The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 20006

Re: Comments on FDIC Notice of Proposed Rulemaking, Community Reinvestment Act Regulations, RIN 3064-AF22

Dear Chairwoman McWilliams:

The Community Reinvestment Act (CRA) remains a strong incentive for banks to lend, invest, and provide services in underserved communities, however the Office of Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) have released a proposed CRA Modernization rule that would drastically affect what sorts of activities will count towards CRA's requirements. Inclusiv is writing to voice its strong opposition to the proposed change.

Congress enacted the CRA in 1977 specifically to address and reverse the practice of redlining. While much remains to be done to improve financial inclusion and reverse the impact of decades of disinvestment, CRA continues to be a critical tool for driving capital to underserved communities. According to the National Community Reinvestment Coalition, "nearly $3 trillion in home and small business loans from banks went to low- and moderate-income (LMI) borrowers and communities over the last decade." Furthermore, the proposed rule threatens the progress and investments that have been made in these communities over the past half-century.

The growth of community development financial institutions has been driven by bank CRA investment enabling local CDFIs to make the types of loans that banks cannot or will not do. CDFIs rely on CRA to secure capital from private financial institutions. The CDFI Fund Program has determined that those CDFIs receiving awards under the Financial Assistance program received $7.5 billion (21 percent) of their capital from financial institutions. Without CRA, the CDFI industry today would be a fraction of its current size and the scale of its lending and impact correspondingly reduced. In FY 2019, CDFI Fund program award recipients made 772,000 loans or investments totaling more than $21.5 billion with an average origination size of $28,000. CDFIs also financed over 51,000 affordable housing units. This $21.5 billion originated by CDFI award recipients is only a fraction of the CDFI industry. CDFI Banks and Credit Unions had $143 billion in loans outstanding, including, but not limited to: $51 billion in consumer loans, $50 billion in residential real estate loans, and $20 billion in loans to small businesses in some of this country's highest need communities.

The CDFI credit union movement alone has grown exponentially in the past two decades through partnerships with banks that recognized the ability to reach borrowers the banks could not serve. We now reach more than 10 million Americans with $90 billion in community owned and controlled assets.

This growth would not have been possible without external investments made by banks seeking to meet their community reinvestment responsibilities.

Founded in 1974, Inclusiv is a certified CDFI intermediary that transforms local progress into lasting national change, and we were instrumental in establishing the CDFI Fund in 1994. We provide capital, make connections, build capacity, develop innovative products and services and advocate for our member community development credit unions (CDCUs). The current CRA rule has been vital to ensuring adequate investment into some of the most historically underserved communities our member credit unions serve. Often these credit unions are the main, or only, depositories in the community. Inclusiv has channeled more than $100 million in deposits, subordinated loans and grants into low-income communities through our strong partnerships with large national banks.

Proposed changes to the Community Reinvestment Act (CRA) could significantly decrease investments by banks, putting at risk billions of dollars in lending each year to communities that would benefit from it most. The OCC and FDIC proposed CRA Modernization rule would put meaningful investment in underserved communities in jeopardy in several ways.

1. **CRA Eligible Activities**

The proposed list of CRA-eligible activities has been expanded to the point that it risks encouraging the types of investments that may in fact displace, rather than support individuals in low- and moderate-income communities. The rule's expansion of CRA eligible activities to include "essential infrastructure," for instance, would crowd out traditional community development activities such as investment in affordable housing, community facilities, and loans to LMI individuals. These activities risk furthering the long, and very much contemporary, legacy of redlining in the communities they purport to help. This generates concerns that banks will be able to count activities that would otherwise be a part of their business toward their community reinvestment responsibilities, making less capital available to the work that generates the greatest impact for communities.

