August 5, 2022

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

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, D.C. 20219

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, D.C. 20429

Re: Small Business and Economic Development Provisions of the Community Reinvestment Act Regulations Docket (R-1769) and RIN (7100-AG29) – Question

Dear Secretary Misback,

The United States Hispanic Chamber of Commerce (USHCC) has existed since 1979 and works to actively promote the economic growth, development, and interests of more than five million Hispanic-owned businesses. We exist to support these businesses that contribute over $800 billion to the American economy each year. We operate through a network of more than 260 local chambers and business associations throughout the nation and have partnerships with more than 200 major American corporations. We are grateful for the opportunity to submit comments to the Interagency Proposed Rule Making issued May 2022 (Proposed Rule) by the OCC, FDIC, and Federal Reserve Board (collectively, the Agencies or Regulators).

The USHCC recognizes the important role that the Community Reinvestment Act (CRA) has played to support businesses owned and operated by individuals of color. The USHCC has long recognized the important role the CRA plays in offering an equitable market instrument to encourage innovation and equity investments. However, we also recognize that there is still much work to be done. Despite the growing efforts to support Hispanic- owned-businesses, there remains a $1.5 trillion opportunity gap that could be added to the U.S. economy if Latino-owned businesses generated, on average, the same annual revenues as their non-Latino-counterparts. In light of all these critical issues, the USHCC wants to share our perspective on the CRA Proposed Rule.

I. IT IS CRITICAL TO SUPPORT OUR HISPANIC AND LATINO-OWNED BUSINESSES ACROSS THE ENTIRE GROWTH SPECTRUM

We must support businesses across the entire growth spectrum, including our mom-and-pop businesses (with less than $1million in revenue) all the way to tomorrow's "gazelle's" and "unicorns," which might have gross annual revenues (GAR) greater than the Proposed New Rule's small business classification of $5 million or less.

Hispanic-owned businesses of all sizes, including those with GAR over $5 million, deserve equitable opportunities to access growth capital, and we should continue to incentivize banks to support this growth as a powerful driver of economic development, job creation, retention, and improvement, and generational wealth creation.

We would like to call to your attention the flexibility required to support businesses that have historically been underserved and unserved by our financial system. There is no "one-size-fits-all" solution and closing the immense capital gap for Hispanic-owned businesses will require solutions that include short, medium, and long-term debt and equity options, and technical assistance including access to advisors, mentors, and investors. As mentioned in our purpose statement, the USHCC believes that the government operates as a "force multiplier" in supporting flexible and innovative solutions for entrepreneurs. That being said, the USHCC stands by our long-standing requests to better understand and operate our federal programs with racial equity in mind, including the CRA.

II. THE CRA MUST CONTINUE TO GIVE CREDIT FOR FINANCING SMALL BUSINESSES: RESPONSES TO REGULATOR QUESTIONS 11 AND 13

We were disappointed to see the Proposed Rule's elimination of certain activities related to economic development by financing small businesses. Specifically, related to Question 13, we urge the regulators to continue to allow for CRA credit for activities that promote economic development by financing small businesses, ***particularly small businesses owned by minorities***, that support job creation, retention, and improvement for low-to-moderate income ("LMI") individuals, in LMI geographical areas, or in areas targeted for redevelopment.[1]

As noted in the USHCC's Statement of Purpose[2], which offers a framework to provide necessary support to restart the fastest growing segment of our American economy following the global Covid-19 pandemic, we acknowledge steps the federal programs must take to support businesses owned by minorities, which were disproportionally hurt during the pandemic:

- *C. Government as a Force Multiplier*
  - *a. Build on the success of the Community Reinvestment Act (CRA). The CRA should continue to be an important equitable market instrument to* ***encourage innovation and equity investments in low and Moderate Income (LMI) areas, especially when these proposals are provided by diverse asset managers who have a commitment to serve their communities.*** *"*

Unfortunately, despite numerous stakeholders previously urging the agencies to recognize the need for greater innovation, incentives for equity investments, and support of diverse asset managers who in turn support Hispanic-owned businesses, the new Proposed Rule **will result in unnecessary unintended negative consequences**:

A. The Proposed Rule Would Stifle Growth and Innovation.

By eliminating the jobs component of the current economic development definitions and "purpose" test, the Agencies would diminish the volume of innovative solutions necessary to fulfilling specific and unique financing needs of small businesses, particularly those owned and/or led by minorities.

