August 3, 2022

*Submitted via email to: comments@fdic.gov, regs.comments@federalreserve.gov, and online at [https://www.regulations.gov/document/OCC-2022-0002-0001](https://www.regulations.gov/document/OCC-2022-0002-0001)*

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
Docket No. R-1769 & RIN 7100-AG29
20th St. & Constitution Ave. NW
Washington, DC 20551

James P. Sheesley
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Federal Deposit Insurance Corporation
RIN 3064-AF81
550 17th St. NW
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Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
Docket ID OCC-2022-0002
400 7th St. SW
Washington, DC 20219

**Re: Community Reinvestment Act. (FRB Docket No. R-1769 & RIN 7100-AG29 ; FDIC RIN 3064-AF81; Docket ID OCC-2022-0002-0001)**

Dear Madam or Sir:

We are writing in response to the Notice of Proposed Rulemaking ("NPR") to update the implementing regulations for the Community Reinvestment Act of 1977 ("CRA") , which were jointly issued by The Federal Reserve Board, the Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency ("OCC") on May 5, 2022. In this comment letter, we will describe Upstart Network, Inc. ("Upstart"), explain our interest in the proposed rulemaking, and respond to selected questions posed in the NPR.

**About Upstart**

Upstart is the leading artificial intelligence ("AI") lending platform, which is designed to improve access to convenient and affordable credit while reducing the risk and costs of lending for our bank partners.

By leveraging Upstart's AI platform, which harnesses over 1,000 data points that go beyond a traditional credit score, Upstart-powered banks of all sizes can offer higher approval rates and experience lower loss rates. Those banks are able to simultaneously expand access to credit and deliver the exceptional digital-first lending experience their customers' demand. Upstart has helped its bank partners serve over 2.1 million customers, originating over $25.4 billion in loans while fully automating 74% of those loans.[1]

Lending is centuries old, but has changed little in recent decades. Traditional lenders use simple FICO-based credit scoring models to decide who is approved for credit and at what interest rate. While simple and intuitive, these "scorecard" methods are limited in their ability to quantify risk. Four in five Americans have never defaulted on a credit product, yet less than half have access to prime credit.[2] The implication is eye-opening. With a smarter credit model, such as the AI-based methods developed by Upstart, banks approve almost twice as many borrowers at generally lower interest rates and with fewer defaults.

Upstart is one of the first companies to apply AI to the multi-trillion-dollar credit industry by using non-conventional variables at scale to provide superior loan performance and improve consumers' access to credit. We currently work with our bank partners to help them originate personal loans (e.g., loans that are used for consolidation of high-cost credit card debt, cover wedding expenses, fund home improvements, or pay for large or unexpected medical costs), small business loans, auto refinance loans, and other small dollar loans.

Results from an internal access to credit comparison demonstrate the ability of our approach to expand access to credit in a financially safe and sound manner. The Upstart model approves 43.4% more borrowers than traditional credit-score only models and yields 43.2% lower average APRs for approved loans.[3] The Upstart model approves 43% more Black borrowers than a traditional model, while offering those customers APRs that are 23.8% lower than a traditional credit-score driven lending model.[4] Similarly, the Upstart model approves 45.6% more Hispanic borrowers than a traditional

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[1] As of 3/31/2022. Fully Automated metric is calculated on a quarterly basis.
[2] According to an Upstart retrospective study completed in December 2019.
[3] As of December 31, 2021, and based on a comparison between the Upstart model and a traditional credit-score only model. The APR calculation compares the two models based on the average APR offered to borrowers up to the same approval rate. The hypothetical credit score only model used in Upstart's analysis was developed in connection with the CFPB No Action Letter access to credit testing program and was built from a traditional credit score only model trained on Upstart platform data. APR for the scorecard was averaged for each given traditional credit score grouping.
[4] As of December 31, 2021, and based on a comparison between the Upstart model and a traditional credit-score only model. Upstart does not collect demographic data on borrowers. Upstart uses standard industry methodology to estimate borrower demographic status to conduct access-to-credit analysis comparing Upstart to traditional credit model outcomes.

credit-score model while offering APRs that are 25% lower than a traditional model.[5] As a result of its innovative approach to underwriting, Upstart is uniquely positioned to help our bank partners meet the credit needs of their entire communities, particularly low-to moderate-income ("LMI") communities and communities of color.

