UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D C. 20460

August 5, 2022

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

Submitted via email to: comments@fdic.gov

Dear Mr. Sheesley,

The U.S. Environmental Protection Agency (EPA) submits these comments in support of amendments to the regulations implementing the Community Reinvestment Act of 1977 (CRA) proposed jointly on June 3, 2022, by the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, Treasury (collectively, "the Agencies").[1] As discussed further below, EPA supports the Agencies' proposal to encourage financial services supporting climate resiliency activities but recommends that the Agencies further consider whether the proposal will encourage the availability of financial services in communities of color and low-income and indigenous communities disproportionately affected by climate change impacts. EPA also offers recommendations for possible revisions to the definition of "disaster preparedness and climate resiliency activities" and suggests clarifications regarding the scope of qualifying climate resiliency activities.

Sincerely,

[redacted]

Matthew Tejada, Director
US EPA Office of Environmental Justice

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[1] 87 Fed. Reg. 33,884 (June 3, 2022).

I. EPA Supports the Agencies' Proposal for "Climate Resiliency Activities"

EPA supports the Agencies' proposal to include "disaster preparedness and climate resiliency activities" as a distinct and explicit category of activities for which a bank may receive community development consideration. By providing clarity about the type of activity that qualifies as a "disaster preparedness and climate resiliency activity," and certainty that the activities are eligible for consideration, the proposed amendment will encourage banks to support community climate resiliency activities. Given the urgency of the ongoing climate crisis and projections of increasing impacts over time, the proposed amendments' support of climate resiliency activities is critically important for communities preparing to face, and already facing, those impacts.[2]

II. Consider Whether the Proposed Framework Adequately Encourages the Provision of Financial Services in Communities of Color and Low-Income and Indigenous Communities Disproportionately Affected by Climate Change Impacts

EPA notes that the proposed amendments do not appear to have a clear mechanism encouraging banks to provide financial services specifically supporting climate resiliency activities in the most climate-vulnerable low-income and indigenous communities and communities of color. Climate change disproportionately impacts low-income and indigenous communities and communities of color.[3] In the United States, these communities are more likely to live in areas with the highest levels of climate change impacts, including increased mortality rates due to climate-driven changes in extreme temperatures, increased childhood asthma diagnoses due to climate-driven changes in particulate air pollution, higher labor losses in weather-exposed industries, and a higher likelihood of living in areas projected to be inundated due to sea level rise.[4] Among the underlying causes of this disproportionate climate change vulnerability is the inadequate provision of green and grey infrastructure to mitigate flooding, urban heat islands, and other impacts of climate change and extreme weather events, as well as the inadequate provision of social and economic services to support climate resilient and economically vibrant communities.[5] Communities of color and low-income and indigenous communities, and individuals in these communities, may also disproportionately lack access to financial services due to the legacy of racist and discriminatory lending practices, as documented by historic redlining in their communities.[6]

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[2] *See* U.S. Global Research Program, Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States (Washington, DC: U.S. Global Change Research Program, 2018), *https://nca2018.globalchange.gov/*

[3] U.S. Global Research Program, Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States (Washington, DC: U.S. Global Change Research Program, 2018), *https://nca2018.globalchange.gov/*; 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, *available at https://www.epa.gov/cira/social-vulnerability-report#:~:text=Climate%20Change%20and%20Social%20Vulnerability,not%20equally%20experience%20these%20changes.*

[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, *available at https://www.epa.gov/cira/social-vulnerability-report#:~:text=Climate%20Change%20and%20Social%20Vulnerability,not%20equally%20experience%20these%20changes.*

[5] *See* U.S. Global Research Program, Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States. (Washington DC" U.S. Global Change Research Program, 2018), *https://nca2018.globalchange.gov/*; *see also* U.S. EPA, Heat Islands and Equity, *available at* https://www.epa.gov/heatislands/heat-islands-and-equity.

[6] In some instances, the legacy of these discriminatory lending practices may contribute to a community's climate change vulnerability. *See* Hoffman, J.S.; Shandas, V.; Pendleton, N. The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas. *Climate* **2020**, *8*, 12, *available at*

Under the proposed amendments, climate resiliency activities must benefit residents of low- and moderate-income census tracts or distressed or underserved nonmetropolitan middle-income census tracts. But because of the breadth of this criterion, banks may receive community development consideration for "climate resiliency activities" even if they have not supported climate resiliency activities in the most disproportionately affected communities of color and low-income and indigenous communities and have left those vulnerable communities underserved. EPA encourages the Agencies to identify opportunities in the final regulations to encourage banks to provide financial services, or consider providing services, supporting climate resiliency activities in the communities that need it most. This would be consistent with and support this Administration's commitment to equity and environmental justice and to addressing disproportionate climate-related and other cumulative impacts on disadvantaged communities.[7] Opportunities for encouraging banks to provide financial services for climate resiliency activities in low-income and indigenous and indigenous communities and communities of color may include: developing a climate-resiliency impact review factor for the Community Development Financing Test that takes into consideration whether the activities serve communities and individuals disproportionately vulnerable to climate change impacts, which may include communities of color and low-income and indigenous communities; or developing a race and ethnicity disclosure framework for community development activities similar to the proposed disclosure of race and ethnicity data for mortgage lending.