Data shows that innovative solutions are needed to address gaps in small business financing. Traditional financial services continue to overlook Hispanic businesses – **despite Latinos continuing to start businesses at a faster rate than all other (44% growth in the number of new businesses in the last 10 years compared to 4% for non-Latinos), loan approval from banks are 60% lower for Hispanic owned businesses compared to their non-minority counterparts[3] and U.S. startups with a Latino founder received just 2.1% of venture capital funding in 2021[4].** Both debt and equity capital are critical to supporting businesses owned by people of color, yet this segment of entrepreneurs continues to be underserved, which was exacerbated during the most recent Covid-19 global pandemic.

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[1] Economic development has both a "size" and "purpose" test set forth in Interagency Questions & Answers Regarding CRA at Section ____.12(g)(3)-(1); the "purpose" test specifically includes activities that either: (1) "support permanent job creation, retention, and/or improvement" (a) for low- or moderate-income (LMI) persons, (b) in LMI geographies, (c) in areas targeted for redevelopment by federal, state, local, or tribal government, (d) by financing intermediaries that lend to, invest in, or provide technical assistance to start-ups or recently formed small businesses, or (e) through technical assistance or supportive services for small businesses or farms, such as shared space, technology, or administrative assistance; or (2) that support Federal, state, local, or tribal economic development initiatives that include provisions for creating or improving access by LMI persons to jobs or job training or workforce development programs.

[2] United State Hispanic Chamber of Commerce. Purpose Document. https://www.ushcc.com/uploads/1/3/8/5/138548545/ushcc_purpose.pdf

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While we applaud the regulators' support of the smallest businesses, **we also recognize the dire need for growth capital for Hispanic-owned businesses.** We remain acutely aware of the lack of capital flowing to Hispanic-owned businesses, particularly equity capital, and we urge the regulators to retain incentives to support businesses of varying sizes, including those with annual revenues greater than $5 million, but still within the size eligibility standards of the SBIC program. In pre-pandemic times, **roughly 400,000 Latino-owned employer businesses generated $500 billion in annual revenue and employed 3.4 million people**. The average annual revenue for Hispanic owned businesses in 2020-21 was $258,251[5], and therefore we must acknowledge that Hispanic-owned businesses operate across a spectrum of size and scale and require access to capital throughout these periods of growth in order to support these massive contributions to economic development. To equitably to support these businesses, we must provide flexibility in the size standards of businesses recognized as key drivers of economic growth.

B. The Proposed Rule Would Disproportionately Harm Diverse Asset Managers.

The changes to the economic development definitions in the proposed new rule fail to recognize the need for, and the importance of, **supporting diverse asset managers, particularly those who finance small businesses that that support economic development by supporting job creation, retention, and/or improvement for LMI persons, in LMI areas, or in areas targeted for redevelopment.**

While we applaud the agency's clear confirmation that bank investors will continue to receive CRA credit for investments made in SBICs, it is imperative that we maintain support for first- and second-time funds, **particularly those led by women and people of color, which funds provide substantially the same types of investments into companies meeting the SBIC program size eligibility requirements**. In our current environment, less than 3% of investment partners at venture capital firms are Hispanic, which helps explain why such a small portion of venture capital goes to Hispanic-owned businesses.[6] Due to the limited track record and the significant time and resources associated with applying for an SBIC license (including attorney's fees), **many of diverse asset managers, critical to increasing capital to Hispanic-owned businesses, are not able to meet obtain an SBIC license.**