All but the largest banks face challenges in building advanced credit underwriting models in-house, small and intermediate-sized banks with more limited resources are especially disadvantaged given the resource-intensive nature of building and managing such technology. While many fintech companies have decided to compete with banks or become a bank themselves through either a charter application or acquisition of a bank, Upstart has chosen the decidedly different path of partnering with banks to help them better serve their customers. Upstart provides the technology to banks that allows them to offer fully digital experiences across multiple consumer and small business lending products. Importantly, Upstart's platform allows banks of all sizes to launch and maintain top-rated digital lending experiences without a substantial investment in technology and personnel that would be out of reach for all but the largest banks.

## Upstart's Stake in CRA Reform

Well-regulated partnerships between banks and technology companies, like Upstart, are critically important today for the financial health of consumers and banks' ability to fulfill their obligations under the CRA. Working with Upstart helps banks do more than convert a traditional loan product into a digital offering. Our bank partners offer prudently-underwritten and equitably-priced loans to consumers who might otherwise not qualify using traditional underwriting methods. This enables banks that partner with Upstart to increase the percentage of consumer loans that are made to LMI borrowers and LMI neighborhoods – 42.6% of Upstart's powered borrowers are LMI individuals[6] and 29.6% of Upstart powered loans go to LMI communities.[7] Lastly, compared to dv01's Unsecured Industry Benchmark, banks that partner with Upstart offer 50% more loans to borrowers with income less than $50,000 and charge borrowers with FICO scores under 660 rates that are, on average, 300 basis points lower than banks relying on credit scores to underwrite their loans.[8]

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[5] As of December 31, 2021, and based on a comparison between the Upstart model and a traditional credit score only model. Upstart does not collect demographic data on borrowers. Upstart uses standard industry methodology to estimate borrower demographic status to conduct access-to-credit analysis comparing Upstart to traditional credit model outcomes.

[6] As of March 31, 2022 LMI categorization is based on comparing median income in customers zip code vs median income within the MSA of that zip code. Upstart By The Numbers. https://www.upstart.com/blog/upstart-by-the-numbers

[7] Based on loans originated on the Upstart platform from Jan 2017 to March 2022. LMI categorization is based on comparing median income in customers' zip code vs median income within the MSA of that zip code.

[8] In an internal study, Upstart compared data on loans facilitated through the Upstart platform to data on loans originated by other consumer lenders in dv01's Consumer Unsecured Benchmark group. The study considered loans originated during the period from Q1 2020 to Q4 2021.

Using AI technology in lending improves credit access and reduces interest rates for borrowers in all demographic groups when compared to traditional underwriting approaches.[9] Upstart has demonstrated its model helps banks lend money safely to more consumers, at lower rates, and with reduced credit losses. In short, the use of AI and alternative data helps banks fulfill their CRA and fair lending obligations in a financially safe and sound manner.[10]

**Upstart's Comments on the CRA Notice of Proposed Rulemaking**

We are optimistic and energized about the interagency CRA NPR. Upstart believes the NPR would modernize the CRA regulations, which date to 1995, and thereby help banks better serve LMI communities by adding more explicit quantitative thresholds for evaluating the distribution of loans within assessment areas, by allowing for the delineation of retail lending assessment areas (and, if substantial, outside assessment areas) that are not tied to a physical branch location, by including analysis of the distribution of automobile loans to LMI persons and in LMI geographies in certain cases, and by incorporating a Retail Services and Products Test (RSPT) that would include qualitative consideration of a bank's product offerings that expand affordable access to credit among LMI communities. In these ways, the NPR represents the most significant proposed changes to the CRA regulations and evaluations in at least 27 years.

With respect to selected questions about the NPR, Upstart offers the following observations.

*Question 45. The agencies' proposals for delineating retail lending assessment areas and evaluating remaining outside lending at the institution level for large banks are intended to meet the objectives of reflecting changes in banking over time while retaining a local focus to CRA evaluations. What alternative methods should the agencies consider for evaluating outside lending that would preserve a bank's obligation to meet the needs of its local communities?*

With physical bank branch networks continuing to shrink, effectively serving customers who need access to credit may mean offering fairly-priced products online, oftentimes enabled for applications from mobile devices. A study from Experian found that digital loans accounted for 57 percent of the market in July 2021 — up from 39 percent just 10 months earlier.[11] Offering technology that allows loan applications directly from smartphones can level the playing field by making access to financial services more available to all economic segments. For example, according to The Pew Charitable Trusts,

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[9] A 2019 update on credit access and the Bureau's first No-Action Letter. https://www.consumerfinance.gov/about-us/blog/update-credit-access-and-no-action-letter/

[10] See Upstart.com Results To Date. https://www.upstart.com/about#results-to-date-3

[11] White Paper: Fintech Trends - Unsecured Personal Loans. (December 2021). https://www.experian.com/innovation/thought-leadership/2021-unsecured-personal-loans-trends-white-paper.jsp?cmpid=CC-12-30-21

more than eight in 10 Black and Hispanic Americans own smartphones today, nearly identical to the percentage of White Americans.[12]

Under the proposed framework, a large bank would be required to delineate a retail lending assessment area (outside of its facility-based assessment areas) in any metropolitan statistical areas ("MSA") (or the combined non-MSA areas of a state) in which it originated at least 100 home mortgage loans or at least 250 small business loans in each of the preceding two years. Upstart agrees with the NPR in establishing that the delineation of assessment areas address the significant increase in online banking and the rise of fintech – that have taken place in the banking industry since 1995.