Two federal tools that may be useful for assessing whether proposed investments align with known demographic and environmental conditions are EPA's EJScreen, and the Climate and Economic Justice Screening Tool (CJEST). EJScreen is an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators. EJScreen users choose a geographic area; the tool then provides demographic and environmental information for that area.[8] In Executive Order 14008 on *Tackling the Climate Crisis at Home and Abroad*, President Biden directed the Council on Environmental Quality (CEQ) to create a Climate and Economic Justice Screening Tool. The purpose of the tool is to help Federal agencies identify disadvantaged communities that are marginalized, underserved, and overburdened by pollution. The current version of the tool provides socioeconomic, environmental, and climate information to inform decisions that may affect these communities. The tool identifies disadvantaged communities through publicly available, nationally consistent datasets. The tool supports any efforts to meet targets, including the Justice40 initiative.[9] States may also have tools to help banks identify investment opportunities that meet the intent of the CRA along with climate resiliency goals.

III. Consider Clarifying That "Climate Change Risks" or "Impacts" Are Broader Than the Examples in the Preamble

The proposed amendments do not define "climate change risk," but instead provide examples of the types of events and impacts that the Agencies intend to be covered by that phrase. But climate change risks and impacts, especially the impacts on low-income and indigenous communities, communities of color, and individuals in those communities, are much broader than the weather-event related examples set forth in the preamble. For example, climate change impacts may include worse indoor and outdoor air quality leading to increased health problems, shifts in pest and disease patterns, and the exacerbation of toxic conditions at contaminated

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https://doi.org/10.3390/cli8010012.

[7] E.O. 13985 and E.O. 14008, Sec. 219.

[8] See U.S. Environmental Protection Agency. *EJScreen: Environmental Justice Screening and Mapping Tool* (https://www.epa.gov/ejscreen/what-ejscreen).

[9] See White House Council on Environmental Quality. *Climate and Economic Justice Screening Tool* (https://screeningtool.geoplatform.gov/en/about#3/33.47/-97.5).

sites.[10] Given the potential breadth of climate change impacts for which communities and individuals must prepare, adapt, withstand, cope with, and recover from, EPA suggests that the Agencies clarify in the preamble to the amendments that "climate resiliency activities" include the preparation for, adaptation to, withstanding, coping with, or recovering from the full breadth of climate change impacts that may be experienced by an individual or community, including disproportionately by low-income and indigenous communities and communities of color, and not just natural disasters or weather-related natural disasters.

In closing, EPA again expresses its appreciation for the Agencies' recognition of the critical importance of the availability of financial services to support climate resiliency and for its consideration of opportunities to encourage the availability of such services to low-income and indigenous communities and communities of color that have suffered historic discrimination and are among the populations most vulnerable to climate change.

In addition, EPA is responding to specific questions on which the Agencies comments above, EPA suggests the following:

1) The Agencies requested feedback:
    - Question 20: "Should the agencies include activities that promote energy efficiency as a component of the disaster preparedness and climate resiliency definition? Or should these activities be considered under other definitions, such as affordable housing and community facilities?"

EPA believes energy-efficiency activities should be included explicitly in the definition of disaster preparedness and climate resiliency activities. In addition to lowering utility costs, many energy-efficient techniques (e.g., weatherizing, better insulation, operable windows, passive shading) support climate resiliency and disaster preparedness because they help maintain habitable conditions if external power is disrupted.

EPA also supports including climate resiliency and disaster preparedness activities in other definitions. Including these activities in other definitions would improve communities' resiliency without requiring a government plan or initiative specifically focused on climate resiliency. It would also reinforce to banks, developers, and local governments that climate resiliency and disaster preparedness should be integrated into all development and not siloed into purely disaster and climate resiliency projects.

- Question 21: "Should the agencies include other energy-related activities that are distinct from energy-efficiency improvements in the disaster preparedness and climate resiliency definition? If so, what would this category of activities include and what criteria is needed to ensure a direct benefit to the targeted geographies?"

