KEAN
John S. Watson Institute for
URBAN POLICY & RESEARCH

NEW JERSEY
URBAN MAYORS
ASSOCIATION

New Jersey Urban Mayors Association
c/o Urban Mayors Policy Center
John S. Watson Institute for Urban Policy & Research
Kean University
1000 Morris Avenue
Union, NJ 07083

August 5, 2022

Board of Governors of the Federal Reserve System (Docket No. R-1769 • RIN 7100-AG29)
20th Street and Constitution Avenue NW
Washington, DC 20551

Federal Deposit Insurance Corporation (RIN 3064-AF81)
Division of Finance
3501 North Fairfax Drive
Building E, Fifth Floor
Arlington, VA 22226

Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: Regulations Implementing the Community Reinvestment Act of 1977 (CRA)
Board of Governors of the Federal Reserve System: Docket No. R-1769 • RIN 7100-AG29
Federal Deposit Insurance Corporation: RIN 3064-AF81

To Whom It May Concern:

The proposed rule outlined in the Notice of Proposed Rulemaking (NPR) issued by the Board of Governors of the Federal Reserve System ("the Board"), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) for the Community Reinvestment Act of 1977 (CRA) signals a marked improvement over the status quo. As written, however, the proposed rule does not make the CRA effective to the extent that it would effectuate equity for low- and moderate-income (LMI) communities and residents and communities of color.

The New Jersey Urban Mayors Association (NJUMA) notes the following observations regarding the Notice of Proposed Rulemaking (NPR):

1. **A more comprehensive NPR would acknowledge the racial and ethnic characteristics of bank customers and communities as important components of the suggested changes.**

The exclusion of the racial and ethnic characteristics of bank customers and communities in the framework and analysis used in the proposed NPR is notable, especially considering the societal inequities that continue to constrict communities of color in New Jersey and the larger United States.

For example, in 2020, of the 16.1 percent of all mortgage applicants in the United States whose applicants were denied, 27.1 percent of denied applicants were Black as compared to 13.6 percent of white applicants. [1] Further, whereas the median-household wealth for Black and Latino/Hispanic families in the United States is $9,600 and $25,000, respectively, as compared to $171,700 for white families (a difference of $162,100 and $146,700 more than Black and Latino/Hispanic Families, respectively), the extent of median-household-wealth disparities between the same three groups in New Jersey is far more severe. [2] The median household wealth for Black, Latino/Hispanic, and white families in New Jersey is $17,700, $26,100, and $322,500, respectively, which is to say that white families hold a median household wealth that is $304,800 and $296,400 greater than that of Black and Latino/Hispanic families, respectively. [3]

Additionally, a March 2022 study found that in over 200 cities for which redlining maps were drawn in the 1930s by the Home Owners' Loan Corporation (HOLC), property assessments are still fraught with bias. The HOLC scored many neighborhoods with "Black and immigrant communities and/or known environmental pollution sources" as "D (hazardous)," and therefore "typically ineligible for federally backed loans or favorable mortgage terms." These are the same communities today that exhibit "higher than average" levels of air pollution via nitrogen dioxide (NO_2) and fine particulate matter ($PM_{2.5}$), and are "overrepresented within the categories of C ['definitely declining'] and D ['hazardous'] neighborhoods." [4]

Strong CRA regulations could help alleviate these stark disparities.

The Board, FDIC, and OCC dedicated a substantial portion of the 2021 Advanced Notice of Proposal Rulemaking (ANPR) to address the incorporation of race into CRA exams, but the NPR that is the subject of this letter omits this issue entirely. Regulators should collect data

[1] Jung Hyun Choi and Peter J. Mattingly, "What Different Denial Rates Can Tell Us About Racial Disparities in the Mortgage Market," Urban Institute, January 13, 2022, https://www.urban.org/urban-wire/what-different-denial-rates-can-tell-us-about-racial-disparities-mortgage-market.

[2] New Jersey Institute for Social Justice, *Making the Two New Jerseys One: Closing the $300,000 Racial Wealth Gap in the Garden State*, February 2022, accessed July 28, 2022, https://www.njisj.org/new_institute_report_proposes_ways_to_close_the_300_000_racial_wealth_gap_in_new_jersey.

[3] New Jersey Institute for Social Justice, "Making the Two New Jerseys One: Closing the $300,000 Racial Wealth Gap in the Garden State."

[4] Haley M. Lane et al., "Historical Redlining Is Associated with Present-Day Air Pollution Disparities in U.S. Cities," *Environmental Science & Technology Letters* 9, no. 4 (April 12, 2022): 345–50, https://doi.org/10.1021/acs.estlett.1c01012.

related to race in the retail and community development tests, make that data available to the public, and use it consequentially in CRA exams.

Specifically, regulators should:

- Add racial data to the list of factors considered when creating assessment areas;
- Compare lending data by race to peer banks within assessment areas;
- Formally incorporate data from the Home Mortgage Disclosure Act (HMDA) and Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (1071) by race into an examination;
- Hold accountable those banks that are found to have violated civil rights, fair lending, and/or fair housing laws;
- Add an impact review factor to the community development finance test that considers investments made in historically-redlined communities and areas in which residents are predominantly people of color.