Upstart does not believe those assessment areas should be limited to just those in which a bank has made a substantial number of home mortgages or small business loans. Consumer loans, particularly automobile loans, should be considered as well. Upstart also recommends that banks be given the option to have their lending outside of its facility-based assessment areas be evaluated if a substantial portion (e.g., at least 50 percent) of its automobile lending is done remotely and from outside of its delineated assessment areas. Outside assessment area lending should not be limited to just mortgage loans and small business loans.

*Question 48. Should all banks have the option to have community development activities outside of facility-based assessment areas considered, including all intermediate banks, small banks, and banks that elect to be evaluated under a strategic plan?*

Yes. Upstart believes banks of all sizes should have the option to have community development activities considered if they occur in a retail lending assessment area. If a large or intermediate bank or a bank electing the strategic plan option is subject to an evaluation of lending outside of its assessment areas, community development activities should be considered irrespective of their location so long as the bank's community development record is at least "Low Satisfactory" in each of its delineated assessment areas.

*Question 49. The agencies' proposed approach to tailoring the performance tests that pertain to each bank category aims to appropriately balance the objectives of maintaining strong CRA obligations and recognizing differences in bank capacity. What adjustments to the proposed evaluation framework should be considered to better achieve this balance?*

Upstart generally supports the tailoring of performance tests that pertain to each bank category as proposed. However, Upstart recommends that any intermediate bank or small bank be given the option to have consumer loan products that affordably expand credit to LMI persons and geographies be included in the evaluation of its lending record. An evaluation similar to that proposed for large

[12] Pew Research Center. *Mobile Fact Sheet*. April 2021. https://www.pewresearch.org/internet/fact-sheet/mobile/

banks under the RSPT would be appropriate. This could entail, for example, an assessment of the bank's use of Upstart's AI lending platform to underwrite consumer loan products that are responsive to LMI communities' needs or that help consumers either avoid or refinance out of higher cost or predatory products.

Upstart particularly supports the inclusion of a quantitative analysis of automobile loans, if they constitute a major retail lending product line, in recognition of the importance of automobile financing for LMI borrowers and communities. We also agree with the proposal in the NPR that the number of loans, not just the dollar volume, be considered in determining whether automobile lending is a major retail lending product.

However, Upstart recommends that a bank be given the option, which is not included in the NPR, to include automobile lending in the Retail Lending Test (RLT) even if the number and amount of automobile loans do not exceed the threshold for a major retail lending product line.

*Question 66. Do the benefits of evaluating automobile lending under the metrics-based Retail Lending Test outweigh the potential downsides, particularly related to data collection and reporting burden? In the alternative, should the agencies adopt a qualitative approach to evaluate automobile lending for all banks under the proposed Retail Lending Test?*

For banks evaluated under the RLT, the NPR proposes to establish a standard of 15% or more of the dollar value of their retail lending in an assessment area to determine when open and closed-end home mortgage loans, multifamily, small business loans, and small farm loans would be considered a major product line and evaluated under the RLT. Under the NPR automobile loans would also be included in the metrics-based RLT if it were to comprise a major retail product line. We support the agencies' inclusion of automobile lending in the metrics-based RLT.

We commend the agencies for including automobile lending as an eligible retail lending product line subject to quantitative analyses. We also agree with the proposed use of the number of auto loans, not just the dollar volume of those loans, in determining whether automobile lending constitutes a major retail product line, in recognition that automobile loans are often of smaller size compared to certain other retail lending categories.

We also support the agencies' proposal to require new automobile lending data collection and reporting by banks with assets of over $10 billion. The data will allow for better analysis of automobile lending patterns compared to existing data sources, such as credit reporting agency data, which lack the comprehensiveness required to construct the necessary metrics to evaluate automobile lending. Given the data collection and reporting burden banks may face collecting and maintaining automobile lending data, we support that data collection would be optional for small banks and intermediate banks that elect evaluation under the RLT.

