

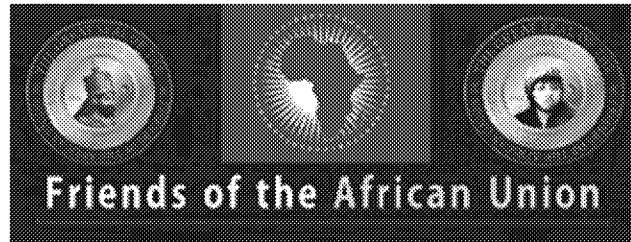
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The Friends of the African Union is a longtime member of the National Community Reinvestment Coalition and after its 2022 #Just Economy Conference Created the Friends of the African Union Institute with allied civil society organizations. These organizations the African Diaspora Directorate, The Sons and daughters of Africa, Brotherhood and Sisterhood International Blacks and Whites Uniting Communities, The World Conference of Mayors Committee on United Nations Permanent Forum on People of African Descent along with the Friends of the African Union Committee on the Elimination of Racism join us in 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.

In doing so we must make the reader aware that out of our actions on that date in creating the FAU Institute we did so in light of actions the governments of the world in the UN General Assembly who last year on August 2nd 2021 the voted “.....to establish the Permanent Forum on People of African Descent, which will serve as a consultation mechanism for people of African descent and other interested stakeholders as a platform for improving the quality of life and livelihoods of people of African descent and to contribute to elaborating a United Nations declaration on the promotion and full respect of human rights of people of African descent, and that the modalities, format and substantive and procedural aspects of the Permanent Forum will be concluded by Member States and observer States, with further consultations with people of African descent.....”

Now this has relevance to over 55M Americans of African Descent and their families including Prince Harry, Duke of Sussex, KCVO is a member of the British royal family and father to children of African Descent, Now he and his wife Meghan Markle will never have to worry about housing except to security but a majority of those Americans will because of the countries history which included redlining. Redlining was a new discrimination faced by Americans of African Descent since their ancestor became citizens in 1868.

The Great Depression of the late 1920s and early 1930s delivered a gut punch to the average American. By 1933, a quarter of Americans were out of work, the national average income had



slumped to less than half of what it had been a few years earlier and more than one million Americans faced foreclosure on their homes.

One of the multiple programs a newly-elected Franklin D. Roosevelt established to stimulate the economy offered home-buying aid for Americans—but only white Americans. The Federal Housing Administration, operated through the New Deal's National Housing Act of 1934, promoted homeownership by providing federal backing of loans—guaranteeing mortgages. But from its inception, the FHA limited assistance to prospective white buyers.

Now full disclosure here my dad, Hershel Daniels Srr. was one of the pioneering black folk of the 1950's who desegregated the FHA and I have first hand stories that I only recently have come to appreciate what these pioneers of civil rights did. Many housing deeds stated outright that a house could only be sold to white people. That was the case in Shaker Heights where he decided to move to from Cleveland and was able like others in that era to challenge these deeds and illegal.

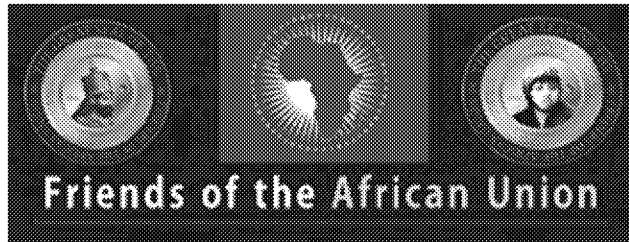
“The FHA had a manual which explicitly said that it was risky to make mortgage loans in predominantly Black areas,” explains Richard D. Kahlenberg, a senior fellow at The Century Foundation. Therefore effectively drawing a “Redlines” between white and Black neighborhoods that would persist for generations.

FYI Scholars who study housing discrimination point to redlining as one factor behind the gulf in wealth between blacks and whites in the U.S. today. Black families have lost out on at least \$212,000 in personal wealth over the last 40 years because their home was redlined, said real estate app Redfin.

