id.*

[5] Paul Davidson, *Black Households Can Afford Just 25% of Homes For Sale*, USA Today, October 15, 2019, https://www.usatoday.com/story/money/2019/10/15/homes-sale-black-households-can-afford-just-25- percent-houses-market/3976383002/.

[6] Alanna McCargo and Jung Hyun Choi, *Closing the Gaps: Building Black Wealth Through Homeownership*, Figure 3, Urban Institute (November 2020), https://www.urban.org/sites/default/files/publication/103267/closing-the-gaps-building-black-wealth-through-homeownership_0.pdf.

[7] Centers for Disease Control and Prevention, *COVID-19 Racial and Ethnic Health Disparities*, https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html.

[8] Tiana N. Rogers, Charles R. Rogers, Elizabeth VanSant-Webb, Lily Y. Gu, Bin Yan, Fares Qeadan, *Racial Disparities in COVID-19 Mortality Among Essential Workers in the United States*, *World Medical & Health Policy*, 2020; DOI: 10.1002/wmh3.358.

[9] Robert W. Fairle, *The Impact of COVID-19 on Small Business Owners: Evidence of Early-Stage Losses From the April 2020 Current Population Survey*, National Bureau of Economic Reserve, Working Paper 27309 (June 2020), https://www.nber.org/papers/w27309.

[10] U.S. Census Bureau, Household Pulse Survey, Week 21, Housing Table 1a.

[11] See National Women's Law Center, Analysis of U.S. Census Bureau COVID-19 Household Pulse Surveys, https://nwlc.org/resources/nwlc-analysis-of-u-s-census-bureau-covid-19-household-pulse-surveys/.

are the same families long denied equity in homeownership opportunities.[12] Indeed, there are statistically significant correlations between redlining and susceptibility to COVID-19.[13] The same low-income neighborhoods of color that were intentionally cut off from lending and investment today suffer from reduced wealth, greater poverty, lower life expectancy, and higher incidence of chronic disease that are risk factors for poor outcomes from the coronavirus.[14]

Given this history and the inequities amplified by the COVID crisis, we welcome the Board's interest in what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for communities of color.

A. CRA is rooted in a statutory obligation for banks to address redlining in "minority urban neighborhoods" and to ensure that they serve the credit needs of their community.

Although the Fair Housing Act of 1968 made housing discrimination – including redlining in lending – unlawful, discrimination targeted at Black and brown families in the nation's lending markets persisted. Nearly a decade after the Fair Housing Act passed, Congress passed CRA to address the urgent credit needs of low- and moderate-income (LMI) communities. This was intended to include the credits needs of people of color. CRA was designed to open up access to credit for those to whom it had previously been denied and address systemic inequities in financial services. Congress recognized that many banks were serving the convenience and needs of some parts of their communities, but not others.

CRA's statutory text clearly states that "regulated financial institutions have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered."[15] The Senate Banking Committee chairman and sponsor of CRA, Senator William Proxmire, asserted on the Senate floor that the legislation was meant to "reaffirm that banks and thrifts are indeed chartered to serve the convenience and needs of their communities, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans."[16]

Today, CRA plays an important role in holding financial institutions accountable for making safe and sound credit available to borrowers long excluded. CRA has urged banks to more actively lend in LMI areas; it has also played a key role in ensuring bank participation in community revitalization efforts across the country. Since becoming law, CRA has encouraged banks to invest trillions of dollars into the

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[12] *See* Alan Gomez, et al, '*An Unbelievable Chain of Oppression': America's History of Racism Was a Preexisting Condition for COVID-19*, USA Today, Oct. 12, 2020, https://www.usatoday.com/in-depth/news/nation/2020/10/12/coronavirus-deaths-reveal-systemic-racism-united-states/5770952002/; Andre M. Perry, Black Americans Were Forced Into 'Social Distancing' Long Before the Coronavirus, The Brookings Institution (March 20, 2020), https://www.brookings.edu/blog/the-avenue/2020/03/20/black-americans-were-forced-into-social-distancing-long-before-the-coronavirus/.

[13] Jason Richardson, Bruce C. Mitchell, Helen C.S. Meier, Emily Lynch, Jad Edlebi, *Redlining and Neighborhood Health*, NCRC, September 2020, https://ncrc.org/holc-health/.

[14] *Id.*

[15] Pub. Law 95-128.

[16] Statement of Senator Proxmire on Amendment 314 to S. 1523, Congressional Record 123 (1977), at 17630.

communities they serve, including LMI neighborhoods. However, CRA has not been as effective as it could and should be in ensuring access to credit for communities of color.

B. The designation of CRA-eligible neighborhoods matters greatly in the mortgage market.

The designation of CRA-eligible neighborhoods still matters, as evidenced by a working paper from the Philadelphia Federal Reserve. The paper studied a "unique natural experiment induced by a policy shock" that occurred as a result of an OMB statistical area revision in 2013.[17] Over one-third of the census tracts in the new Philadelphia Metropolitan Division that were once eligible for CRA credit became ineligible after 2014, while the number of CRA-eligible tracts in the suburban counties tripled from 2013 to 2014.[18] The paper found evidence that "the loss of CRA eligibility status in a neighborhood leads to a decrease of about 10 percent to 20 percent (depending on the models and specifications used) in the volume of purchase mortgage originations by CRA-regulated lenders."[19] Moreover, these effects are more pronounced among borrowers of color and borrowers who used to qualify for CRA credit but became newly ineligible.[20]