C. The Agencies Need to Preserve CRA Credit for Bank Investments in non-SBIC funds.

According to the Congressional Research Service, SBA Small Business Investment Company Program Report Updated April 7, 2022 (Services, 2022)[7], SBICs provide about 5% of their total financing to minority-owned and controlled small businesses, about 3% to women-owned small businesses, and less than 1% to veteran- owned small businesses. In 2007, the SBA acknowledged at a congressional hearing on its investment programs that "women and minority representation in [the SBIC program] is low" and has been for many years. The SBA reported at that time that it did not control the investments made by SBICs, but it has tried to increase women and minority representation in the SBIC program by reaching out to venture capital firms, trade organizations, and others to better understand why women and minority representation in the SBIC program is low and by "finding debenture firms with minority representation on their investment committees and in senior management. However, despite these efforts, in 2009, the Small Business Investor Alliance (then called the National Association of Small Business Investment Companies) asserted at a congressional hearing on the SBA's capital access programs that the SBA's SBIC licensing process "has done an abysmal job at attracting and licensing funds led by women and minorities."

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[3] Stanford Business, Latino Entrepreneurship Initiative, "State of Latino Entrepreneurship 2020 Research Report".
[4] Crunchbase News, "VC Funding to Early-Stage Latinx-Founded Startups in the US Has Stalled. Here's Why That Matters," January 26th, 2022. https://news.crunchbase.com/startups/latinx-startup-founders-vc-funding-something-ventured/
[5] Forbes. "Revenue of Latino-Owned Businesses Outpaced Other Firms, Yet Funding Challenges Remain". October 6, 2021.
[6] Kauffman Fellows/MaC Venture Capital, "Deconstructing the Pipeline Myth and the Case for More Diverse Fund Manager," February 4th, 2020.

These realities demonstrate that the large majority of SBIC dollars do not go to diverse businesses. As found in our statement of purpose, we continue to ask the U.S. Department of Treasury and the U.S. Small Business Administration to report on racial disparities potentially found among existing programs, including the Small Business Investment Company program, and make recommendations and commitments to bring these programs promote racial parity.[8]

In light of this concern, **we urge the regulators to retain language in the economic development definitions of CRA that allow for banks to invest in financial intermediaries, particularly those led by women and minorities, which finance small businesses, consistent with the size eligibility standards of the SBIC program, and whose "primary purpose" is to support job creation, retention, and improvement (1) for LMI persons, (2) LMI geographies, many of which include minority individuals and communities.** Furthermore, we urge the agencies to retain the that current regulatory guidance that provides that "**examiners will employ appropriate flexibility in reviewing in any information provided by a financial institution that reasonably demonstrates that the purpose, mandate, or function of the activity meets the "purpose test.**" This could include lists of the number of jobs created, retained, an/or improved for LMI people or in LMI areas, relevant income data, the date the company was incorporated, etc., which we understand have been successfully used by banks for several years to receive CRA credit.

It is imperative that the Regulators acknowledge the important role that diversity in the asset management plays in moving capital from diverse investors to diverse entrepreneurs that support broad economic growth and quality job creation, retention, and improvement. Of the $82.24 trillion USD in the U.S.-based asset management industry, only 0.7% of asset under managements are managed by minorities.[9] While the proposed recommendations in response to Question 13 only address a small portion of the overall asset management space (private equity), we believe that observing, acknowledging, and **creating incentives to support diverse asset managers is a positive step towards breaking down barriers to entry and long-standing disparities that continue to plague our financial sector and the communities it serves.**

D. Direct Loans to or Investments in Minority Small Businesses Should Receive CRA Credit (Question 11)

The Regulators ask for feedback about moving small business loans that promote economic development to a different test:

> *Would lending to small businesses and small farms that may also support job creation, retention, and improvement for low- or moderate-income individuals and communities be sufficiently recognized through the analysis of small business and small farm loans and the qualitative review in the Retail Lending Test?*

Our response to Question 11 is an emphatic "no." The USHCC does not believe that moving these loans to the Retail Lending Test would give them sufficient recognition. We believe the loans made to minority-owned small businesses should be presumed to promote economic development and thus receive CRA credit. USHCC understands that loans considered under economic development are especially important to banks; rather than moving all small business loans to the Retail lending test (along with thousands of other loans), these loans should remain under the purview of economic development and job creation, retention, and improvement for low-to-moderate income individuals and areas.

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[7] Congressional Research Service, https://crsreports.congress.gov R41456, SBA Small Business Investment Company Program, Updated April 7, 2022, https://sgp.fas.org/crs/misc/R41456.pdf, SBIC Program Statistics, Financing to Underserved Small Businesses, Page 24.