EPA supports considering energy-related activities, including but not limited to battery storage, electric vehicle and bicycle charging infrastructure, and renewable energy systems that power either individual buildings, such as rooftop solar photovoltaics, or a group of buildings, such as a small microgrid or district energy system. In addition to supplying clean energy that can help reduce air pollution and greenhouse gas emissions from power plants, renewable energy systems and battery storage can provide power to

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[10] EPA. Climate Adaptation Action Plan (Oct. 2021), Section 4; *see also* U.S. Global Research Program, Fourth National Climate Assessment, Volume II: Impacts, Risks, and Adaptation in the United States (Washington, DC: U.S. Global Change Research Program, 2018), https://nca2018.globalchange.gov/. .

the building or group of buildings if external power is disrupted.

- Question 22: "Should the agencies consider utility-scale projects, such as certain solar projects, that would benefit residents in targeted census tracts as part of a disaster preparedness and climate resiliency definition?"

EPA suggests considering renewable energy projects that serve primarily residents in targeted census tracts, including but not limited to a community solar installation or a neighborhood-wide microgrid or district energy system. For disaster preparedness and climate resiliency, these projects should be designed to be islanded from the grid if necessary, so they can continue to provide power if the grid is disrupted. In addition to their resilience benefits, these installations give clean energy options to residents who cannot install renewable energy on their homes, either because of cost or because they are renters.

2) Expand the list of eligible "*Disaster Preparedness and Climate Resiliency Activities*" while continuing to maintain that the list is not exhaustive.
   a. Organizations and projects that provide clean energy and hazard mitigation audits, reports, and/or retrofitting, energy and water efficiency, weatherization, high efficiency HVAC installation (i.e. high seer rated systems and heat pumps) services; community climate vulnerability analysis and climate adaptation planning; localized and site specific climate change impacts analysis to support project planning, design, and engineering; electric vehicle purchases and charging infrastructure development; local food production and distribution; healthy supermarkets; community parks that can serve as cooling centers and provide floodwater collection and retention; resilience and clean energy financing programs for homeowners that offer strong consumer financial protections; revolving loan funds for community centers; community-led housing relocation programs; and clean air and water monitoring and programs.
   b. In addition, the Agencies could work with other federal agencies to include FEMA, EPA, HUD, and DOT to continue to develop this list and resources that can help guide banks towards projects that build off of best practices and maximize community benefits.

3) Add race as a criterion to advance environmental and climate justice and address the legacy impacts of redlining
   a. While the CRA was developed to address race-based redlining, it currently does not use race in CRA exams, and the Notice of Proposed Rule Making does not include an update to use race in these exams. Using race as a factor and combining that with incentives to finance disaster preparedness and climate resilience activities would support driving climate justice at the intersection of equity and climate risk.

4) Develop provisions that would decrease the risk of default after a disaster while still providing for strong consumer financial protection
   a. The disproportionate impact on low income and minority communities after disasters is well understood and documented. Often these communities and individuals have less savings (if any at all) before a disaster strikes and therefore

less resources during and after a disaster to recover. Projects and institutions that can address needs during and after an event can help to decrease and reverse these disproportionate impacts. Financial literacy, and support for insurance can additionally help to address the disproportionate impacts of disasters.

5) Include requirements that projects adhere to voluntary consensus codes and standards
    a. Incentivize projects that adhere to the hazard resilient, sustainability, and energy efficient provisions of voluntary consensus codes and standards such as the International Building Code (IBC) and the US Green Building Council's certification programs such as Leadership in Energy and Environmental Design (LEED).

6) Questions 14, 15, and 16 deal with government approved plans, place-based definitions, and housing:

    On government approved plans: redevelopment plans that are locally led and community-driven should reflect community visions, needs, and desires. These are the types of plans that should be eligible in the CRA context. This will mean some additional examination of the plans. Developing a metric for this can be problematic, but states and localities are setting standards (see for example SB 1000 in California. https://oag.ca.gov/environment/sb1000)

    On place-based definitions: What type of investment should be eligible? When local residents of low and moderate incomes are able to be investors in their communities through financing from banks that are trying to get CRA credit. Community banking, community reinvestment should include community members in the projects. If they are not included, then credit should not be given. The flip side is that financial institutions should encourage community-based reinvestment projects.

    On housing projects: Housing should be included with criteria, including:
    - funding for renovation of existing housing stock outside of the project (as part of a community benefit agreement, for instance)
    - when housing supply increases at a rate that allows for wealth to be built among community members
    - when purchasing options exist for existing residents; when property tax increase circuit breakers are in place.

    The criteria should all add up to the idea that community members pre redevelopment should have opportunities to renovate/rehabilitate/become homeowners and build wealth... Rental housing and a variety of housing types should be part of housing development activities.
7) Question 17: What else should agencies consider in revitalization projects?

    Include opportunities for wealth building for residents through incorporation of equitable development plans.[11]

[11] https://bbardc.org/wp-content/uploads/2018/10/Equitable-Development-Plan_09.04.18.pdf