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Division of Banking
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August 5, 2022

TO: Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and the Board of Governors of the Federal Reserve System

RE: Notice of Proposed Rulemaking on the Community Reinvestment Act

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The Illinois Department of Financial and Professional Regulation (IDFPR) applauds the joint work of the Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), and the Board of Governors of the Federal Reserve System (FRB) on proposed changes to the Community Reinvestment Act (CRA).

As the major financial regulatory agency for the State of Illinois, we are acutely aware of the history and importance of the CRA. As Representative Jesús "Chuy" García noted in the July 13, 2022, Financial Services Subcommittee hearing on CRA modernization, the "mother" of both the 1977 CRA and 1975 Home Mortgage Disclosure Act, Gale Cincotta, first organized attention into redlining and unfair banking practices in the Chicago Area.[1] Additionally, the sole banker who testified in favor of the passage of the CRA in 1977 was Illinois native Ron Grzywinski, who led the Chicago-based, community-focused ShoreBank and eventually advised Nobel Laureate Muhammad Yunus on the establishment of the Grameen Bank, which has had a global impact on equitable access to capital. Countless other organizers and community leaders have worked on the issue of financial equity in Illinois, from Cairo to Chicago, Rockford to East St. Louis, and everywhere in between—the roots of the CRA run deep through our state and it is from this history we draw inspiration to confront the modern challenges of financial regulation on a day-to-day basis.

As the banking system has evolved and changed, so too have CRA regulations been periodically modified. However, as has been noted by FRB Governors Bowman[2] and Brainard,[3] the last major revision to these regulations was in 1995. This means current Federal CRA guidelines are grounded in a time period before the Great Recession, before the explosion of virtual commerce, and before most FinTech companies and non-bank mortgage lenders were founded. It is partially due to this anachronism that the Illinois General Assembly in 2021 passed one of the most

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[1] House Committee on Financial Services, Subcommittee on Consumer Protection and Financial Services Hearing, " Better Together: Examining the Unified Proposed Rule to Modernize the Community Reinvestment Act." July 13, 2022.
[2] Statement on Community Reinvestment Act Proposal by Governor Michelle W. Bowman, May 5, 2022.
[3] Statement on Community Reinvestment Act Proposal by Governor Lael Brainard, May 5, 2022.

sweeping reforms to Illinois bank regulation in state history, the Illinois Community Reinvestment Act.[4]

As the agency tasked with implementing this new state-based CRA program, we have sought to solicit a wide range of comments and suggestions. Dozens of formal comments have been submitted to our office in the past year from a wide range of voices that include industry associations, community advocate groups and individual financial institutions. We have reviewed these comments carefully as we draft our final state CRA rules and noted that many of the adjustments to the Federal CRA outlined in the Notice of Proposed Rulemaking, are focused on areas that have been highlighted to us in our own rulemaking process. We are encouraged by many of the key changes outlined by the proposed CRA rules, especially with adjustments to include mobile and internet banking, providing more transparency around testing and examiner review, and tailoring exams to more accurately reflect a bank's size and type. We appreciate the willingness of the federal banking regulators to make bold and major adjustments to the CRA examination process and have been encouraged by the public statements of FDIC, OCC, and FRB leadership around a drive to address inequity within our financial system head-on, beyond CRA reform.

Therefore, we are limiting our comments to three areas we believe are worthy of focus as the federal agencies consider broad reforms to the CRA process. We appreciate the consideration of these topics and are willing to assist in any way possible if our federal counterparts need further clarification or discussion.

I. Covered Financial Institutions and Joint Examinations

As our banking system has evolved, so too have the institutions providing such services. In 1977, the vast majority of loans available to everyday Americans were provided by brick-and-mortar banks. Today lending is more diffused over various financial institutions.

The Illinois CRA borrows from the work of Massachusetts by including not only state-chartered banks, but credit unions and non-depository mortgage lenders. In November 2021, New York became the third state to include non-bank mortgage lenders in their state-level CRA.[5] This trend in state regulatory attention tracks with the expansion of non-bank lenders into the mortgage market. The most recent HMDA report produced by the Federal Financial Institutions Examination Council found that the share of mortgages originated by non-depository companies had increased to nearly two-thirds of all first lien owner-occupied home loans.[6]

This trend will continue as the banking system evolves to include other non-depository entities. In order to strive for equity across the financial system, we encourage our federal regulatory partners to support federal legislative and regulatory changes needed to apply Federal CRA to credit unions, non-depository mortgage lenders as well as other non-

[4] Illinois Public Act 101-0657, Section 35 "Illinois Community Reinvestment Act."
[5] S.5246-A/A.6247-A, "New York Community Reinvestment Act."
[6] Federal Financial Institutions Examination Council, Home Mortgage Disclosure Act, "Snapshot National Loan Level 2021 Dataset."

depository financial institutions that participate in banking-like activities. In our implementation of the Illinois CRA, we have found it necessary to adjust certain rules and examination practices to meet the differing structures of non-depository lenders, but we find it important to the overall goal of the CRA—to create an equitable and fair banking system—that these newer financial institutions be considered and included.

Furthermore, as more states consider state-based CRA examinations, we urge federal regulators to consider codifying a partnership with state regulators to work on joint CRA examinations, when possible. As state regulators, we have long valued the partnership we enjoy with our federal counterparts. Within our dual regulatory structure, banking oversight has been improved through cooperation between federal and state regulators. Making this partnership explicit within federal CRA rules would clarify to institutions that state examinations could be conducted in concert with federal CRA examinations so that resources could be shared and examination dates could be aligned—a benefit to both banking institutions and regulators.

II. Minority Community Investment

In her statement on the CRA proposed rulemaking, Governor Brainard outlined perfectly the intent of the Community Reinvestment Act of 1977 within the context of other civil rights acts passed during the same time period.