We support the NPR's proposal to evaluate automobile lending in the RLT and the recognition of the importance of automobile lending meeting the credit needs of LMI borrowers and communities. Including automobile lending under the RLT will yield cost savings to consumers and incentivize banks to deliver a responsive and responsible product to LMI communities. The benefits to including automobile lending in the RLT outweigh the costs given the importance of affordable, properly-underwritten automobile loans to many in LMI and communities of color.

Upstart also recommends that a broader range of consumer retail products that are responsive to the credit needs of LMI communities in any given bank's assessment area be taken into account on, at a bank's option, including consumer loans that meet the needs of LMI communities. Under the RLT the agencies will take into consideration a *geographic distribution metric* – which would evaluate a bank's record of serving LMI census tracts – and a *borrower distribution metric* – which would evaluate a bank's retail lending to LMI borrowers for each product line. Those metrics would serve equally well in an evaluation of consumer loans as they do for home mortgage, small business, and automobile loans.

*Question 69. Should the agencies adopt a qualitative approach to evaluate consumer loans? Should qualitative evaluation be limited to certain consumer loan categories or types?*

The agencies propose to qualitatively review whether consumer loans are responsive to LMI credit needs under the RSPT. According to the NPR, examiners would review the responsiveness of these credit products by considering the number of LMI customers using each selected product and how they use the product, including rates of successful repayment under the original loan terms. Other aspects of responsiveness could include the loan terms, underwriting, pricing, and safeguards that minimize adverse borrower outcomes.

The agencies' overall approach to consumer loans recognizes that with the exception of automobile lending, consumer products are originated, structured, and maintained differently than home mortgages, small business, and small farm loans. Accordingly, the agencies solicited feedback on whether consumer lending products should be evaluated qualitatively, such as under the RSPT.

As we have stated above, Upstart believes it is important that banks have the option of including automobile loans in the metrics-based evaluation of the RLT. For consumer lending more broadly, we would generally prefer to retain the current approach of having other consumer loans also considered quantitatively in the RLT at a bank's option or when such loans amount to a substantial majority of a bank's business.

However, Upstart understands the logistical hurdles faced by the agencies in developing a quantitative framework for evaluating consumer loans and appreciates that the agencies, at a minimum, are prepared to include a qualitative assessment of those loans. We recommend explicit consideration of affordable loans that help LMI borrowers refinance high-cost or predatory consumer loans, such as is being done by our partner banks every day using the Upstart lending platform.

*Question 104. Are there additional categories of responsive credit products and programs that should be included in the regulation for qualitative consideration?*

Auto loan debt is one of the largest categories of household debt, with $1.37 trillion in outstanding debt and an average auto loan balance of $19,865 in 2020.[13] Consumers finance their auto purchases through either direct or indirect lending. Borrowers can obtain auto loans directly from banks or indirectly at a car dealership. In the case of indirect auto lending, a dealer markup can occur, and the dealer may share a borrower's financial data with institutions seeking to provide lending products.

We believe that subprime and LMI borrowers pay too much for their auto loans oftentimes because the loans are priced inaccurately by traditional lending models. Today's auto lending ecosystem is full of predatory and expensive products that prey on consumers across the country, especially in LMI communities. In 2021, the average price of a used car soared to an all-time high of $25,453[14] – almost $3,000 higher than the previous year. The average interest rate for a consumer with subprime credit buying a used car was 17.26%.[15]

Americans routinely borrow money to purchase a car, and a high interest loan could be devastating to someone barely making ends meet. A recent study found that Black and Hispanic borrowers were 1.5 percentage points less likely to be approved for a loan and pay 0.7% higher interest rate than a control group, regardless of their credit.[16] The same study also found that although bank loans were much less likely to be discriminatory than non-bank loans, more than 80,000 Black and Hispanic borrowers were denied loans annually that they would have been approved for had they been white.[17] Therefore, auto loans should have qualitative considerations when meeting the needs of LMI communities.

*Question 105. Should the agencies provide more specific guidance regarding what credit products and programs may be considered especially responsive, or is it preferable to provide general criteria so as not to discourage a bank from pursuing impactful and responsive activities that may deviate from the specific examples?*

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[13] Horymski, C. (July 2022). *Auto Loan Debt Reaches a Record-High $1.43 Trillion*. Experian. https://www.experian.com/blogs/ask-experian/research/auto-loan-debt-study/

[14] Naughton, N. (May 2021). Looking to Buy a Used Car? Expect High Prices, Few Options. *Wall Street Journal*. https://www.wsj.com/articles/looking-to-buy-a-used-car-expect-high-prices-few-options-11620639000

[15] Zabritski, M. (n.d.). *Auto Finance Insights*. https://www.experian.com/content/dam/noindex/na/us/automotive/finance-trends/q1-2021-state-of-auto-finance.pdf (slide 45)