This has relevance in regards to the USA in our Response to the UN Committee on the Elimination of Racial Discrimination will review the U.S. government's compliance with its human rights obligations under the International Convention on the Elimination of all Forms of Racial Discrimination. based on the fact that although the CRA statute does not mention race, it required banks to serve all communities, which provides room for the federal bank agencies to incorporate race in CRA exams.

We agree that persistent racial disparities in lending should compel the agencies to incorporate race and ethnicity in CRA exams. A recent national level analysis showed continuing disparities in loan denials by race and when people of color receive home loans, their equity accumulation was less. (NCRC members should use this fair lending tool to report on disparities in their communities here).

The agencies proposed to use the Home Mortgage Disclosure Act (HMDA) data to produce exam tables describing lending by race, but not to use the results of these analyses to influence



a bank's rating. NCRC had asserted in a paper co-authored by Relman Colfax PLLC that changes to CRA would comply with legal standards if CRA examined lending by race and ethnicity in geographical areas experiencing ongoing discrimination or exhibiting significant racial disparities in lending. NCRC had also proposed including analyses of lending in underserved neighborhoods with low levels of lending, which are disproportionately communities of color.

While agree with the thought that the agencies can examine banks' record of lending to race, the agencies should at least bolster fair lending reviews accompanying CRA exams for banks that perform poorly in the HMDA data analysis of lending by race. In addition, the agencies proposed using Section 1071 data on small business lending by race and gender of the business owner, and this data should be used as a screen for fair lending reviews. By including race and ethnicity, CRA can identify and address persistent racial disparities that have direct impacts on quality of life and health outcomes.

All of this has relevance as the world sees the USA.

Those who challenge American global leadership like to point out our history since the start of the country on March 4th 1789. They point that this nation started operations based on the thoughts of the newly published "An Inquiry into the Nature and Causes of the Wealth of Nations" as a slave nation with police forces designed to catch runaway slaves and ship them back to their masters or keep immigrants in their place.

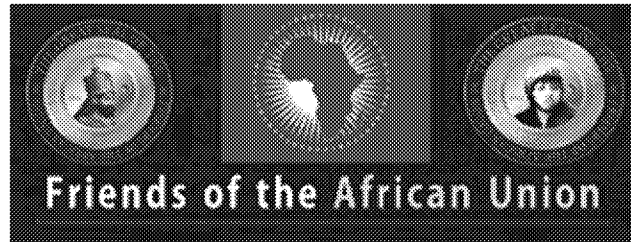
The marches around the United States of America and around the world in 2020 and 2021 were at first an attempt to find solutions to the current public safety threats escalated by racism. Existing political solutions are insufficient to address the issues of Public Safety an evolved into the historical economic injustice for Americans of African Descent.

Like these proposed changes to the CRA it can be a national change like that of January 21, 2021.

On that day the first Executive Order of the Biden Administration was, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government". I will quote it:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered:

Section 1. Policy. Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach. Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities. Our



country faces converging economic, health, and climate crises that have exposed and exacerbated inequities, while a historic movement for justice has highlighted the unbearable human costs of systemic racism. Our Nation deserves an ambitious whole-of-government equity agenda that matches the scale of the opportunities and challenges that we face.

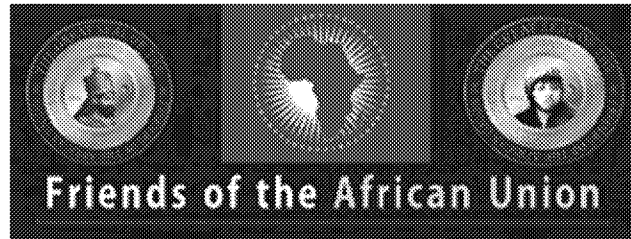
It is therefore the policy of my Administration that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice, and equal opportunity is the responsibility of the whole of our Government. Because advancing equity requires a systematic approach to embedding fairness in decision-making processes, executive departments and agencies (agencies) must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity.

