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August 4, 2022

Submitted via regulations.gov

Benjamin McDonough, Chief Counsel
Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218

Re: Docket ID OCC– 2022–0002

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Submitted via email

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

Re: Docket R-1769; RIN 7100-AG29

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Submitted via email

James P. Sheesley
Assistant Executive Secretary
Attention: Comments RIN 3064-AF81
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
comments@fdic.gov

Re: RIN 3064-AF81

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Dear Chief Counsel McDonough, Secretary Misback, and Assistant Executive Secretary Sheesley,

Thank you for this opportunity to provide comments on the Community Reinvestment Act (CRA) Joint Notice of Proposed Rulemaking (NPR) issued by the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (together referred to as "the agencies"). National Housing Trust (NHT) appreciates the opportunity to weigh in on such an important opportunity to modernize and strengthen regulations to advance more impactful and effective investment in community development and affordable housing.

NHT has long had a strong interest in the CRA program. Since our founding in 1988, NHT has operated as the only national non-profit engaged in housing preservation through public policy advocacy, real estate ownership and resident engagement, sustainability and lending through our two Community Development Financial Institutions (CDFIs). We fight for the preservation, revitalization, and expansion of affordable housing communities across the United States, so that families of all income levels have an opportunity to thrive. CRA requirements are central to that effort, helping NHT deliver more than 4,200 units of multifamily housing across 13 states and the District of Columbia, and the preservation or improvement of more than 36,000 affordable homes to date through real estate development, lending, and technical assistance.

We share the vision that drove the architects of CRA to establish a system to foster deeper and more impactful community investment. In fact, longtime NHT Board member, Ronald Grzywinski, co-founder of ShoreBank, was the only commercial banker to testify in favor of CRA before the Senate Banking, Housing, and Urban Affairs Committee in 1977. At the time, Mr. Grzywinski shared his experience in seeking to implement and scale a neighborhood-based lending model in Chicago, stating, "The unfortunate conclusion I have come to is that bank managers may be well-intentioned on that issue, but the simple fact of the matter is that the system rewards earnings, and development or reinvestment in neighborhood is an additional short-term cost. If any bank decides to do that by itself, it is, in effect, self-imposing a tax on its earnings. Therefore, what is needed is a universally applied system of incentives and/or sanctions to encourage development."

CRA has effectively proven to be that system of incentives and sanctions, although as the agencies state, opportunities remain to further strengthen its impact. In particular, we see opportunities for CRA to continue to evolve in order to more effectively respond to new and emergent challenges.

Based on our experience and expertise, we offer two principal recommendations to the agencies:

1) Strengthen the ability of CRA to advance racial equity, decarbonization and resilience goals by ensuring that banks receive credit for investments in climate resiliency, and by ensuring that carbon mitigation is included in such investments.
2) Preserve and fortify the ability of CRA to invest in community development, particularly through CDFIs, by adopting a 50/50 split in point allocation between retail lending and community development.

Recommendation #1: Strengthen the ability of CRA to advance racial equity, decarbonization and resilience goals by ensuring that banks receive credit for investments in climate resiliency, and by ensuring that carbon mitigation is included in such investments.

<u>Banks should receive credit for investing in climate resiliency.</u>

NHT supports the addition of "climate resiliency" to the definition of eligible community development activities. The threat of deadlier and more economically disruptive climate-driven events increases the urgency and scale of investments needed to improve property and community resilience. The CRA can provide additional credit to banks to encourage more climate-resilient lending.

Black and brown communities disproportionally bear the burden of climate change. The historic and continuing disinvestment in low-income and majority Black neighborhoods has resulted in a lack of infrastructure to withstand climate impacts.[1] Temperatures in formerly redlined neighborhoods can be as much as seven degrees Celsius higher than non-redlined neighborhoods. Formerly redlined neighborhoods are also at a greater risk from flooding. Across 38 major U.S. metropolitan areas, the share of homes that face high flood risk is 25 percent higher in neighborhoods that were redlined and yellowlined (neighborhoods that

[1] Jeremy S. Hoffman, Vivek Shandas, and Nicholas Pendleton, "The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas", *Climate* 8(1), 12 (November 13, 2020).

