DELAWARE COMMUNITY REINVESTMENT ACTION COUNCIL

600 South Harrison Street
Wilmington, DE 19805
www.dcrac.org

Rashmi Rangan
Executive Director

August 5, 2022

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: **Community Reinvestment Act Proposed Rulemaking [87 FR 33884]**

- OCC: 12 CFR Part 25; Docket ID OCC-2022-0002; RIN 1557-AF15
- Federal Reserve: 12 CFR Part 228; Regulation BB Docket No. R-1769; RIN 7100-AG29
- FDIC: 12 CFR Part 345; RIN 3064-AF81

Re: Comments on Proposed Changes to the Federal Community Reinvestment Act

To Whom it May Concern:

We appreciate the opportunity to comment on the Notice of Proposed Rulemaking (NPR) regarding updating the Community Reinvestment Act (CRA). This NPR represents the most significant changes to the CRA regulation and exams in 27 years. Nevertheless, it should be strengthened further to realize the statute's full potential to increase loans, investments and services in traditionally underserved communities.

In Delaware, where the Financial Center Development Act of 1981 opened the state's doors wide to credit-card banks, the influence of the banking industry was growing and so were concerns about whether the banks' leaders, often from out of state, would be sensitive to the community's needs. Onto this fertile ground in 1987 stepped a new nonprofit organization, the Delaware Community Reinvestment Action Council (DCRAC).

Over the years, DCRAC learned that its clients came with multi-faceted needs under the rubric of fair lending, such as access to housing, access to credit, access to financial institutions, among others. As a result, DCRAC has gradually expanded its services across a broad array of issues and in so doing, we have become a strong advocate for Delaware's low-income and minority residents.

Our programs include:

- Money School
- DCRAC Law: Tangled Titles, Income Tax representation, and Probate
- Stepping Stones Community Federal Credit Union—a low-income, Minority Depository Institution, and a CDFI.

According to the Delaware Bankers Association, on an annual basis, Delaware Financial Institutions invest millions of dollars in Community Development Financial Institutions, provide over $15 million to hundreds of nonprofit organizations, and contribute over 185 thousand hours of service to support community needs. DCRAC itself has seen the benefit of our banks' commitment to the Community Reinvestment Act.

National Community Reinvestment Coalition (NCRC) is providing a very detailed response to the 180 questions. As a member of NCRC, we endorse NCRC's comments.

We recognize that CRA is long overdue for a revisit. The questions are serious and address the changing times and today's challenges.

We believe that the most important question of our time is RACE.

If it is left unaddressed, this CRA overhaul effort is meaningless.

CRA exams must explicitly consider banks' records in serving people of color and communities of color. NCRC had asserted in a paper co-authored by Relman Colfax PLLC that changes to CRA would comply with legal standards (as well as advance its statutory purpose) if CRA examined lending by race and ethnicity in geographical areas experiencing ongoing discrimination or exhibiting significant racial disparities in lending[1].

Two powerful excerpts from Racial Equity and Philanthropy: Disparities in funding for leaders of color leave impact on the table:

[1] Brad Blower, General Counsel, NCRC; Josh Silver, Senior Policy Advisory, NCRC; Jason Richardson, Director of Research and Evaluation, NCRC; Glenn Schlactus, Partner, Relman Colfax PLLC; Sacha Markano-Stark, Attorney, Relman Colfax PLLC, *Adding Robust Consideration Of Race To Community Reinvestment Act Regulations: An Essential And Constitutional Proposal,* September 2021, https://www.ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/

> The Racial Equity Institute (REI) has come up with a helpful metaphor—the groundwater metaphor—to explain structural racism, in an effort to explain how race and racism are intricately linked to our biggest social problems. REI asks us to imagine that we have a lake in front of our house. If we find one dead fish, most of us would analyze the fish. But if we come to the same lake and half the fish are dead, then it probably makes more sense to analyze the lake. But what if there are five lakes around our house and in every lake half the fish are dead? Now it might be time to consider analyzing the groundwater to find out how the water in all the lakes ended up with the same contamination.
>
> Philanthropist Jeff Raikes made a point at the 2017 Aspen Ideas Festival during the "color-blindness cop-out" discussion: "Failing to address race head-on is counterproductive to making meaningful progress to correct [society's] startling inequities. While it may be easier to avoid discussing race, it's impossible to improve the systems that create these disparate outcomes if we don't first recognize how they disproportionately impact people of color."

If Race is not front and center, this iteration of CRA patches a breach in a dam with chewing gum.

It is interesting that we collect HMDA data. Analyze lending by race. Yet, these results do not influence a bank's CRA performance. This is a loophole that allows racial discrimination in lending to continue long after CRA was enacted to correct the harms of redlining, remedy and prevent racial discrimination. The cumulative, wide, persistent, and insidious disadvantages caused by redlining and discrimination are not theoretical. Communities of color still confront every disadvantage today as they have for over 80 years.

After 44 years of outcries over racial and ethnic discrimination traced to lending, Congress enacted the Community Reinvestment Act in 1977.