Additionally, without the incentive of CRA, banks appeared to be less likely to maintain or expand their supply of mortgage credit in lower-income neighborhoods. Rather, banks tended to scale back their retail lending to low-income neighborhoods by reducing the supply of mortgage credit to borrowers of color and borrowers who no longer qualified for CRA credit. The paper also noted that gaining CRA coverage had little impact on relatively wealthier suburban neighborhoods that became eligible for CRA, at least in the short term. This makes sense, as the credit needs of borrowers in these neighborhoods would be more adequately served already. CRA is not needed as an incentive. The paper concluded that "the changed lending patterns in the newly ineligible neighborhoods are consistent with the notion that CRA has made mortgage credit more accessible for households in lower-income communities."[21] A similar phenomenon exists for small business lending. A 2018 working paper, also issued by the Philadelphia Federal Reserve, found that CRA promotes small business lending, particularly in terms of the number of loan originations in lower-income neighborhoods.[22]

[17] Lei Ding and Leonard Makamura, "*Don't Know What You Got Till It's Gone" – The Community Reinvestment Act in a Changing Financial Landscape*, Federal Reserve Bank of Philadelphia, Working Paper 20-08 (Feb. 2020), https://philadelphiafed.org/-/media/research-and-data/publications/working-papers/2020/wp20-08.pdf.

[18] *Id.*

[19] *Id.* at 22-23.

[20] *Id.* at 4.

[21] *Id.*

[22] Lei Ding, Hyojung Lee, and Raphael W. Bostic, *Effects of the Community Reinvestment Act (CRA) on Small Business Lending*, Federal Reserve Bank of Philadelphia, Working Paper 18-27 (Dec. 2018), https://www.philadelphiafed.org/-/media/community-development/publications/discussion-papers/discussion-paper-effects-of-the-cra-on-small-business-lending.pdf?la=en.

C. CRA has not lived up to its promise and requires strengthening and clarification.

Despite the importance of CRA and the community investment it has spurred, CRA rules must be strengthened. Over 40 years after passage of CRA, the effects of redlining can be seen in communities across the nation. CRA as applied has not done nearly enough to revitalize previously redlined areas and has not made a substantial dent in the previously mentioned lagging black homeownership rate.[23] Additionally, bank lending in LMI communities and communities of color has declined dramatically since the Great Recession.[24] And sadly, existing disparities have been further perpetuated in the face of the COVID-19 global public health and economic crisis. Our nation's ongoing racial reckoning requires a renewed focus on creating equity and ensuring that the benefits of CRA reach communities of color.

Moreover, grade inflation under the current rules is of great concern and there is a need for regulators to more robustly enforce the law. Fully 98% of banks currently pass their CRA exams. According to the National Community Reinvestment Coalition (NCRC)'s review of FFIEC data, in 2019, 7% of banks received a CRA rating of Outstanding; 91% received a rating of Satisfactory; 2% received a rating of Needs to Improve; and zero received a rating of Substantial Noncompliance. Similarly, in 2018, 10% received a CRA rating of Outstanding; 89% received a rating of Satisfactory; 1% received a rating of Needs to Improve; and zero received a rating of Substantial Noncompliance.[25] Even banks that have pending fair lending cases have received outstanding or satisfactory ratings. Also, after multiple shocking and egregious violations, Wells Fargo was not downgraded to a Substantial Noncompliance. Rather, it received a Needs to Improve rating on only one component of the CRA exam.[26]

CRA requires modernization to account for changing technology and new ways of doing business, and it must be bolstered to adhere to the intent and purpose of the law. For example, with the advent of the internet and online banking, CRA needs updating for how many people access banking services today, including families in rural communities where there is a lack of consistent broadband service. Additionally, we agree that it would be valuable to find methods to ensure more consistency and uniformity in CRA evaluations and ratings. However, the agencies must not provide certainty to banks at the expense of communities and CRA's statutory mandate.

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[23] *See* Aaron Glantz and Emmanuel Martinez, *Kept Out: For People of Color, Banks are Shutting the Door to Homeownership*, The Center for Investigative Reporting (Feb. 15, 2018), https://revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/. Additionally, the lack of lending opportunity is driving neighborhood gentrification. Aaron Glantz and Emmanuel Martinez, *Kept Out: Gentrification Became Low-Income Lending Law's Untended Consequence*, The Center for Investigative Reporting (Feb. 16, 2018).

[24] *See* discussion on pp. 4-6 in Testimony of Nikitra Bailey before the House Committee on Financial Services, House, May 8, 2019, https://www.congress.gov/116/meeting/house/109438/witnesses/HHRG-116-BA04-Wstate-BaileyN-20190508.pdf.

[25] *See also* NCRC's Grade Inflation Infographic: *How Well are Regulators Evaluating Banks Under the Community Reinvestment Act?*

[26] Ben Lane, Housing Wire, *Wells Fargo Fails Fair Lending Test Due to "Discriminatory and Illegal" Credit Practices*, March, 28, 2017, https://www.housingwire.com/articles/39693-wells-fargo-fails-fair-lending-test-due-to-discriminatory-and-illegal-credit-practices/.

II. Recommendations

A. The Board should incorporate consideration of race into CRA to address lending and investment gaps.

As discussed above, racial equity is inextricable from CRA's history and purpose. We appreciate the Board's request for input on how to better address "ongoing systemic inequity in credit access for minority individuals and communities."[27] While an important step, we do not believe that the proposed remedies of considering underserved areas on exams and encouraging more financing to minority depository institutions are of sufficient scale to address systemic inequities. Fifteen years ago, the US had 36 Black-owned banks; now there are 18.[28] Reasons include the burden of bigger competitors created by mergers, as well as financial downturns that hit small lenders harder.[29] As a result, many Black-owned banks are equity constrained and do not have the capacity to accept debt and deposits from majority-owned depositories. Instead, we urge the Board to explore and consider proposals which embed increasing access to credit to communities of color into the CRA exam and subtests.