Brainard writes, *"The CRA is a historic law, enacted along with other complementary federal civil rights laws during the late 1960s and 1970s. The intent of these laws was to address redlining—the process of drawing a red line around entire communities that limited their access to credit—as well as other systemic inequities in access to credit, investment, and banking services faced by LMI and minority communities."*[7]

In Illinois's public comments process we have heard the same sentiment. Stated one public commenter, *"Since redlining disproportionately victimized communities of color, the [IDFPR] should carefully consider how to incorporate race into CRA exams."*[8]

It is clear to our Agency, from both the history surrounding the passage of the Community Reinvestment Act of 1977 and the public comments we have received during our own rulemaking period, that there is a strong desire to explicitly include race in CRA examinations. It is equally clear to us that no matter what progress has been made in terms of racial equity within our financial system since 1977, there is still much work to be done in this arena.

According to the 2021 Economic Well-Being Report, compiled by FRB, 87 percent of white American adults are fully banked, compared to only 59 percent of black adults and

[7] Statement on Community Reinvestment Act Proposal by Governor Lael Brainard, May 5, 2022.
[8] National Community Reinvestment Act Coalition, "Comments on Advanced Notice of Proposed Rulemaking regarding Illinois Community Reinvestment Act (Public Act 101-657, codified at 205 ILCS 735)," December 20, 2021.

71 percent of Hispanic adults.[9] Furthermore, while only 9 percent of white adults reported paying an overdraft fee on a bank account in the prior year, 20 percent of black adults and 14 percent of Hispanic adults paid overdraft fees in the past 12 months. Finally, in 2021 just 22 percent of white adults reported being denied credit or approved for less credit than was requested in the past 12 months, compared to 46 percent of black adults and 37 percent of Hispanic adults. It is clear there is still very much a racial divide in access to basic banking products within our financial system.

The CRA is not a panacea. However, CRA cannot fulfill its promise unless it addresses race more effectively. Therefore, as policymakers work toward legislative solutions for an equitable financial system, we urge federal regulators to use all tools at their disposal to bridge the racial divide within our financial system, including, but not limited to, a CRA examination process that more closely reviews each depository institution's CRA efforts for evidence of discriminatory credit practices against racial minorities, the LGBTQ+ community and women.

III. Climate Projects

A 2021 report by the Environmental Protection Agency (EPA) found that climate change disproportionally impacted socially vulnerable communities, especially communities of color, in the United States. The report found that black Americans are 40 percent more likely to currently live in areas with the highest projected increases in extreme temperature related deaths.[10] Additionally, Hispanic Americans have high participation in weather-exposed industries, such as construction and agriculture, which are especially vulnerable to the effects of extreme temperatures. Further, low-income communities are more likely to be exposed to environmental hazards due to their housing proximity to industrial areas that produce air pollution.

That same year, in 2021, New York state became the first state to publish guidance that would add certain climate investments as activities which could be counted under their State CRA.[11]

These activities included lending or investments into:

- renewable energy, energy-efficiency and water conservation equipment or projects for affordable housing, to reduce utility payments for LMI tenants, or community facilities, including solar panels, geothermal heat pumps, battery storage, improving building envelope insulation, and lighting, window and appliance upgrades;

[9] Board of Governors of the Federal Reserve System, "Economic Well-being of U.S. Households." May 2022.
[10] United State Environmental Protection Agency, "Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts," September 2, 2021.
[11] New York State Department of Financial Services, "CRA Consideration for Activities that Contribute to Climate Mitigation and Adaptation," February 9, 2021.

- community solar projects that provide energy to an affordable housing project or a community facility that has a community development purpose;

- microgrid or battery storage projects in LMI areas with high flood and/or wind risk, thereby reducing risks of power loss due to flooding and high winds;

- projects addressing flooding or sewer issues or reducing stormwater runoffs, such as new or rehabilitated sewer lines, levees, and storm drains that primarily benefit LMI geographies; and

- flood resilience activities for multifamily buildings offering affordable housing, such as building elevation and relocation and installation of sump pumps.

This change came at the same time as financial institutions have requested more clarity into what would count as CRA credit as well as a movement among financial regulators to consider climate risk and projects in their evaluations of licensed institutions.

In May 2021, President Biden issued an Executive Order on Climate-Related Financial Risk, which instructed Treasury to take steps to assess climate risk to the financial industry via the Financial Stability Oversight Council (FSOC), the Federal Insurance Office (FIO), and the Office of Financial Research. This was followed up in 2022, when the FDIC passed the "Statement of Principles for Climate-Related Financial Risk Management for Large Financial Institutions,"[12] which added to Part 364 of the FDIC rules and regulations governing safety and soundness. This marks the first time that a federal banking regulator published safety and soundness rules regarding climate. The rules focus on developing strategic plans and risk protocols for large banks with which to adhere.

As state and federal regulators consider climate as a major risk focus for financial institutions in the coming decades, we recommend federal regulators also consider making climate investment projects into LMI communities explicitly covered under the federal CRA. It is essential that financial regulators consider the severity of the threat climate change poses to LMI communities as regulators consider safety and soundness standards initiatives intended to attract more investment into climate change improvements within the communities most at risk.

IDFPR appreciates the opportunity to comment on this potential major adjustment to CRA examinations. We are encouraged by the deliberate nature of these proposed changes and believe that federal regulators have the generational opportunity to dramatically impact how our financial institutions operate within vulnerable communities. Our agency stands ready to assist with any additional questions our federal counterparts may have and we look forward to the final rule changes.

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[12] Notice by the Federal Deposit Insurance Corporation on 04/04/2022, "Statement of Principles for Climate-Related Financial Risk Management for Large Financial Institutions."