By advancing equity across the Federal Government, we can create opportunities for the improvement of communities that have been historically underserved, which benefits everyone. For example, an analysis shows that closing racial gaps in wages, housing credit, lending opportunities, and access to higher education would amount to an additional \$5 trillion in gross domestic product in the American economy over the next 5 years. The Federal Government's goal in advancing equity is to provide everyone with the opportunity to reach their full potential. Consistent with these aims, each agency must assess whether, and to what extent, its programs and policies perpetuate systemic barriers to opportunities and benefits for people of color and other underserved groups. Such assessments will better equip agencies to develop policies and programs that deliver resources and benefits equitably to all.

Sec. 2. Definitions. For purposes of this order: (a) The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

(b) The term “underserved communities” refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

In his June 2021 speech commemorating the centennial of the Tulsa Race Massacre the President said, “just because history is silent, it doesn’t mean that it did not take place.



And while darkness can hide much, it erases nothing. It erases nothing. Some injustices are so heinous, so horrific, so grievous they can't be buried, no matter how hard people try."

Then he said, "We can't just choose to learn what we want to know and not what we should know. We should know the good, the bad, everything. That's what great nations do: They come to terms with their dark sides. And we're a great nation.

The regulators in changing the CRA can make it better to meet this test of history or hand the enemies of the county another tool to attack our great nation that started in 1789 on a great ideal in its declaration of Independence that was implemented in genocidal war on Indigenous Peoples and continued slavery of people of African descent.

We as a nation grew away from that start in slavery only through a civil war (1851-1866) that embedded us in the global arms manufacturing industry. From the time the USA entered into apartheid (1868) and from that to institutional and systematic racism (1965) in a post-apartheid nation the right to bear arms was thought to be a white mans right.

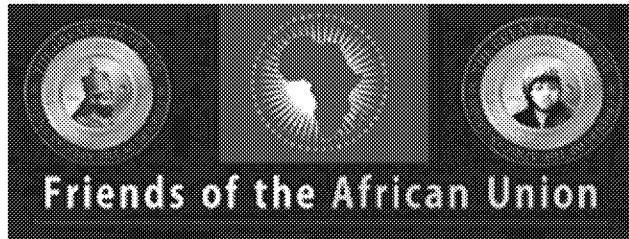
They did not think of the 200,000 black folk who fought in the union army. As Fredrick Douglas said, wearing the uniforms of the Union Army carried great symbolism and pride. "An eagle on his button, and a musket on his shoulder, and his bullets in his pockets," Douglass said, "there is no power on earth...which can deny that he has earned the right of citizenship in the United States."

At the same time since 1871 when the U.S. national economy has dominated the world and grown in support of the universal nature of human rights as a shared responsibility of the international community (1948) we have been changing as a nation as to who should own the inheritance of the land of the nation i.e. its wealth.

Since 1977 the CRA has helped change the American story.

That is the story we want to tell the world this month to the United Nations Committee on the Elimination of Racial Discrimination (CERD) is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Racial Discrimination by its States parties, including the USA. The USA which is being reviewed by CERD this month does this work on documents put forth by the state party and civil society.

On June 2, 2021, consistent with our obligations under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the United States submitted its combined tenth, eleventh, and twelfth periodic reports to the Committee on the Elimination of Racial Discrimination (CERD). The report sets out the measures the United States undertook to address racial discrimination in the United States since submission of the previous U.S. periodic



report on June 12, 2013. With input from over a dozen federal government agencies, the report highlights actions that redress racial and ethnic discrimination in the United States, including Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

FYI the administration delivered a whole of government approach April 2022. See the plans at <https://www.whitehouse.gov/equity/> where 90 federal agencies across the federal government, including all Cabinet-level agencies as well as over 50 independent agencies have mobilized quickly and effectively to implement the Executive Order.