First, the CRA statutory framework permits consideration of race. The statute includes references to race, including allowing investments in Minority Depository Institutions (MDIs), women-owned financial institutions, or low-income credit unions in minority communities to count for CRA credit. The statute further requires reporting to Congress comparing residential, small business, and commercial lending by banks in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.[30]

The law emphasizes banks meeting credit needs in all communities, but particularly underserved ones. Extensive data indicates that banks are not meeting the credit needs of Black and brown families.[31] To ameliorate these gaps, CRA exams could include performance measures assessing responsible lending, investing, branching and services to people of color and communities of color. In addition, CRA exams could include racial and ethnic demographic data in performance context analysis and require banks to affirmatively include communities of color in their assessment areas. The Board could consider ways to

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[27] ANPR, Question 2.

[28] Amber Burton, Justin Scheck and John West, The Battle to Keep America's Black Banks Alive, WSJ, Nov. 16, 2020, https://www.wsj.com/articles/the-battle-to-keep-americas-black-banks-alive-11604725200.

[29] *Id.*

[30] Pub. L. 102-550, Title IX, § 910 (Oct. 28, 1992).

[31] *See, e.g.*, Michelle Aronowitz, Edward L. Golding and Jung Hyun Choi, The Unequal Costs of Black Homeownership, MIT Golub Center for Finance and Policy (Oct. 1, 2020), http://gcfp.mit.edu/wpcontent/uploads/2020/10/Mortgage-Cost-for-Black-Homeowners-10.1.pdf; Jung Hyun Choi, Alanna McCargo, Michael Neal, Laurie Goodman and Caitlin Young, *Explaining the Black-White Homeownership Gap: A Closer Look at Disparities across Local Markets*, Urban Institute (November 2019), https://www.urban.org/sites/default/files/publication/101160/explaining_the_blackwhite_homeownership_gap_2.pdf; Sarah Strochak, Caitlin Young and Alanna McCargo, *Mapping the Hispanic Homeownership Gap*, Urban Institute (August 2019), https://www.urban.org/urban-wire/mappinghispanic-homeownership-gap.

incentivize lenders to participate in Special Purpose Credit Programs targeted at underserved borrowers.[32] The Board could also provide CRA consideration for lending and investing in census tracts that are majority people of color outside of assessment areas, just as the Board is considering for Federal Native Areas (such as Federally Designated Indian reservations) and other underserved areas. NCRC released an analysis exploring where and whether regulators could insert race into the CRA framework from a statutory and constitutional perspective.[33] These proposals should be given robust consideration and we would like to be part of continuing conversations with the Board on this critical issue.

B. Fair lending should be prioritized on CRA exams.

A bank's fair lending record should be an explicit and valued component of the CRA exam. We urge the Board to ensure that all of a bank's lending activities – mortgage, consumer, small business, and community development lending – meet vigorous fair lending tests in order to be CRA-eligible.

Moreover, we support the Board's proposal that violations of the Military Lending Act, the Servicemembers Civil Relief Act, and UDAAP be added as considerations when the Board is conducting fair lending reviews and weighing the results of those reviews when determining CRA ratings. We also suggest that compliance with the Americans with Disabilities Act be an explicit part of the fair lending test. This may include physical access to bank branches as well as web accessibility for customers using websites and mobile banking.

We further support the Board's explicit statement that discrimination and consumer violations in bank deposit accounts and services in addition to loans will be considered in fair lending reviews. For example, overdraft abuses are costly and destructive for consumers. Overdraft fees strip billions of dollars annually from economically vulnerable consumers, leaving them less able to save to weather shortfalls, more vulnerable to predatory promises of "short-term" loans, and generally financially worse off.[34]

Black Americans and Latinos are disproportionately harmed by overdraft fees. Across the entire U.S. population, Black Americans and Latinos are disproportionately likely to pay multiple overdraft fees annually.[35] This is particularly significant given that Black Americans and Latinos are four-to-five times

[32] 12 C.F.R. § 1002.8; National Fair Housing Alliance and Relman Colfax, PLLC, *Special Purpose Credit Programs: How a Powerful Tool for Addressing Lending Disparities Fits Within the Antidiscrimination Law Ecosystem* (Nov. 2020), https://nationalfairhousing.org/wp-content/uploads/2020/11/NFHA_Relman_SPCP_Article.pdf.

[33] Gerron Levi, *CRA & Race: The Federal Reserve's Proposal on the Community Reinvestment Act*, NCRC (Dec. 9, 2020), https://ncrc.org/the-federal-reserves-proposal-on-the-community-reinvestment-act-cra/.

[34] *See* Peter Smith, Shezal Babar and Rebecca Borne, *Overdraft Fees: Banks Must Stop Gouging Consumers During the COVID-19 Crisis*, Center for Responsible Lending (June 2020), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-overdraft-covid19-jun2019.pdf.

[35] The Pew Charitable Trusts, *Heavy Overdrafters* at 8 (April 2016) (finding that African Americans and Hispanics each represented 19% of those who paid three or more overdraft-related fees in 2014, while representing only 12% and 17% of the U.S. population as a whole), https://www.pewtrusts.org/-/media/assets/2016/04/heavyoverdrafters.pdf.

more likely to be unbanked than white Americans,[36] meaning that among those who are banked, Black Americans and Latinos pay far more than a representative share of the fees. And their ejection from the financial mainstream when accounts are closed due to overdraft fees only feeds the stark racial disparities in these rates of financial exclusion.[37]

To ward off abuses, we urge the Board to establish a presumption of a fair lending violation if a bank charges more than six overdraft fees in a rolling 12 months, consistent with the FDIC's 2010 guidance addressing overdraft programs.[38] Overdraft fees charged any more frequently are clearly operating not as an occasional courtesy but as a routine, exorbitantly priced credit product that should be operated and regulated as a credit product.

The Board notes it will consider a bank's compliance management system's ability to identify and correct fair lending issues. It is critical that the lack of an effective compliance system is not used as an excuse for banks that commit serious violations. The onus should remain on the bank to ensure its compliance systems are effective. Furthermore, serious violations should receive rating downgrades, even if the lender self-corrects.

