



August 4, 2022

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Re: Joint Proposal to Strengthen and Modernize Community Reinvestment Act Regulations, FDIC RIN 3064-AF81; Docket ID OCC-2022-0002; Federal Reserve RIN 7100-AG29, Docket No. R-1769

To Whom It May Concern:

The undersigned, predominantly leaders of community development financial institutions (CDFIs) and other organizations that are invested in the success of the Community Reinvestment Act (CRA), led by Pacific Community Ventures and the African American Alliance of CDFI CEOs, appreciate the opportunity to comment on the Notice of Proposed Rulemaking (NPR) updating the CRA. While the NPR makes significant and important changes to the CRA, its failure to address racial disparities in lending is inexcusable. The purpose of the CRA, and the worsening of the racial wealth gap since its inception, compel a re-centering of the CRA on its civil rights origins through the implementing regulations. Acting Comptroller of the Currency Michael J. Hsu recently noted that while the COVID-19 pandemic and Black Lives Matter movement opened peoples' eyes to the depth of inequality in this country, "*the window for transformative change is closing.*"¹ This is the moment to restore the CRA's original purpose and to finally use this important tool to serve the Black, Indigenous, Latino, Asian-American and Pacific Islander (BIPOC) communities that have been fighting for economic inclusion since their systemic exclusion via discrimination since the founding of this nation, exacerbated by redlining in more recent years. We cannot achieve racial equity by being colorblind.

Earlier this year, Treasury Secretary Janet Yellen noted an undeniable truth: "*From reconstruction to Jim Crow to the present day, our economy has never worked fairly for Black Americans, or for any Americans of color.*"² In 1968, a decade prior to the enactment of the CRA, a typical middle-class Black household

¹ Acting Comptroller of the Currency Michael J. Hsu Remarks to the 2022 Community Development Bankers Association Peer Forum, June 9, 2022, <https://www.occ.gov/news-issuances/speeches/2022/pub-speech-2022-66.pdf>

² "US economy 'has never worked fairly for Black Americans,' Treasury chief says," ABC News, January 17, 2022,



had \$6,674 in wealth, contrasted to a typical middle-class white household which had \$70,786 in wealth.³ Data from 2016 shows that the racial wealth gap is actually *expanding*: the average middle-class Black family has \$13,024 in wealth, in contrast to a middle-class white family's \$149,703 in wealth.⁴ Currently, women of color create 89% of new businesses opening every day.⁵ Black women are more likely to launch a new business than a white person, but Black entrepreneurs are twice as likely to be denied loans by a bank than a white entrepreneur.⁶ 75% of women of color say their most common obstacle to growth is lack of capital.⁷ The COVID-19 pandemic accelerated the wealth gap. Prior to the pandemic, Black entrepreneurs were more commonly rejected from formal financial banks loans.⁸ During the pandemic, Black entrepreneurs were systematically left out of PPP loans.⁹ In addition, 41% of Black-owned, 36% of Latino-owned, and 25% of AAPI-owned businesses closed in the first three months of the pandemic.¹⁰

The racial wealth gap is also present in homeownership. In the second quarter of 2020, the U.S. Census Bureau shows data that Black Americans have the lowest rate of homeownership.¹¹ Black Americans have a 47% rate of homeownership, compared to white Americans' rate of 76%.¹² Data from the Home Mortgage Disclosure Act (HMDA) shows that, in 2020, lenders denied mortgages for Black applicants at a rate 80% higher than white applicants.¹³

<https://abcnews.go.com/Business/treasury-secretary-us-economy-worked-fairly-black-americans/story?id=82308011>

³ "Income and Wealth Inequality in America, 1949-2016," Institute Working Paper 9, Opportunity & Inclusive Growth Institute, Federal Reserve Bank of Minneapolis, June 14, 2018, <https://www.minneapolisfed.org/research/institute-working-papers/income-and-wealth-inequality-in-america-1949-2016>

⁴ Ibid.

⁵ "The Face and the Flow of Finance: How Impact Investing can Move the Racial and Gender Wealth Gap," SoCal Grantmakers, March 19, 2021, <https://socialgrantmakers.org/blog/face-and-flow-finance-how-impact-investing-can-move-racial-and-gender-wealth-gap>

⁶ "Black-owned businesses face unequal path to recovery," McKinsey & Company, June 11, 2021, <https://www.mckinsey.com/featured-insights/sustainable-inclusive-growth/future-of-america/black-owned-businesses-face-an-unequal-path-to-recovery>

⁷ "Black women were among the fastest-growing entrepreneurs—then Covid arrived," Forbes, October 26, 2020, <https://www.forbes.com/sites/ruthumoh/2020/10/26/black-women-were-among-the-fastest-growing-entrepreneurs-then-covid-arrived/?sh=4021f6226e01>