[16] Butler, Alexander W. and Mayer, Erik J. and Weston, James Peter, Racial Disparities in the Auto Loan Market (March 23, 2022). https://ssrn.com/abstract=3301009

[17] Butler, Alexander W. and Mayer, Erik J. and Weston, James Peter, Racial Disparities in the Auto Loan Market (March 23, 2022). https://ssrn.com/abstract=3301009

We interpret the qualitative assessment of impactful and responsive activities to include consideration of consumer credit products that assist LMI communities to reduce their reliance on high-cost or predatory debt, such as consumer loan financing programs that expand credit access and reduce interest rates using the AI underwriting platform that Upstart offers its bank partners. Upstart works hard every day to make compelling offers and to remove financing barriers for consumers who qualify. Our AI lending platform plays a critical role in accurately pricing loans based on individual risks so that more banks can provide responsible credit products. The final rulemaking should make this consideration explicit to remove any ambiguity of the importance of consumer loans that are affordable to LMI borrowers and safe and sound for lenders in helping meet community credit needs. The NPR should also be explicit that affordably-priced and prudently-underwritten small dollar loans and small mortgages warrant qualitative consideration.

*Question 142. Should additional consideration be provided to small banks that conduct activities that would be considered under the Retail Services and Products Test, Community Development Financing Test, or Community Development Services Test when determining the bank's overall institution rating?*

Yes, small banks should get additional considerations for conducting activities under the aforementioned tests. At Upstart, we have over two dozen bank partners and many of the consumers that come to www.upstart.com are seeking to refinance out of high-cost credit. In partnership with banks of all sizes that use our platform, specifically small banks, we have helped millions of Americans pay off their credit card debt, consolidate debt, refinance an expensive car loan and fund their businesses. Our responsive products have not only helped consumers, but Upstart has helped small bank partners grow their customer loan portfolio, approve more borrowers, expand their product offerings, and given banks the capabilities to provide customers the exceptional digital experience demanded today.

While growing their balance sheets, we have also helped our bank partners to dramatically improve their performance by providing 75% fewer defaults at the same approval rate.[18] Given the pandemic, we were five times more predictive during COVID-19 helping our bank partners better serve their customers during tough times.[19]

[18] In an internal study, Upstart replicated three bank models using their respective underwriting policies for personal loans and evaluated their hypothetical loss rates and approval rates using Upstart's applicant base in late 2017. Such results represent the average rate of improvement exhibited by Upstart's platform against the three respective bank models.

[19] Based on an internal study conducted in June 2020 that compared the difference in hardship rate for a population of borrowers on Upstart segmented by both credit score and Upstart Risk Grade. When segmented by Upstart Risk Grade, the resulting difference in hardship rate between high risk and low risk borrowers is 600 bps. By comparison, when segmented by credit score, the resulting difference in hardship rate between high risk and low risk borrowers is only 90 bps.

Not only is Upstart, through its bank partners, able to provide consumers with a suite of high-quality products but we are also able to meet the business demands a bank needs to succeed in the evolving banking system. Those considerations are relevant to the CRA performance evaluation of banks of all sizes, specifically small banks.

**Conclusion**

Upstart recognizes the work of many parties in developing the proposal to update the interagency CRA regulations. This is important work that requires intentional and coordinated effort among the federal financial industry regulatory agencies, regulated financial institutions, businesses that work with and for banks, and the public.

Upstart believes the interagency NPR represents a significant advancement that would modernize the CRA regulations and thereby help banks better serve LMI communities. We agree with the proposal to add more explicit quantitative thresholds for evaluating the geographic and borrower distribution of loans using community and market benchmarks. We agree with the agencies' efforts to incorporate internet-based lending that is not associated with a bank's brick and mortar facilities into a bank's performance evaluation. We support including automobile loans in the Retail Lending Test, and would welcome the option for automobile loans to be evaluated at a bank's option even if they did not constitute a major retail product line. We support the qualitative assessment of other consumer loans as part of the Retail Services and Products Test, but would welcome the option of including non-auto consumer loans in the Retail Lending Test. We also recommend more explicit guidance be provided as to how banks of all sizes can leverage their use of AI to expand affordable consumer credit opportunities for LMI persons and communities be incorporated into the evaluation of small and intermediate banks.

Thank you for the opportunity to comment. If you have any questions, please contact Gilberto Soria Mendoza (gilberto.mendoza@upstart.com) or Nat Hoopes (nat.hoopes@upstart.com).

Sincerely,

Nathaniel Hoopes
VP - Head of Government and
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