C. Assessment areas should reflect a commitment to local lending, investments, and services.

While we believe CRA should maintain a focus on bank branches, we support proposals to expand assessment areas on CRA exams to account for the evolving ways in which banks meet consumer demands and needs. The Board should adopt an approach that captures the vast majority of a bank's activity (loans and deposits) on CRA exams.

The concept of deposit- or lending-based assessment areas should not only apply to internet banks but also to other banks that engage in significant lending or deposit-taking outside of areas with their branches. This should be the case for both small and large banks. Banks have an obligation to serve LMI communities and communities of color in *all* of the areas in which the bank engages in significant amount of business, not only in areas with branches. As discussed in the background section, research has shown that lending increases in geographical areas designated as assessment areas.[39] Thus, it would

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[36] About 17 percent of African American and 14 percent of Latino households are unbanked, compared to 3 percent of white households. FDIC 2017 Survey of Unbanked and Underbanked Households at 19 Table 3.2, https://www.fdic.gov/householdsurvey/2017/2017report.pdf.

[37] *See, e.g.*, Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights, and Hilary Shelton, Washington Bureau Director for the NAACP, *Predatory Overdraft Practices Should Be Stopped,* The Hill, Aug. 20, 2013, http://thehill.com/blogs/congress-blog/economy-a-budget/317679-predatory-overdraft-practices-should-be-stopped.

[38] FDIC, FIL-81-2010: *Overdraft Payment Programs and Consumer Protection*, https://www.fdic.gov/news/financial-institution-letters/2010/fil10081.html.

[39] Lei Ding and Leonard Nakamura, *Don't Know What You Got Till It's Gone: The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market*, Working Paper No. 17-15, June 19, 2017, https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2017/wp17-15.pdf and Lei Ding, Raphael Bostic, and Hyojung Lee, *Effects of the CRA on Small Business Lending*, Federal Reserve Bank of

deprive underserved communities of needed lending, investment, and services to ignore areas where banks engage in a significant amount of business.

We further support the Board's proposal to eliminate distinctions between full scope and limited scope assessment areas. Full scope assessment areas receive a more comprehensive and rigorous CRA exam. As NCRC found in a white paper regarding assessment areas, rural communities are much more likely to receive limited scope assessment area status than metropolitan areas.[40] Of the top 100 banks by asset size, rural full scope areas were small in number: 57 banks had no full scope rural areas, and 24 banks had just one rural area that was full scope. For nine banks in the sample, at least ten more rural areas were limited scope than full scope. For eight banks, between five to ten more rural areas were limited scope than full scope. It is also the case that smaller metropolitan areas are more likely to be considered limited assessment areas than their larger counterparts. Thus, rural counties and small metropolitan areas receive less emphasis on CRA exams, which means they generally receive fewer CRA-related loans, investments, and services than if they were full scope areas.

We oppose a national assessment area for internet banks, as this would permit banks to cherry pick areas where it is easiest to conduct CRA activities rather than areas that are most in need of credit and capital. Local evaluations of retail lending are more in line with CRA's mission and more accurately measure a bank's responsiveness to local needs.[41] And if an institution is mostly a deposit-gathering institution, then deposit data should be used to designate local and state assessment areas rather than using a national assessment area.

We urge the Board to consider the proposal discussed in a recent NCRC white paper.[42] NCRC analyzed the home and consumer lending activities of two large online and branchless lenders. The analysis found that it is not only feasible to create state and local assessment areas, but it is desirable in that these assessment areas can be targeted to relatively underserved areas. NCRC developed a new method of delineating these assessment areas, which consists of using loans per thousand residents. This method can effectively identify underserved states and localities.

For instance, in the case of home lending, NCRC used HMDA data to show that traditional lenders offered more loans per thousand residents in the most populous states. In contrast, the large branchless home lender made more of its loans per thousand residents in the least populous states, which were the states relatively underserved by traditional banks. Thus, the analysis recommends prioritizing the least populous states for the branchless banks as their assessment areas.

Philadelphia, WP 18-27, December 2018, https://www.philadelphiafed.org/-/media/research-anddata/publications/working-papers/2018/wp18-27.pdf.

[40] Josh Silver, *The Community Reinvestment Act and Geography: How Well do CRA Exams Cover the Geographical Areas Banks Serve*, NCRC (May 2017), pp. 16-17, https://ncrc.org/wpcontent/uploads/2017/05/cra_geography_paper_050517.pdf.

[41] Mark Willis, *Updating CRA Geography, It's Not Just about Assessment Areas*, Penn Institute for Urban Research, at p. 6 (September 2019), https://penniur.upenn.edu/uploads/media/Mark_Willis_10-1.pdf.

[42] Josh Silver, *How Can Geographical Areas On CRA Exams Work For Branchless Banks?*, NCRC (January 2021), https://ncrc.org/how-can-geographical-areas-on-cra-exams-work-for-branchless-banks/.

D. The Board should ensure a ratings distribution that helps prevent grade inflation.

We strongly support the Board's proposal to maintain separate tests rather than an oversimplified "one ratio" such as the OCC rule. The Board's proposal ensures that the needs for retail loans, community development financing, branches and deposit products and services will be better met by banks. However, the Board should not reproduce the same ratings distribution in which 98% of banks pass their CRA exams. This will fail to significantly increase lending, investments, and services in underserved communities. It could lead to stagnation, as banks would not be motivated to improve their CRA performance. Ratings need more nuance and gradations so that banks are motivated to continually improve their performance.

We further suggest that the Board reconsider its proposal to reduce ratings on the subtests from five to four. Five ratings would be better at revealing differences in performance and would help motivate the lagging banks to improve. For example, if a bank receives a rating of Low Satisfactory on a subtest instead of High Satisfactory, it would be more likely to seek improvements in its performance. The Board proposes to blend Low and High Satisfactory into just one rating, Satisfactory. This is likely to result in most banks receiving Satisfactory ratings on the subtests instead of more distinctions in subtest performance. It is critical to include more distinctions in performance so that the ratings distribution does not become distorted.