⁸ "Why Black-owned businesses struggle to get small business loans," Forbes, November 24, 2020, <https://www.forbes.com/sites/rohitarora/2020/11/24/why-black-owned-businesses-struggle-to-get-small-business-loans/?sh=5b3889c23038>

⁹ "Racial bias affected Black-owned small businesses seeking pandemic relief loans, study finds," The Washington Post, October 15, 2021, https://www.washingtonpost.com/national/ppp-bias-black-businesses/2021/10/15/b53e0822-2c4f-11ec-baf4-d7a4e075eb90_story.html

¹⁰ "The Impact Of Covid-19 On Small Business Owners: Evidence Of Early-Stage Losses From The April 2020 Current Population Survey," NBER Working Paper Series, National Bureau of Economic Research, June 2020, https://www.nber.org/system/files/working_papers/w27309/w27309.pdf

¹¹ "Why the homeownership gap between White and Black Americans is larger today than it was over 50 years ago," CNBC, August 21, 2020, <https://www.cnbc.com/2020/08/21/why-the-homeownership-gap-between-white-and-black-americans-is-larger-today-than-it-was-over-50-years-ago.html>

¹² Ibid.

¹³ Ibid.



The CRA was enacted in 1977 at the tail end of the civil rights legislation. It was intended to remedy the systemic oppression and economic exclusion resulting from redlining, where banks would refuse to serve Black, Indigenous, Latino, Asian-American and Pacific Islander, and immigrant neighborhoods.¹⁴ The deliberate and systemic exclusion of these communities resulted in lost opportunities to build wealth and fully realize the American Dream, consequences that are still felt today. The CRA created an affirmative obligation on these banks: they must serve the needs of the *entire community* in which they were located. The drafters of the CRA understood that they were creating an anti-racist piece of legislation.¹⁵

Despite this clear purpose, the regulations originally implementing the CRA focused on low and moderate income (LMI) communities only, without specific requirements to target BIPOC borrowers. We now know that targeting lending to LMI borrowers and neighborhoods does not achieve racial equity. Research from the Urban Institute has found that LMI is a poor proxy for race, and that racial discrimination persists in LMI-targeted lending.¹⁶ Their research finds that minority LMI homeowners continue to be excluded from the mortgage market: for example, predominantly minority LMI neighborhoods contain 36.7 percent of the households in all LMI neighborhoods and 31.6 percent of existing homeowners in those neighborhoods, but received only 25.2 percent of owner-occupied purchase loans made in LMI neighborhoods.¹⁷ The longstanding colorblind approach of the CRA is not working.

At the same time, failing to alleviate the racial wealth gap has dire economic consequences. A recent McKinsey Global Institute study found that if Black-owned businesses achieved parity they would generate \$1.6 trillion more than they do today.¹⁸ Lack of access to capital is a huge factor in this continued disparity.¹⁹ A study from Citi GPS shows that providing fair and equitable access to capital to Black borrowers could have resulted in an additional \$13 trillion in revenue over the past 20 years and an additional 6.1 million jobs *per year*.²⁰ As Deputy Commerce Secretary Don Graves noted at the launch of the Interagency Convening on Equitable Economic Growth,²¹ research from the Kellogg Foundation finds that racial equity across education, business, incarceration, and health can leverage an additional \$8

¹⁴ “A ‘forgotten history’ of how the US government segregated America,” NPR, May 3, 2017,

<https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america>

¹⁵ “Adding Robust Consideration of Race to Community Reinvestment Act Regulations: An Essential and Constitutional Proposal,” National Community Reinvestment Coalition, September 16, 2021, <https://www.ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/>

¹⁶ “Should the Community Reinvestment Act Consider Race?,” Urban Institute, January 2022, https://www.urban.org/sites/default/files/publication/105283/should-the-community-reinvestment-act-consider-race_1.pdf

¹⁷ Ibid.

¹⁸ “The Economic State of Black America: What Is and What Could Be,” McKinsey Global Institute, June 17, 2021, <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/the-economic-state-of-black-america-what-is-and-what-could-be>

¹⁹ Ibid.