2. **The system by which the NPR reclassifies banks based on updated asset thresholds may induce a significant loss in community-development financing.**

The proposed "large," "intermediate," and "small" asset-category sizes should be recalibrated so that the classification of banks pursuant to the system delineated in the NPR does not reduce community development financing, particularly in rural areas and small cities. The proposed bank sizes would reclassify approximately 966 banks into a smaller asset category than they occupy under the status quo, which would decrease the extent of those institutions' community-development-financing responsibilities by about $1.214 billion, as estimated by the National Community Reinvestment Coalition (NCRC). [5]

3. **The newly-formed "Retail Lending Assessment Areas" should be subject to a community development test.**

The new "Retail Lending Assessment Areas (RLAAs), intended to address CRA responsibilities of banks operating largely through online and other non-branch channels (as well as branch-based banks with online operations), should include community-development responsibilities. The NPR outlines how RLAAs would be formed within and without entire metropolitan statistical areas (MSAs) of a state. Banks should have some level of community-development responsibility, even if only a version of the status-quo community-development test.

The RLAAs have loan-production offices (LPOs), which should also include a required community-development test. LPOs are too often the only lending or banking-related entities in rural areas and small towns. If it is the case that the NPR gives banks the option to claim credit for banking services provided at their LPOs, responsibilities should accompany such an option.

---

[5] Josh Silver, "MAP: Here's Where Changes To CRA Asset Thresholds Will Undermine Community Reinvestment," NCRC, June 30, 2022, https://ncrc.org/map-heres-where-changes-to-cra-asset-thresholds-will-undermine-community-reinvestment/.

4. **Regulators should give more consideration and acknowledgement to banks that utilize effective, creative, and exemplary local community-engagement strategies.**

   Exemplary community-engagement strategies in LMI communities should be recognized as a standalone impact-review factor when regulators are considering CRA credit for an eligible community-development activity.

5. **Regulators should consider accelerating the pace at which a new rule is promulgated and circulated to both stakeholders and banks.**

   Considering that the last set of CRA changes were implemented over 25 years ago, it is not unreasonable to suggest that regulators make a significant effort to reach community-based development organizations and other stakeholders when considering the adoption of new CRA rules. This is particularly important because the rule-making process has become complicated and technical to the extent that many community-based organizations may be unable to meaningfully participate therein.

6. **The community-development-financing test for intermediate-small banks (ISBs) should be required as opposed to optional.**

   Under the proposal, intermediate-small banks (ISBs) are subject to a status-quo community-development test or the option to satisfy the new community-development-finance test. Regulators should consider subjecting all ISBs to the community-development-finance test. Subjecting large banks and ISBs to the new test creates consistency among banks and examiners and provides others in the community-development industry (non-bank investors, funders, community-development nonprofits, public officials, researchers, and the like) with a consistent understanding of how banks are regulated with respect to their community-development activities.

7. **Every attempt should be made to maximize the extent to which data will be publicly available as part of the CRA examination and pre-approval process.**

   Regulators should make public all data associated with a CRA exam to further their stated goals of making such exams more consistent and transparent, especially as doing so relates to the gathering and publication of community-development-finance-related data. Leveraging such data has the potential to bring about transformative change for the community-development field and for the communities

8. **Whenever possible, regulators should use plain language in rulemaking-adjacent publications.**

   The use of plain language in rulemaking-adjacent publications like the NPR would benefit regulators themselves, financial institutions, community advocates, and community residents alike.

9. **The final rule should recognize lender fee-for-service payments for housing-counseling services as an eligible activity under the CRA.**

   Housing counseling is a proven tool that helps position consumers as mortgage-ready through financial education, pre-purchase counseling, reverse-mortgage counseling, and credit-history counseling. This eligible activity would make a difference for LMI earners. While lenders recognize the value of housing-counseling agencies in addressing the troubling and persistent gaps in access to homeownership, there is a needed clarification in what form that support can take. Including lender fee-for-service payments for housing counseling services as eligible supports under the CRA will provide necessary clarity regarding this matter.

If the NPR is updated to reflect the above observations, and if the rulemaking process itself sufficiently incorporates public input and exhibits a high degree of accountability on the part of regulators, the proposed rule would then have the potential to reduce inequities in communities of color and all underserved communities.

Established in 1991, the New Jersey Urban Mayors Association (NJUMA), comprised of 32 urban and rural municipalities, is dedicated to working with state and federal lawmakers and officials to develop appropriate and effective public-policy measures that benefit the state's urban centers and to help lawmakers understand how public policy affects New Jersey's municipalities. NJUMA serves its members through regular meetings and annual conferences, which keep them informed on issues affecting their ability to provide adequate services to their residents; assists its members in interpreting legislation and state policy; and works with the Office of the Governor to assist in defining a statewide urban policy agenda.

Thank you for your time and attention to these critical community-development issues for urban communities in New Jersey.

If you have any questions or would like to share any pertinent information with NJUMA members, please contact: Tenisha Malcolm, Director, Urban Mayors Policy Center (tmalcolm@kean.edu • (908) 956-5260); and Karl Weiskopf, Director of Policy and Research (kweiskop@kean.edu • (732) 215-6783); John S. Watson Institute for Urban Policy and Research at Kean University.

Respectfully yours,

[redacted]

Barbara George Johnson, MPH, J.D.
Vice President of External Affairs and Urban Policy
Executive Director, John S. Watson Institute for Urban Policy and Research
Kean University
bgeorgej@kean.edu • (609) 273-2681