E. CRA should maintain focus on activities that benefit lower income communities and communities of color.

We strongly support the Board's preservation of the Retail Services Test and the aim to provide meaningful weight to branches in low-income communities that provide safe and responsible credit, savings, and transaction service access. On the contrary, the OCC's rule virtually eliminated the retail services test – this decision minimizes the value of branches in LMI areas as well as banks' efforts to provide affordable financial services and products to LMI individuals who are unbanked. For many years, the FDIC has piloted and promoted low-cost transaction and savings accounts. These types of activities should continue to be considered for CRA credit and banks should be incentivized to offer them. The simplest metric that will ensure that accounts actually meet the needs of LMI consumers is whether the bank offers an account that meets the Bank On National Account Standards published by Cities for Financial Empowerment.[43]

Unfortunately, many bank branches in communities of color have a primary revenue stream of excessive overdraft fees. As discussed in section II.B above, abusive overdraft fees cause enormous harm to consumers and particularly to consumers of color. While we encourage banks to offer Bank On accounts which do not permit overdraft or NSF fees, with respect to more traditional bank accounts, limiting bank overdraft fees to no more than six per customer per year would help prevent banks from taking advantage of their customers.

In terms of data collection, we encourage the Board to solicit the gross amount of overdraft fee revenue and, separately, NSF fee revenue; the average amount of fees charged to accounts that had at least one

[43] *See* Cities for Financial Empowerment, *Bank On National Account Standards* (2021-2022), https://2wvkof1mfraz2etgea1p8kiy-wpengine.netdna-ssl.com/wp-content/uploads/2020/10/Bank-On-National-Account-Standards-2021-2022.pdf.

overdraft or NSF fee; the distribution of fees across accounts; and the average dollar amount of fees charged to the hardest hit consumers. The Board should also solicit the bank's involuntary closure rates.

With respect to a list of approved activities for CRA credit, we are supportive of a principles-based list, not an exhaustive list. Additionally, the principles-based list should ensure that only meaningful activities count for CRA credit. For example, a bank should not receive CRA credit for providing financial education to people of any income. The emphasis must remain on LMI communities. Moreover, while volunteer hours can be beneficial, the Board should limit the number of volunteer hours that count. The focus must remain on expanding access to meaningful community investments, services, and loans. Also, in light of our nation's racial reckoning, the Board must not permit credit for police stations in LMI communities. This is counter to current calls for greater equity in policing and disproportionately impacts people of color.

F. CRA should increase investments in "designated areas of need."

The Board should develop measures to identify underserved counties, such as the dollar amount of community development lending and investing on a per capita basis.[44] Counties in the lowest quartile or quintile of community development financing could be candidates for designation as underserved. Using measures of retail lending, a recent NCRC white paper demonstrated it would be feasible to establish underserved counties and that this would target CRA resources into undeserved counties that have low levels of home mortgage and small business loans, higher numbers of Black Americans, and higher levels of poverty and unemployment.[45] Based on Hope Policy Institute's analysis of NCRC's data of underserved counties by quintiles, the two lowest quintiles of counties reach 76% persistent poverty counties, including communities of color in rural areas that tend to be most overlooked by other types of designations.[46]

Additionally, the Board could use demographic and economic criteria for designating underserved areas. This would be consistent with what is done now to identify underserved and distressed rural middle-income census tracts. A combination of retail lending, community development financing, and demographic and economic criteria could be used to designate underserved counties. The criteria could also take into account health disparities, such as communities most impacted by COVID-19 infections and deaths. The counties receiving an underserved designation could be updated annually as is the case now with rural underserved and distressed tracts. It is also critical that CRA credit for investments in designated areas of need be given enough weight to incentivize investments. For instance, the Board could award higher impact scores to activities occurring in these areas.

[44] Josh Silver and Bruce Mitchell, *How To Consider Community Development Financing Outside Of Assessment Areas By Designating Underserved Counties*, NCRC (January 2019), https://ncrc.org/how-to-considercommunity-development-financing-outside-of-assessment-areas-by-designating-underserved-counties/

[45] *Id.*

[46] Comment to the Federal Reserve Board from Hope Enterprise Corporation / Hope Credit Union / Hope Policy Institute (HOPE), Community Reinvestment Act Advance Notice of Proposed Rulemaking (Feb. 16, 2021), http://hopepolicy.org/manage/wp-content/uploads/HOPE-Federal-Reserve-CRA-Comment-FINAL.pdf.

G. The Board should significantly improve data collection for small business lending in order to identify and close gaps.

There are profound disparities in how business owners fund their enterprises. Research from the Board found that in the previous five years, 46% of white-owned businesses with employees accessed credit from a bank, and 6% accessed credit from a credit union. During that same time, just 23% of Black-owned employer firms accessed credit from a bank, and 8% from a credit union, and 32% of Latino-owned employer firms accessed credit from a bank and 4% from a credit union.[47] Furthermore, research from the Board found that business owners of color were more likely to rely on personal funds and personal credit scores to finance their business. Twenty-eight percent of Black and Asian owners and 29% of Latino owners relied on personal funds as the primary funding source for their business, compared to 16% of white business owners. Black and Latino business owners were also more likely to use their personal credit scores when obtaining financing with 52% and 51% doing so, respectively, compared to 45% of white and 43% of Asian business owners.[48]

Lack of access to credit can be harmful in the normal course of business, but in the midst of a pandemic, lack of access can have disastrous consequences for microbusinesses, the owners, and employees who depend on them for their livelihoods. The COVID-19 pandemic small business relief program is the most recent example of these disparities. The design of the program, which relied on banks to originate the loans, unfairly put Black, Latino, and Native American business owners at a distinct disadvantage in attempting to access PPP funds when so many were already on precarious financial footing. Banks prioritized customers with whom they had an existing banking relationship; as noted above, Black businesses are less likely to access credit through a bank. Banks also tended to prioritize larger PPP loans to maximize fees, leaving out the smallest of small business from accessing relief.[49]

Additionally, an NCRC study found steep reductions in SBA 7(a) lending to Black businesses between 2008 and 2016. That same study also found that Black and Hispanic testers when applying for loans with equal qualifications to white testers were required to produce more documentation to support their loan application and received less information about fees. In addition, bank personnel introduced themselves to white testers 18% more frequently than they did to Black testers; white testers received friendlier service overall.[50] In SBA's fiscal years ending September 30, 2019 and 2018, for all SBA 7(a)

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[47] Small Business Credit Survey: Report on Employer Firms (2020), https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/2020-sbcs-employer-firms-report.