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were considered declining) compared to neighborhoods that were greenlined (neighborhoods that were considered desirable) and bluelined (neighborhoods that were considered the best for investing).[2]

Impacts extend beyond infrastructure to personal health and wellbeing. Heat-related illnesses have increased across races as climate change intensifies, but the rate of increase is nearly three times higher for Black and Hispanic households compared to white households.[3] According to the EPA, Black households are 40 percent more likely to live in areas with the highest projected increases in premature mortality due to climate-driven changes in extreme temperatures.[4]

Affordable housing residents are particularly exposed and vulnerable to climate impacts. NHT and Climate Central recently identified nearly 25,000 affordable multifamily housing units that are likely to experience annual flooding by 2050 as a result of seal-level rise.[5] In several states, affordable housing units face a high risk of repetitive flooding each year due to tidal flooding, also known as "sunny day flooding". The federally subsidized affordable housing stock is more exposed to natural hazards compared to owner-occupied housing and other types of rental housing. Nearly one-third of HUD-subsidized housing (1.5 million units) is in areas with very high or relatively high risk of negative impacts from natural hazards compared to one-quarter of all renter occupied units and 14 percent of owner occupied units.[6]

Affordable housing residents and owners have limited financial resources to recover from climate impacts. Lower-cost rental units are older, lack upgraded materials and have older systems compared to newer properties, making it more difficult to withstand climate shocks. Limited capital resources and rental income in affordable housing make it especially challenging to pay for repairs or to rebuild housing after a climate

[2] Lily Katz, "A Racist Past, a Flooded Future: Formerly Redlined Areas Have $107 Billion Worth of Homes Facing High Flood Risk—25% More Than Non-Redlined Areas," Redfin News, March 14, 2021, https://www.redfin.com/news/redlining-flood-risk/.

[3] Nambi Ndugga and Samantha Artiga, "Extreme Heat and Racial Health Equity," Sep 08, 2021, https://www.kff.org/policy-watch/extreme-heat-racial-health-equity/

[4] EPA. 2021. Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts. U.S. Environmental Protection Agency, EPA 430-R-21-003. www.epa.gov/cira/social-vulnerability-report

[5] Climate Central, "Struggling Against a Rising Tide: Sea Level Rise and Coastal Flooding Threaten Affordable Housing," 2020, https://www.climatecentral.org/report/report-coastal-flood-risk-to-affordable-housing-projected-to-triple-by-2050

[6] Andrew Aurand et al., *TAKING STOCK: Natural Hazards and Federally Assisted Housing,* jointly published by the Public and Affordable Housing Research Corporation and The National Low Income Housing Coalition.

disaster. And disaster recovery funding from FEMA programs is limited and often doesn't reach multifamily owners or renters.

Greater investment to bolster property and community resilience is necessary to protect vulnerable communities from climate shocks, but barriers exist. The financial dividends of resiliency investments are not well-understood or valued by building owners or private lenders. Lenders are unwilling to underwrite debt for resilience projects without better accounting for and more confidence in the financial returns of investing climate resiliency. Providing CRA credit for climate-resilient lending would encourage banks to make such investments.

<u>Broaden the definition of "disaster preparedness and climate resiliency" to include mitigating greenhouse gas emissions.</u>

The CRA should provide credit to banks that invest in efforts to reduce or prevent greenhouse gas emissions that benefit low-income and communities of color. As stated above, climate-driven crises disproportionately impact low-income households and communities of color. Reducing the prevalence of such crises by eliminating or reducing greenhouse gas emissions will benefit these communities.

Eligible mitigation activities should expand beyond traditional energy efficiency and renewable energy measures to include decarbonizing buildings. Decarbonizing includes electrifying buildings to reduce greenhouse gas emissions through the removal of fossil fuel burning equipment. Failure to decarbonize affordable housing and community facilities will contribute to significant long-term financial risks for low-income renters and communities of color.

The federal government and many states and localities have committed to achieving net zero greenhouse gas emissions by 2050. A key strategy for achieving this goal is eliminating the use of fossil fuel burning equipment from buildings. Policymakers are implementing all-electric building codes, building performance standards, incentive programs, and other tools to advance building decarbonization.

While better-resourced households have the means to transition away from use of natural gas, barriers exist to decarbonizing the homes of low-income households. The upfront equipment and labor costs of replacing gas-burning equipment are significant. It is difficult to finance such costs for several reasons. Low-income households may not qualify for traditional financing due to limited or poor credit histories and insufficient income. Another barrier is the lack of financial payback. Unlike energy efficiency investments, there is no guarantee that electrifying homes will result in cost savings. In many parts of the country, the cost of electricity is higher than natural gas. These financial barriers increase the risk to lenders of investing in building electrification.