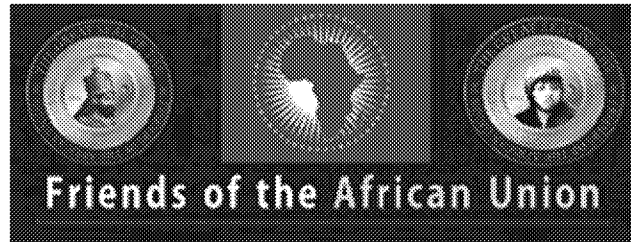
We know that CRA has successfully leveraged loans, investments and services. Between 2009 and 2020, banks have made more than \$2.58 trillion in home loans to low- and moderate-income (LMI) borrowers or in LMI census tracts. They made \$856 billion in loans to small businesses with revenues under \$1 million. (Use this CRA \$ tool to find the totals in your area). We need to build on this progress and address remaining disparities in lending through CRA reform.

We believe that the CRA will be more effective in bolstering bank reinvestment activity in underserved communities, the more rigorous CRA exams and ratings are. The agencies proposed important improvements in the CRA regulation including increasing the rigor of the subtests on the CRA exams, expanding geographical areas on CRA exams and collecting more data to scrutinize bank performance. However, they did not sufficiently address racial inequities.

Public input mechanisms: agencies propose improvements that must be codified

Since CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments regarding the extent to which banks meet local needs. The agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites.

Posting comments on agency websites will establish accountability on the part of examiners to consider them. In addition, these comments can be referenced during future merger applications to determine if the banks addressed significant concerns of the public. Also, the agencies should establish a public registry that community organizations can use to sign up if they want to be contacted about community needs and bank CRA performance. Furthermore, we request that the agencies start to publish which organizations they consult with to understand local community needs, commit to collecting input from a diverse range of organizations that includes organizations led by people of color and women, follow up on needs identified and detail how community input was factored into the results of CRA performance evaluations.



We also agree with Acting Comptroller Hsu that the agencies must hold frequent public hearings on large bank mergers. CRA exams, if they are made more rigorous by a final rule, will help hold merging banks accountable. However, merging banks must also submit a community benefits plan as part of their merger applications which could include community benefits agreements negotiated with community organizations. As further described in recent comments we agree with NCRC that an outstanding CRA rating must not be considered evidence that merging banks have satisfied the public benefits legal requirement.

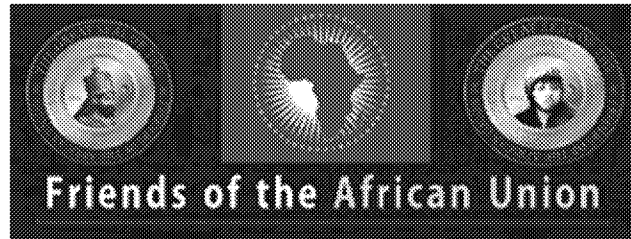
Reducing CRA ratings inflation: progress on the lending test of the large bank exam, but not as much on the other subtests

Currently, about 98% of banks pass their CRA exams on an annual basis with just less than 10% receiving an Outstanding rating and almost 90% of them receiving a rating of Satisfactory. CRA has successfully leveraged more loans, investments and services for LMI communities but it would be more effective in doing so if the ratings system more accurately revealed distinctions in performance. More banks would be identified as significantly lagging their peers, which would motivate them to improve their ratings and increase their reinvestment activity.

The agencies bolstered the rigor on the large bank retail lending test by introducing performance ranges for comparisons among a bank's lending and demographic and market benchmarks. This quantitative approach would decrease ratings inflation and result in more failing and low satisfactory ratings on the lending test. As a result of this proposed reform, several banks would likely respond by boosting their retail lending to underserved communities.

The agencies proposed improvements to the other subtests of the large bank exam but did not establish as many guidelines for the performance measures, which could contribute to inflation on the subtests. The community development finance test, for example, will consist of a quantitative measure of a bank's ratio of community development finance divided by deposits. The bank's ratio will be compared to a local and national ratio. The agencies, however, did not provide enough guidelines to examiners for comparing the bank's ratio to either the local or national ratio, making it possible for an examiner to inflate a rating by choosing the lowest comparator ratio.

The possibilities of misplaced examiner discretion can also occur on the retail services test and the community development services test. The retail services test contains quantitative measures comparing a bank's branch distribution to market and demographic benchmarks but does not provide enough instructions to examiners about how to weigh these benchmarks.