It is important to revisit our history. In the wake of the Great Depression, in 1933, to bail out our banks, the Home Owners' Loan Corporation (HOLC) was created. An obvious shortfall was that this agency did not refinance neighborhoods deemed "hazardous" because they were large minority, homeowners were poorer, and structures were older. A year later, the Federal Housing Administration (FHA) was created to insure mortgages but it too failed to include equality and fairness for neighborhoods that were minority, poorer, and contained older houses.

It would take over 30 years but in the civil rights activism of the 1960s, attempts to right historical wrongs took the form of the Fair Housing Act (1968), and the Equal Credit Opportunity Act (1974). Continuing activism brought to life the Home Mortgage Disclosure Act (1974) and the Community Reinvestment Act (1977). Despite the promises of fairness and equality set out in these federal statutes, redlining continues to this day.

Black and Brown communities have very limited and high-cost access to depository and transactional functions—check cashers, payroll cards, and such.

In mortgages, refinancing, home equity loans, discrimination continues. In Delaware, between 2018 and 2020, top lenders denied 18.6% of mortgage applications. Denial rate for White applicants was 16.3%. For Black applicants it was 26% and Hispanic applicants it was 24.2%. Other data points to the reality that even when people of color do receive mortgages, their equity accumulation is less.

And, it is not just in lending that race must be evaluated, it is in access to banking and deposit account. It is in small businesses. It is in philanthropic support. Events of the recent past have led our banks to begin collecting data on the race and gender of small business owners and non-profit leaders they support.

We have taken every opportunity over the years—CRA comments or bank mergers—to raise alarm over disparities in business lending. We applaud consideration of evaluating business lending to businesses under $250,000 as a separate category. But, to capture 88% of women owned businesses (American Express) and 50% of Black owned businesses (JPMChase) creating a category of revenues under $100,000 is warranted.

DCRAC's experience with a credit union chartered to serve the low-income community

Of keen interest to us is Question # 26. Should activities undertaken by an MDI to promotes its own sustainability and profitability be considered?

We firmly believe that small institutions doing what large banks cannot or will not, should be sustainable and profitable and wean themselves from annual grant support cycle.

In March 2022, DCRAC launched a $5 million Enterprise Capital Campaign. Its primary purpose is to assure Stepping Stones Community Federal Credit Union is self-sufficient and remains sustainable. With 1,548 Members on June 30, 2022—333 currently in prisons; smallest loans are $300 and largest at $15,000 we are gearing up to make mortgages. Our total assets are about $4.5 million. We are an MDI—banking the unbanked and otherwise excluded; a CDFI, a FHLB member (Pittsburgh). Chartered in 2011, we serve our community through annual grants. Support of our Enterprise Capital Campaign would allow us to leverage our capital to raise up to $50 million in insured—CRA credit worthy—deposits. A $50 million credit union can do so much more than a $5 million credit union is already doing. Banking and Lending to those excluded from main stream.

Activities that qualify for CRA—a principles-based approach

Banks are conservative. When an activity clearly falls within CRA framework and they can get credit, they proudly participate.

One of the ways the credit union's balance sheet is robust is through CRA covered deposits. Bank's do not make 5-year or 10-year CD deposits. Credit Union cannot make 5-year loans with 1-year deposits.

Over the past two years, regulators have hosted a few webinars tackling Tangled Titles/Heirs Property. Since 2008, we have been working in this space without CRA support. One would think that this would neatly fit in Affordable Housing framework. Banks appear to need far more clarity. Clarifying that investments in such solutions qualify for CRA credits would benefit those of us tackling these high-touch, high-cost issues with little or no support.

In 2019, the wealth gap between black and white households is startling—black households had 14.5 percent of the wealth of white households, with an absolute dollar gap of $838,220[2]. One way we address the perpetuation of racial and economic inequities is through Heirs' property.

Strategic Plan

Our experience with the Strategic Plan in Delaware has greatly benefitted Delawareans. We found it to be a transparent process where the community, regulators, the public, and banks work together to create a plan that is tailored to the needs of our community. For years, we have worked with banks that have been able to innovative, make meaningful investments, and volunteered their time to Stepping Stones Community Federal Credit Union. We cannot afford a diminished investment and volunteerism is our community.

The Agencies should strengthen the Strategic Plan separate from the overarching framework to ensure that deep, meaningful investments in credit unions like ours continue. For example, a representation from a local bank with a national presence is the Chairman of our Board and has greatly assisted with our business plan and charter. This help was critical to our development and establishment. Such support could go away. Under the new tests, we are concerned the bank will be pulled to new, more populated assessment areas and will not devote the same resources to our community.

Ultimately, CRA was enacted to correct wrongs that stemmed from racial discrimination in lending. If we leave race out of this new CRA, governments are once again complicit in widening an ever-growing racial economic divide—banking, borrowing, wealth creation, and wealth preservation.

Thank you for this opportunity.

Sincerely,

[redacted]

Rashmi Rangan
Executive Director
DCRAC
600 South Harrison Street
Wilmington, DE 19805
302-298-3250

[2] https://www.americanprogress.org/article/eliminating-black-white-wealth-gap-generational-challenge/