Failure to prioritize electrifying the homes of low-income households will create significant long-term financial risk for these households. Over the long term, customers who continue using natural gas are likely to experience rate increases from declining throughput when other customers electrify and exit the gas system. There is a significant risk that low-income customers who remain on the natural gas system could bear the brunt of gas rate increases, leading to higher monthly bills. In Maryland, a study found that gas delivery rates could increase more than 20 times for consumers left on the gas system in a "high electrification" scenario.[7] A nationwide statistical analysis found that a 90 percent reduction in gas customers would result in bill increases of $1,500 per year.[8]

The CRA should provide credit to lenders to invest in electrification and other activities that reduce greenhouse gas emissions and Inbenefit low-income households. The definition of "disaster preparedness and climate resiliency" should be amended as follows: "Disaster preparedness and climate resiliency activities are defined as activities that assist individuals and communities to mitigate, prepare for, adapt to, and withstand natural disasters, weather-related disasters, or climate-related risks." This is similar to the definition used in the New York CRA, which allows credit for financing activities that "reduce or prevent the emission of greenhouse gases that cause climate change ('climate mitigation') and adapt to life in a changing climate ('climate adaptation') together with climate mitigation ('climate resiliency')".[9]

[7] Montgomery County Council, "Economic Impact Statement: Bill 44-21, Montgomery County Green Bank – Funding – Fuel Energy Tax Revenue, 2020, https://www.montgomerycountymd.gov/OLO/Resources/Files/eis/2021/EIS-Bill44-21.pdf.
[8] Lucas Davis and Catherone Hausman, "Who Will Pay for Legacy Utility Costs?," Berkeley, CA: Energy Institute at Haas. http://haas.berkeley.edu/wp-content/uploads/WP317.pdf.
[9] Linda A. Lacewell, "Industry Letter: CRA Consideration for Activities that Contribute to Climate Mitigation and Adaptation," February 9, 2021, https://www.dfs.ny.gov/industry_guidance/industry_letters/il20210209_cra_consideration.

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In addition, NHT recommends the following to support climate mitigation activities that benefit low-income households and communities of color:

- Include electrification activities in the non-exhaustive list of eligible activities that qualify under the disaster preparedness and climate resiliency definition;
- Incorporate a greenhouse gas emissions savings metric in addition to an energy savings metric to measure lender activities; and
- Require banks to use publicly available data like the Justice40 Initiative's *Climate and Economic Justice Screening Tool* to ensure that place-based investments are being targeted to benefit environmental justice communities.

Recommendation #2: Preserve and fortify the ability of CRA to invest in community development, particularly through CDFIs, by adopting a 50/50 split in point allocation between retail lending and community development.

Over its 25-year history, NHT's CDFI loan fund affiliates have closed 250 loans deploying over $120 million into affordable housing in 30 states and the District of Columbia. NHT specializes in unsecured loans to affordable housing developers, tenant groups, and others working to create and preserve affordable communities. These loans have been primarily early-stage loans necessary to project success and perceived as risky by most other lenders. Every $1 NHT loans results in close to $20 of permanent financing, meaning our loans have leveraged over $2 billion in public and private for more than 20,000 affordable homes.

NHT's track record is a direct result of CRA motivated financial institutions. The below-market loans and grants they provide NHT are re-lent to mission focused organizations and companies across the country and allow NHT to offer terms and rates that most other institutions, especially for-profit lenders, could not offer. It is not an exaggeration to say that <u>any reduced interest in lending to CDFIs as a result in changed rules would directly reduce the number of housing units preserved or created.</u>

In response to Question 139, NHT recommends that the weighting of community development activity be increased in the calculation for an institution's rating. Currently, community development lending is valued less (40 percent) than retail lending (60 percent) in the calculation of a bank's rating, thereby allowing banks

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rated as "needs to improve" in community development lending to nevertheless achieve an overall "satisfactory" rating. We echo the sentiments of our colleagues at NAAHL, SAHF, HPN and NHC in calling for an even weighting (50/50) of the Retail and Community Development tests when determining an overall rating. Doing so would ensure that lending of the type described above would be further incentivized through CRA provisions, and that the importance of community development as the ecosystem in which retail lending occurs is more appropriately recognized.

Once again, NHT appreciates the opportunity to comment on this important rulemaking, and we are available to provide additional information or assistance, as needed. Please contact Danielle Arigoni, Managing Director for Policy and Solutions at 202-495-7413; Josh Earn, Managing Director for Lending and Innovation at 202-333-8931 x134; or Todd Nedwick, Senior Director for Sustainability Policy at 202-333-8931 x128.

Respectfully,

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