[48] Federal Reserve, *Small Business Credit Survey: Report on Minority-Owned Firms* (2019), https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/20191211-ced-minority-owned-firms-report.pdf.

[49] For further discussion of the structural inequities in the PPP program, *see* Testimony of Ashley Harrington, Center for Responsible Lending, Before the U.S. House Committee on Small Business Regarding "*Paycheck Protection Program: Loan Forgiveness and Other Challenges*," (June 17, 2020), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-testimony-harrington-house-smallbusiness-17jun2020.pdf.

[50] National Community Reinvestment Coalition, *Disinvestment, Discouragement and Inequity in Small Business Lending* (2019), https://ncrc.org/wp-content/uploads/2019/09/NCRC-Small-Business-Research-FINAL.pdf.

loans made, only 5% were made to Black-owned businesses, and only 9% were made to Hispanic-owned businesses.[51]

Ten years ago, Congress took steps to address this issue through section 1071 of the Wall Street Reform and Consumer Protection Act, requiring the collection of key data elements, including demographic data, with respect to applications for small business loans. We are pleased that the CFPB is now moving forward implementing section 1071, having convened the SBREFA panel and released a proposed outline.

If the section 1071 rule incorporates the necessary elements, the data will be sufficient to replace other types of data currently used in CRA exams. We have urged the CFPB to ensure robust data collection that covers lenders representing at least 95% of small business loans, including depositories, credit card providers, and other lenders. The Bureau should not exempt any lenders based on asset size. Further, the Bureau should cover all forms of typical business credit, especially those that are more likely to be used by business owners of color, including merchant cash advances and factoring. Merchant cash advances are high-cost loans that are disproportionately made to business owners of color. Factoring, or an advance on accounts receivable, is also a form of high-cost credit. The fees – and thus the effective interest rate – tend to be very high and small businesses who use factoring are generally those with little cash on hand to stay afloat and fund their growth and have trouble accessing traditional loans elsewhere. Additionally, consistent with Regulation B, an "application" should be defined as a request for credit made in accordance with the creditor's procedures, not solely a completed application. We fully support all of the data points currently included for collection and commend the CFPB for the breadth of the data it proposes to collect. We also urge inclusion of a data point about the credit profiles used for the application. Data collection should include whether the credit report used is that of the business or the personal report and score of the principal owner(s). If personal scores are used, the credit score range should be included.

Assuming the CFPB incorporates these priorities in the final section 1071 rule, we urge the Board, CFPB, SBA, CDFI Fund, and other banking agencies to coordinate small business data collection via section 1071. The agencies should determine on an interagency basis whether section 1071 is comprehensive enough to replace CRA, SBA, and CDFI Fund data collection and reporting requirements. Similar to the Home Mortgage Disclosure Act, section 1071 data could become the data source that CRA exams use in the future. Once section 1071 is implemented, CRA exams could utilize the more granular section 1071 data to measure whether the smallest of businesses and businesses owned by people of color are receiving loans. Use of this data will help ensure that small business lending is provided on an equitable basis and is sufficiently reaching underserved communities, particularly communities of color.

H. CRA should strengthen small business lending, particularly to communities of color.

We urge the Board to work with SBA, Treasury, CFPB and the other prudential regulators to establish, monitor, and enforce an affirmative duty to fairly serve all small business borrowers; and establish affordable small business lending goals for all credit providers. The prudential regulators should require

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[51] Small Business Administration, *SBA Business Loan Approval Activity Comparisons for Fiscal Years 2012 to 2019, for the Period Ending 08-30-2019*, https://www.sba.gov/sites/default/files/aboutsbaarticle/WebsiteReport_asof_20190830.pdf.

banks covered by CRA to include a robust small business community reinvestment requirement that includes loans approved for small businesses and for business owners where the business credit runs through their personal credit profile. It is critical for equitable small business lending to be considered in CRA evaluations.

As Hope Policy Institute suggests, lending to minority-owned businesses should be a threshold consideration in the quantitative metric for the retail lending test.[52] A bank should not receive a presumption of satisfaction if it does not even engage in a minimum amount of lending to minority-owned businesses proportional to the number of minority-owned businesses in its assessment area.[53]

Additionally, we echo Hope Policy Institute's support for the Board's proposal to remove the job creation/retention prong of the economic development subtest for investment into the smallest businesses outside of a bank's assessment area.[54] The smallest businesses should be defined as sole proprietors, those with 10 or fewer employees, or less than $100,000 in annual gross revenue.[55] This could also include investments into microlenders, as CDFIs specialize in reaching these communities.[56]

I. The Board should establish robust data collection for community development lending and bank deposit data.

Presently, data is lacking to know how well community development investments are serving borrowers by race, national origin, and other legally protected classes. We support the Board collecting improved community development data. This data should be collected on a census tract level or at least on a county level so CRA exams can better target community development financing to areas of need. It should include the type of product (loans, investments, grants), as well as the category of activity (affordable housing, community services, economic development, activities that revitalize and stabilize LMI communities).