We believe that it is possible for the agencies to further develop guidelines for how to use the performance measures on the community development and services subtests of the large bank exam in order to produce a uniformly rigorous CRA exam and guard against ratings inflation.

Enhancements to community development definitions will increase responsiveness of banks to community needs

The agencies proposed refinements to the definitions of affordable housing, economic development, climate resiliency and remediation, community facilities and infrastructure that we believe will more effectively target revitalization activities to communities such as persistent poverty counties and Native American communities.

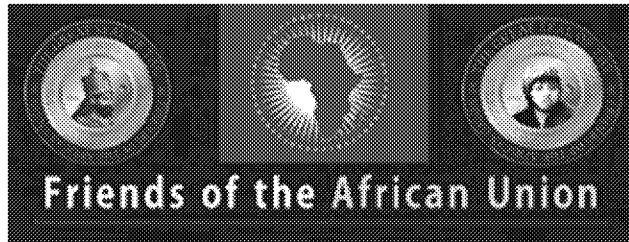
The NPR clarified that financing health services qualifies under the definition of community support services. Essential community facilities now include hospitals and health centers without current documentation requirements, applied inconsistently, that the financing attract and retain residents to the community. This streamlining would boost financing of critical community infrastructure.

However, the community development finance test will include an impact review which must be further developed and include points and ratings like other subtests so that the test can be even more effective in stimulating responsive community development activities. Finally, we ask the agencies to reconsider their proposal to expand CRA consideration for financial literacy with no income limits; scarce counseling resources need to be targeted to LMI and other underserved populations.

Data improvements will help hold banks accountable but all new data should be publicly available

The agencies correctly proposed to include new data collecting requirements for deposits, community development activities and automobile lending. Some of this data such as deposit and automobile lending would not be publicly available, which limits the extent to which the public can hold banks accountable for reaching underserved communities. We ask the agencies to reconsider this decision and also to expand data collection to all large banks instead of just banks with assets of more than \$10 billion in the case of deposits and automobile lending. Finally, CRA exams should not only analyze access to deposits accounts for LMI communities but also affordability by comparing and refining, if necessary, fee information collected in call report data.

Accountability for discrimination will increase but the agencies need to bolster their reviews concerning the quality of lending



The agencies proposed to include all activities and products including deposit accounts in addition to credit in anti-discrimination and consumer protection legal reviews. This is an important advance but we urge the agencies to expand their reviews to include the quality of lending. Massachusetts CRA exams include analysis of delinquency and defaults rates in home lending. Federal CRA exams should do likewise in all major product lines. Moreover, reviews of lending must include an affordability analysis and impose penalties when banks offer on their own or in partnerships with non-banks abusive, high-cost loans that exceed state usury caps and that exceed borrowers' abilities to repay. Finally, we are pleased that the agencies added the Military Lending Act in the list of laws to be included in the fair lending review but we urge them to also add the Americans with Disability Act.

Assessment areas are expanded to include online lending but performance in smaller areas needs to be considered more carefully

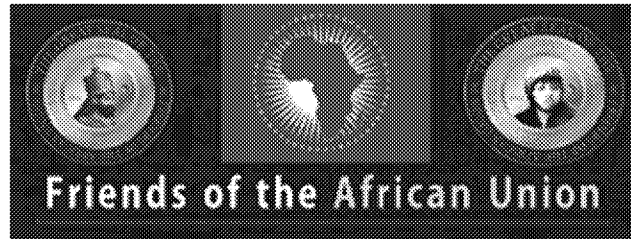
For several years, advocates have urged the agencies to examine lending that occurs online. The agencies proposed to create retail assessment areas where a large bank does not have branches when a bank has issued 100 home loans or 250 small business loans. This proposal would result in the great majority of total lending being incorporated on exams and would therefore hold non-traditional banks more accountable for serving LMI communities.

We ask the agencies to expand upon their proposal to include partnerships with banks and non-banks for retail lending. When a bank partners with more than one non-bank, the lending of all the non-banks needs to be totaled together for calculating if the threshold is exceeded for purposes of creating assessment areas.