[8] See USHCC Purpose PDF. https://www.ushcc.com/uploads/1/3/8/5/138548545/ushcc_purpose.pdf

[9] Knight Foundation. "Knight Diversity of Asset Managers Research Series: Industry" Published December 7th, 2021.

Even if all bank loans to businesses with GAR of $5 million and under are moved to the Retail Lending Test, there is no policy reason to eliminate credit for loans to businesses that have GAR over $5 million but still meet the size eligibility standards of the SBIC or SBCS Programs, *which would maintain the status quo.* Furthermore, in order to recognize the importance of minority-owned small businesses, the CRA should state that **loans** directed to or **investments** in minority small businesses are presumed to promote economic development and thus receive automatic CRA credit.

E. Loans to or Investments in Minority Financial Intermediaries Should Receive CRA Credit (Question 13)

The Regulators ask for feedback about retaining job creation as part of economic development:

> *Should the agencies retain a separate component for job creation, retention, and improvement for low- and moderate-income individuals under the economic development definition?*
> *If so, should activities conducted with businesses or farms of any size and that create or retain jobs for low- or moderate-income individuals be considered?*
> *Are there criteria that can be included to demonstrate that the primary purpose of an activity is job creation, retention, or improvement for low- or moderate-income individuals and that ensure activities are not qualified simply because they offer low wage jobs?*

Our response to the first part of Question 13 is a very strong "yes." Specifically, the Regulators need to add a few provisions regarding financing to intermediaries. We urge the Regulators to retain language within the economic development definition that allows banks to receive CRA credit for investment in financial intermediaries that (1) meet the size eligibility standards of the SBCD or SBIC Programs, and (2) that promote job creation, retention, and improvement (1) for LMI persons, or (2) in LMI areas.

The Proposal would give credit for support for financial intermediaries that lend to or invest in businesses with GAR of $5 million or less *without* having to document job creation, retention, and/or improvement. **We believe that this should be expanded to include minority owned businesses with GAR of over $5 million**, because those are the companies that are most likely be overlooked by traditional financing method. This should also be revised to apply to support for minority-owned financial intermediaries, who are so dedicated to closing the gaps in access to capital.

Hispanic-owned businesses are not only starting at faster rates, but Hispanic owned businesses are also growing their number of employees at a faster rate than white-owned employer businesses, especially when those companies started hitting the growth stage of having over $5 million of GAR. Accordingly, in light of these important contributions, we believe that the recommended changes related to Question 13 of the Proposed Rule are critical to supporting the growth and success of Hispanic-owned business which have proven integral to economic development in the United States.

III. SUMMARY - CRA IS VITAL FOR CONTINUED FINANCING FOR MINORITY FUNDERS MANAGERS AND MINORITY SMALL BUSINESSES.MUST CONTINUE TO GIVE CREDIT FOR FINANCING SMALL BUSINESSES

In finalizing, it is difficult for us to understand why a cap of $5 million in gross annual revenues would in any way benefit CRA or underserved communities. Minority communities desperately need CRA capital to scale their businesses and support the creation and growth of financial intermediaries (other than SBIC's and CDFI's). Why would we cut such avenues of prosperity and economic development?

We also are aware that many industry associations, both representing minority business owners and minority investment management firms, as well as banking associations and advocacy organizations for underserved communities have all requested that the size and purpose test be kept. We sincerely hope that our voices are heard, and that the devastation that such elimination would produce is clearly understood.

Thank you for your service and partnership in supporting our Hispanic and minority owned businesses. If you have any questions, please do not hesitate to reach out to C. LeRoy Cavazos-Reyna, Vice President of Government and International Affairs via phone at 956-844-9628 or email at LCavazos@ushcc.com. We commend you for your leadership and look forward to a positive outcome on this important matter.

Respectfully,

[redacted]

Ramiro A. Cavazos
President & CEO
U.S. Hispanic Chamber of Commerce

CC: The Honorable Jerome H. Powell
The Honorable Isabella Casillas Guzman
Congressional Hispanic Caucus