We also support better bank deposit data. As the banking agencies acknowledge, the current Summary of Deposits (SOD) data collected by the FDIC is not accurate when banks engage in significant deposit collection outside of areas with branches. As NCRC notes in its comment, the address of the deposit holder should be geocoded to the county and census tract level (the geocoding should be updated annually to take into account customer moves and other changes). HMDA and CRA small business data have included this type of geocoding for decades. It can be done, notwithstanding initial costs with implementation. The Board could provide technical assistance, including an open architecture, for data collection that can assist banks in reducing costs.

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[52] Comment to the Federal Reserve Board from HOPE (Feb. 16, 2021), http://hopepolicy.org/manage/wp-content/uploads/HOPE-Federal-Reserve-CRA-Comment-FINAL.pdf.

[53] *Id.*

[54] *Id.*

[55] *Id.*

[56] *Id.*

J. CRA should incentivize investments in CDFIs and MDIs, but additional safeguards are needed.

We are supportive of the Board's proposal to allow CRA credit regardless of whether CDFIs or MDIs are located in a bank's assessment area. However, banks should not be permitted to achieve an outstanding rating simply due to this factor. We do not want to incentivize a bank that is on the low-end of its own lending obligations to LMI communities and communities of color to achieve an outstanding rating because they invest in a CDFI or MDI. Banks must first meet their own obligations for lending to LMI communities and communities of color. Additionally, to motivate investments, we suggest that qualifying activities undertaken in conjunction with a CDFI should count as part of the Community Development Test.

Banks should be given credit for CDFI and MDI investments that support institutions that have a strong track record of lending to socially and economically disadvantaged individuals and people of color. While CDFIs have a mission to serve low-income and underserved communities, not all CDFIs have lived up to their mission. The CDFI Fund is in the process of tightening its standards for certifying and recertifying CDFIs, which we support and have commented on extensively.[57]

Additionally, as Hope Policy Institute suggests, the Board should consider incentivizing investments into CDFIs that are "minority lending institutions," as defined by the Consolidated Appropriations Act of 2020.[58] A "minority lending institution" is a CDFI where a majority of both the number and dollar volume of arm's-length, on-balance sheet financial products of the CDFI are directed at minorities or majority minority census tracts or equivalents; and is (1) an MDI as defined by FDIC or NCUA or (2) meets other standards of accountability to minority populations as determined by the Fund.[59]

The type of investment must also be meaningful. CRA should prioritize capital investments such as equity and secondary capital as well as others such as donations of bank branches in low-income communities, communities of color, or designated areas of need.

K. CRA should provide credit for responsible consumer loan products.

With respect to retail lending, while we want CRA to emphasize mortgage and small business credit that leads to wealth-building, responsible consumer lending should also count as a CRA qualifying activity. The Board should make clear that only safe, sound, and sustainable consumer lending, made at reasonable rates and based on a borrower's ability to repay, may be considered as a CRA qualifying activity. CRA guidelines should make clear that no discriminatory, abusive, or predatory loan will qualify for CRA consideration, and in fact will count against the financial institution's CRA evaluation. Strong standards must be developed to guide the expansion of consumers' access to quality credit for the products and services that they need.

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[57] Comment to the CDFI Fund from CRL and Self-Help, Proposed CDFI Program Certification Application and Annual Reporting (Nov. 5, 2020), https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-comment-cdfi-fund-certification-reporting-nov2020.pdf.

[58] Comment to the Federal Reserve Board from HOPE (Feb. 16, 2021), http://hopepolicy.org/manage/wp-content/uploads/HOPE-Federal-Reserve-CRA-Comment-FINAL.pdf.

[59] Sec. 523(c)(4) of the Consolidated Appropriations Act of 2021.

CRA must prevent high-cost lenders peddling unaffordable loans from causing particular harm to communities of color,[60] often in the same geographic areas that experienced redlining. Storefront high-cost lenders have long targeted borrowers of color, more likely to locate stores even in more affluent communities of color than in less affluent white communities.[61] Online high-cost lenders may focus more on communities with people that have subprime credit score than geography, although we understand that some lenders use zip codes to target online marketing. But historical discrimination against communities of color is also reflected in credit scores.[62] Lenders that focus on subprime borrowers will inevitably disproportionately target borrowers of color. The algorithms and big data that "fintech" lenders use may also result in disparate impacts on these communities.[63]

Moreover, online lenders often promote their models as expanding economic inclusion, which will often put borrowers of color among their target borrowers. Communities of color have historically been disproportionately left out of the traditional banking system, a disparity that persists today. Some defend the high-cost "fintech" loans as bringing communities of color into the economic mainstream.[64] But high-cost loans, particularly with their high association with lost bank accounts,[65] drive borrowers

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[60] *See* CFPB Payday Rule, 82 Fed. Reg. at 54556-57 (African Americans are payday borrowers at three times the rate, and Hispanics at twice the rate, of non-Hispanic whites (citing 2015 FDIC National Survey of Unbanked and Underbanked Households (calculations using custom data tool). Vehicle title borrowers are also disproportionately African American and Hispanic. *Id*.)

[61] Wei Li, Leslie Parrish, Keith Ernst and Delvin Davis, *Predatory Profiling: The Role of Race and Ethnicity in the Location of Payday Lenders in California,* Center for Responsible Lending (2009), http://www.responsiblelending.org/payday-lending/research-analysis/predatory-profiling.pdf; Brandon Coleman and Delvin Davis, *Perfect Storm: Payday Lenders Harm Florida Consumers Despite State Law*, Center for Responsible Lending at 7, Chart 2 (March 2016); Delvin Davis and Lisa Stifler, *Power Steering: Payday Lenders Targeting Vulnerable Michigan Communities*, Center for Responsible Lending (Aug. 2018), https://www.responsiblelending.org/research-publication/power-steering-payday-lenders-targeting-vulnerable-michigan-communities; Delvin Davis, *Mile High Money: Payday Stores Target Colorado Communities of Color*, Center for Responsible Lending (Aug. 2017; amended Feb. 2018), https://www.responsiblelending.org/research-publication/mile-high-money-payday-stores-target-colorado-communities-color.