In order to ensure that banks serve smaller metropolitan areas and rural counties, the agencies proposed requiring that banks with 10 or more assessment areas must receive at least a Low Satisfactory rating in 60% of the assessment areas in order to pass overall. This still may not be an adequate solution since the smaller areas could represent a minority of areas, allowing a bank to pass the 60% threshold by focusing on the larger areas. One possible fix is to require banks to achieve at least a Low Satisfactory rating of 60% in each of its large metropolitan, small metropolitan and rural assessment areas.

Reclassifying banks as small and intermediate small banks (ISB) would reduce community reinvestment activity

By adjusting asset thresholds for qualifying for various CRA exams, the agencies proposed to reclassify 779 ISB banks as small banks, which would involve no longer holding these banks accountable for community development finance. In addition, the agencies proposed to reclassify 217 large banks as ISB banks, eliminating their service test and accountability for placing branches in LMI communities. These changes lack justification since these banks have



been successfully performing these activities for several years. We urge the agencies to eliminate this aspect of the NPR since it would reduce reinvestment activity.

The CRA can be a Global Tool of Diplomacy

Last year both the U.S. and the People's Republic of China (China) had both expressed their opposition to a "new ColdWar". President Xi Jinping in 2021 put forward three principles for China and the U.S. that in his opinion ties in the new era, namely mutual respect, peaceful coexistence and win-win cooperation. He, then, also highlighted four priority areas. First, shouldering responsibilities as major countries and marshalling a global response to acute challenges. Second, acting in the spirit of equality and mutual benefit to promote exchanges at all levels and in all areas and generate more positives for China-U.S. relations. Third, managing differences and sensitive issues constructively to prevent China-U.S. relations from getting derailed or out of control. And fourth, strengthening coordination and cooperation on major international and regional issues and providing more global public goods.

In answer last year as part of a civil society driven public private partnership we planned our participation in the first ever U.S. Summit for Democracy as a constructive dialogue around the symbiotic relationship between civil society, business and government, and the roles and responsibilities of each in advancing society-at-large.

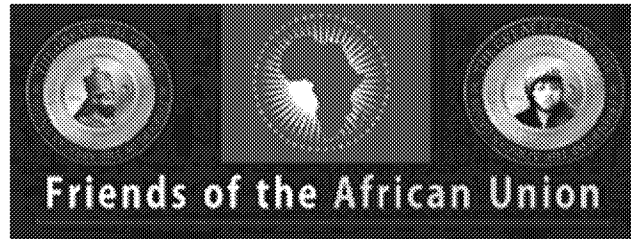
We did so based on Executive Order 13985 and the CRA driven \$88B agreement we were a signature to with PNC Bank in launching a year (2022) of action and support for democracy.

This year of action would highlight three priorities that represent opportunities for business, government, and civil society to work together: (1) Open and Resilient Secure Digital Spaces; (2) Beneficial Ownership Transparency; and, (3) Democracy that Delivers through Responsible Investment.

We look forward to the second U.S. Summit on Democracy to showcase our solution built on, in part, the \$88B 4 year (2022-2025) Federal Reserve Bank Based Community Benefit Agreement with PNC Bank that meets the test for reinforcing joint CRA action. The solution will address the nations need for more affordable housing.

We did this work last year based on an economic liberalism whose political and economic ideology supports a market economy based on individualism and private property in the means of production whereas the dominant economic and financial position of the United States and its dollar are supreme.

We do this in an era since 1973 that the U.S. Dollar became a type of currency that is not backed by any commodity except declared by a decree from the US government to be legal



tender. Now in 2022 there has risen a decentralized digital currency (2009) that can be transferred on the global peer-to-peer network. These transactions are verified by network nodes through cryptography and recorded in a public distributed ledger called a blockchain whose security is based, in part, on computing power. This year is the test of these currencies.