²⁰ “Closing the Racial Inequality Gaps,” CitiGPS, September 2020, <https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/>

²¹ Remarks by U.S. Deputy Secretary of Commerce Don Graves at the Deputies' Convening on Equitable Economic Growth, U.S. Department of Commerce, November 9, 2021, <https://www.commerce.gov/news/speeches/2021/11/remarks-us-deputy-secretary-commerce-don-graves-deputies-convening-equitable>



trillion by 2050 for the U.S. economy²²—GDP growth, job growth, and income we cannot afford to sacrifice in this recovery. This is not an individual problem—racial inequality is a burden on our economy, and a systemic risk.²³

This is the first meaningful upgrade to the CRA regulations in 27 years. We optimistically waited for the NPR and expected it to acknowledge the shortcomings of the previous regulations when it came to addressing the racial wealth gap, and for the wisdom of the three enforcing agencies to look toward established precedents—including HMDA, Section 1071 of Dodd Frank, the State Small Business Credit Initiative (SSBCI),²⁴ Special Purpose Credit Programs, and other legislation and regulations that incorporate race-centered components for race-centered problems. This is not new, and, as we’ve seen with SSBCI and Section 1071, this is a growing trend. While we still have a long way to go in order for these programs to fulfill their intended purposes as well, collecting racial demographic data is an important starting point. This is the only way to specifically address the continued disadvantage facing communities excluded from access to capital. We cannot address a problem that we do not have the courage to name. Further, these programs show that neither the fair lending requirements, nor the Constitution,²⁵ is an obstacle to racial demographic data collection.

While the NPR does include the consideration of HMDA data—which gathers racial demographic information for home mortgages—in a bank’s evaluation, it explicitly notes that banks *cannot* fail their CRA exams because of this HMDA data. As a result, we may now have data that a bank is failing to serve its entire community, as required by the legislative text of the CRA, but we have no enforcement mechanism. We don’t have to wonder whether this will happen: current HMDA data confirms continued discrimination against Black borrowers in the home loan space.²⁶ Additionally, banks will already be required to report demographic data for small business lending under Section 1071—why not include these disclosures as part of the CRA exams, with real consequences for failing to serve BIPOC communities—as well?

²² “Updated study outlines potential gains to US economy and a pathway for economic growth,” W.K. Kellogg Foundation, April 24, 2018, <https://www.wkcf.org/news-and-media/article/2018/04/updated-study-outlines-potential-gains-to-us-economy-and-a-pathway-for-economic-growth>

²³ “Racial inequity 'a systemic risk' – State Street Global Advisors CEO,” S&P Global Market Intelligence, January 12, 2021, <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/racial-inequity-a-systemic-risk-8211-state-street-global-advisors-ceo-62047105>

²⁴ “Treasury Launches Historic Equity Measurements for American Rescue Plan Small Business Investments Program,” U.S. Department of the Treasury, March 3, 2022, <https://home.treasury.gov/news/press-releases/jy0626>

²⁵ “Adding Robust Consideration of Race to Community Reinvestment Act Regulations: An Essential and Constitutional Proposal,” National Community Reinvestment Coalition, September 16, 2021, <https://www.ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/>

²⁶ “Racial and Economic Disparities in the Mortgage Market: Prepared for presentation to the Academic Research Council,” Consumer Financial Protection Bureau, August 13, 2021, https://files.consumerfinance.gov/f/documents/cfpb_racial-economic-disparities-in-mortgage-market_slides_2021-08.pdf



By failing to take a race-centered approach, the NPR ignores the Biden Administration’s Executive Order on Advancing Racial Equity.²⁷ This Order, which rightfully acknowledges the persistence of exclusionary policies keeping people of color from full participation in our society, mandates federal agencies to take this problem seriously and propose real solutions. A colorblind CRA fails this mandate. Further, while data collection can shine light on discrimination, the CRA is not a disclosure statute. It creates an affirmative obligation that banks serve the entire community. Data collection and disclosure is important, but it is only the first step.

Accordingly, we strongly recommend that the final regulations include the following:

- **Data collection:** The CRA must require banks to gather and report disaggregated racial and demographic data as part of the CRA exams. This needs to be meaningful and comprehensive, and no bank should pass their CRA exam without being able to show they are serving the entire community, which of course includes communities and individuals of color.
- **Use of data already being collected:** Data collected under the SSBCI program, Section 1071, and HMDA should be a part of the bank’s evaluation. Additionally, CRA exams should look at the fair lending data available under the Equal Credit Opportunity Act and Fair Housing Act—not just consent orders against banks, but the proactive record as well. This can be broader than violations—we have this data to help us understand a bank’s behaviors—let’s use it to ensure they are serving the entire community, as required under the CRA statute.
- **Meaningful exams:** CRA exams cannot be pro forma—this is a serious assessment that requires teeth. The data collected and used should be meaningfully relevant—if the HMDA data shows that the bank has failed to serve the entire community, it should not pass its CRA exam. Banks should not be able to pass if they aren’t lending to people of color, and they also should not pass if they are only offering expensive products that don’t actually serve the needs of the community.

Again, we are grateful for the opportunity to comment, and we look forward to your response.

Sincerely,

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²⁷ Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, The White House, January 20, 2021, <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>



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