[62] *See* Chi Chi Wu, *Past Imperfect: How Credit Scores and Other Analytics "Bake In" and Perpetuate Past Discrimination*, National Consumer Law Center (May 2016), https://www.nclc.org/images/pdf/credit_discrimination/Past_Imperfect050616.pdf.

[63] *See* Testimony of Chi Chi Wu, National Consumer Law Center, Before the U.S. House Committee on Financial Services Task Force on Financial Technology Regarding "Examining the Use of Alternative Data in Underwriting and Credit Scoring to Expand Access to Credit" (July 25, 2019); Carol A. Evans, *Keeping Fintech Fair: Thinking about Fair Lending and UDAP* Risks, Consumer Compliance Outlook (2017), https://consumercomplianceoutlook.org/2017/second-issue/keeping-fintech-fair-thinking-about-fair-lending-and-udap-risks/; *see also* Christopher K. Odinet, *Predatory Fintech and the Politics of Banking* 19-20 (Iowa Law Review (2021 Forthcoming) (Aug. 2020), https://papers.ssrn.com/sol3/Papers.cfm?abstract_id=3677283.

[64] *See* Remarks of Acting Comptroller of the Currency Brian Brooks to the Online Lending Policy Institute, June 11, 2020.

[65] CFPB found that about half of borrowers with online payday or other high-cost online loans paid a nonsufficient funds (NSF) or overdraft fee. These borrowers paid an average of $185 in such fees, while 10% paid at least $432. It

out of the banking system and exacerbate this disparity. By sustaining and exacerbating an existing precarious financial situation, high-cost lending reinforces and magnifies existing income and wealth gaps – legacies of continuing discrimination – and perpetuates discrimination today.

Given these dangers, ensuring that consumers have an ability to repay a consumer loan based on an underwriting of income and expenses is of paramount importance. We encourage CRA guidelines that allow small dollar loan qualifications when a covered lender offers such products with low-risk terms and in a way that inures to the benefit of the consumer. The data are clear that poorly designed loans, like those with balloon payments or high-cost installment loans, only worsen consumers' financial distress.

Excessively high fees, including high APR loans, should not qualify for CRA credit. Loans that exceed a 36% fee-inclusive APR should not qualify for CRA eligible activities, and should be viewed negatively in CRA exams. A 36% rate threshold for small-dollar loans is a long-standing principle found in the laws of many states, the federal Military Lending Act, and guidance from federal regulators, and it is widely supported by civil rights groups, faith-based organizations, and consumer protection organizations as a standard for responsible loans. On larger consumer loans, rates should be much lower than 36%. Small dollar loans qualifying for CRA credit must also include protections against loan flipping, a practice which creates a cycle of repeat loans – a debt trap.

As bank partnerships with non-bank lenders become more common, it is essential that these consumer loan standards apply to bank-facilitated loans whether they are made by the bank directly or whether the bank is only nominally involved in a product offered by a non-bank lender.

L. CRA should incentivize credit for bank loans and investments that address the impact of climate change and environmental racism.

The Board should consider updates to CRA that spur lending, investment, and other services that address climate resilience and cure environmental racism in low-income communities of color. Due to decades of systemic environmental racism, many LMI communities and communities of color are disproportionately affected by pollution, environmental degradation, and disasters.

Today, Black Americans are 75 percent more likely than others to live near facilities that produce hazardous waste.[66] Additionally, Black Americans are subjected to 1.5 times more air pollution than white Americans – regardless of their income level. Air pollution is associated with lung disease, asthma, heart disease, premature death, and now COVID-19.

A climate resilience and environmental justice finance mandate in CRA would help ensure that CRA focuses on quality investments in projects that have the strongest potential to advance community

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further found that 36% of borrowers with a bounced payday payment later had their checking accounts closed involuntarily by the bank. CFPB Online Payday Loan Payments at 3-4, 22 (April 2016).

[66] *See* Lesley Fleischman and Marcus Franklin, *Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*, NAACP and Clean Air Task Force(Nov. 2017), https://www.naacp.org/wp-content/uploads/2017/11/Fumes-Across-the-Fence-Line_NAACP-and-CATF-Study.pdf.

resilience in the most climate-vulnerable communities.[67] The Center for American Progress's recent report provides analysis for how to fine-tune geographic targets with the inclusion of race and environmental justice criteria in CRA examinations.[68]

Eligible CRA projects could include clean energy job training programs, sustainable food systems, green municipal bonds, and other types of investments. Furthermore, credit should be provided for loans in communities that are addressing health disparities from environmental toxins, as families were redlined to areas that were environmentally unsafe producing disproportionate levels of illnesses and deaths.

As our nation grapples with the impact of climate change, the financial system should not be left out. A modernized CRA should take these pressing concerns into account and help drive investment to the communities most impacted.

Conclusion

Thank you for considering our comments. We would be happy to discuss them further.

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[67] *See* Melissa Malkin-Weber, David Beck, Brian Schneiderman and Philip E. Otienoburu, *The Climate Imperative and Community Finance: Regulatory and Policy Tools to Drive a Just Response* (Feb. 2021), https://www.self-help.org/docs/default-source/PDFs/climate-imperative--final-release-2102021.pdf?sfvrsn=2&_ga=2.71793811.185401322.1612972311-706907950.1607038725; Michela Zonta and Zoe Willingham, *A CRA to Meet the Challenge of Climate Change*, Center for American Progress (Dec. 2020), https://www.americanprogress.org/issues/economy/reports/2020/12/17/493886/cra-meet-challenge-climate-change/.

[68] *Id.*