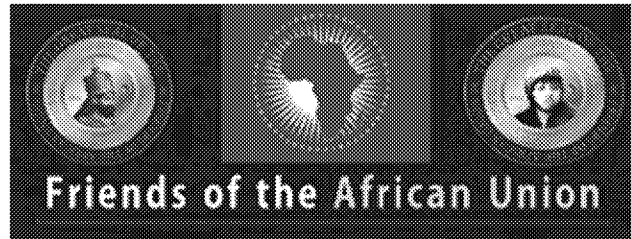
We oppose many of these financial technology challenges to banks because they work to escape from the CRA. We believe they will create a new era of redlining by digital computer algorithm.

In the past Friends of the African Union sent a representative to the third round of United Nations Financing for Development in 2015 whose outcome document the Addis Ababa Action Agenda provided a new global framework for financing sustainable development that aligns all financing flows and policies with economic, social and environmental priorities. Based on our work in CSW 66 page 37 in the book, "The Black Folks Plan of 2021 – How Did We Get Here" by Hershel Daniels Junior (My first book, "The Black Folks Plan of 2021 – How Did We Get Here" by Hershel Daniels Junior – Friends of the African Union) and through June 19th, 2022, we support the thought it is time for a new round of Financing for Development. We support this round to be driven by People of African Descent and Women based on the Charter of the United Nations and the Universal Declaration of Human Rights using the framework we delivered on May 16th, 2022 (page 132, "The Black Folks Plan of 2021 – How Did We Get Here") and last year at the UN Food Systems Summit (page 33, "The Black Folks Plan of 2021 – How Did We Get Here"). It is part of a plan of action in which Democracy Delivers through Responsible Investment.

This follow-up to the agreements and commitments reached through the third round would include digital currency transactions and embed universal human rights as fundamental principles, which all parties must comply with and observe in reviewable deeds. We use a superset of the UN Universal Periodic Review to review human rights. We recognize that every nation has its own unique national features, history, culture, social system and level of social and economic development.

We are telling the UNited Nations in this era of Permanent Forum on People of African Descent for 1.6B people that in the USA by the Rule of Law we address inequities such as through the CRA and they should join us in those efforts to address economic equities.

Wde will point out to them that the U.S. started in 1789 on a ideal that was implemented in genocide of Indigenous Peoples and slavery of people of African heritage but grew away from that start through a civil war (1851-1866) into apartheid (1868) and from that to institutional and systematic racism (1965) in a post-apartheid nation thatin 1977 passed the CRA and now, we hope, is strengthening it.



Since 1871 the U.S. national economy has dominated the world and grown in support of the universal nature of human rights as a shared responsibility of the international community (1948).

The Cincinnati Empowerment Corporation proposes this day, on July 19th, 2022, through the book "The Black Folks Plan of 2021 – How Did We Get Here" as the start of an unsolicited Public Private Partnership proposal to our government. We do so with the Biden Harris Administration using Executive Order 13985 and other actions such as project labor agreements and laws through the office of the Vice President of the United States along with other cabinet members and White House Offices. We start with HUD drawing on its expertise including with Empowerment Zones and Section 3 Clients, then with the USDA with Enterprise Communities expertise in partnerships to leverage a coalition led by members of the National Community Reinvestment Coalition and or Friends of the African Union (FAU) or affiliated organizations and coalitions. We believe that together we can create a #Just Economy that can be based on the work of our coalitions who will use, as a national example, PNC bank, in local operations.

We started on July 28 while the nation was saluting the American Buffalo Soldiers and when our ancestors, People of African Descent, became citizens (1868).

We started with the FAU Institute's (page 7, "The Black Folks Plan of 2021 – How Did We Get Here") smartWISE Community Reinvestment Coalition Cooperatives model which can Build Back Better Communities with Democracy.

Conclusion on the NPR

The NPR is a good start and promises to make parts of CRA exams more rigorous but we urge the agencies to extend the rigor of the large bank lending test to the other tests. We also ask the agencies to incorporate race in CRA exams, to expand the public reporting of their data collection proposals, to bolster their assessment area proposal to make sure that smaller communities are not left out and to refrain from reducing reinvestment requirements for any segment of banks. If CRA is improved while maintaining public input and accountability, we believe the proposed rule could help reduce inequalities, disinvestment and other disadvantages in America's overlooked communities.

Hershel Daniels Junior
Chairman
Friends of the African Union