Furthermore, some forms of lending can present additional problems or challenges. Inclusiv operates a national financial coaching program in which we deliver one-on-one financial counseling and coaching to credit challenged borrowers. Much of what our financial coaches provide is assistance for people who have become trapped in high-cost credit card debt. Households that hit a rough patch or emergency may drive up credit carrying debt loads that are unsustainable for the household income. Once those lines are maxxed out, these households often have no place left to turn but even higher-cost predatory lenders. Financial coaches are regularly working to help households get out from under that credit card debt and move into more manageable closed-end loans with reduced interest. In these communities, credit card lending without careful underwriting and supports can spur tremendous challenges down the road. For this reason, we were particularly concerned to see credit card lending considered an eligible activity under the proposed new CRA guidelines. If the OCC and FDIC would like to reward the extension of consumer debt to low-income households, they must include a qualitative review of these portfolios (terms, rates, conditions and ability to repay of the consumer). CRA exams should also consist of a regular review of the results of this consumer lending to determine if the extension of credit leaves households in a better financial position with better credit and ability to cover household expenses or in

a worse position. If that is not feasible as part of the exam process, this type of consumer lending should not be considered toward the community reinvestment obligation.

2. **Measuring Success**

The changes to the evaluation measure, by emphasizing the dollar value rather than type and value of CRA activities, create a natural incentive for larger, easier activities, potentially reducing the smaller, more intensive investments that underserved communities so often need. Quantitative metrics should be supplemented with clear, qualitative standards to ensure that small-scale, high-impact community development activities are rewarded, along with a bank's responsiveness to local needs and priorities. Let's evaluate investments in underserved communities based on their quality, not quantity.

We are particularly concerned with the move toward a single metric of all activity. In initial remarks with OCC officials, we have been encouraged to recommend certain activities get extra or double credit. While it may appear that a single metric would simplify and clarify the outcomes for banks, the process of advocating for increased "credit" of certain activities over others will quickly become confusing and subjective, quite the reverse of the Agencies' stated intention.

Our greatest concern is with the elimination of the Investment, Lending and Service tests. While these tests have not been perfect, it has allowed for the ability to make the important distinction between types of CRA activities. Inclusiv has engaged with bank partners in a diverse set of activities meeting different CRA tests that together create a comprehensive view of impact. We manage a portfolio on nonmember deposits that banks can place through Inclusiv to provide liquidity to credit unions in distressed areas. These deposits are fully insured up to $250,000 and meet the criteria for the investment test. We also invest secondary capital, an at-risk subordinated debt that for a period of time can count toward the net worth of the credit union. For that period, the credit union can leverage up to 10:1 in deposits and dramatically grow their lending in a low-income community. Secondary capital is a far more complex product that yields far greater outcomes and impact than a non-member deposit. It is counted for CRA credit under the lending test and therefore carries far greater weight than the nonmember deposit. With the reduction to a single metric, a deposit and a secondary capital loan would be considered equal. Clearly, the no-risk federally insured lower impact choice would prevail for most banks seeking only to increase their quantity of activity.

Finally, a critical partnership we helped forge with a large national bank to more effectively meet its Service test obligations has yielded some critical impact in the current COVID-19 crisis and response. Several years ago, Citi opened its ATM network to the members of community development credit unions in their market areas allowing them to access their accounts free of charge at all Citi branches. This served to dramatically increase the footprint of these institutions that do not have the ability to grow branch and ATM networks to meet the needs of their members. In the past several weeks, this partnership has proven to be life-saving as the credit unions have been blasting messages out to their members and communities to use the Citi ATMs rather than risk their health by coming into the credit union locations. This one innovative step that Citi took a few years back to be more effective in meeting their service test has proven to be one of the few silver linings in the past weeks of the COVID-19 crisis. It simply would not have been worth the effort or stimulated even the idea if the CRA rules

proposed today were in place back then.

3. **Inequitable Distribution of Investment**

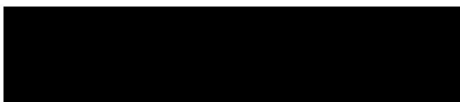
Inclusiv has concerns about the nature of the calculation and the potential for certain communities within a bank footprint to be negatively impacted by underinvestment. The proposed rule only requiring high CRA performance in half of communities reviewed for compliance to achieve a high performance rating across the entire bank will potentially lead to overlooking and significantly underinvesting in the most distressed, often rural communities. Certain communities, particularly rural and economically distressed, are more difficult to get capital out into because they lack some of the basic infrastructure for successful and smooth lending. While imperfect, the current CRA exams do require financial institutions to demonstrate their work throughout their markets. Without a focus on equitable lending throughout the entire market area, capital flows will decline even more in these communities.

4. **Assessment Area Definition**

While there has been a recognition for some time that relying on brick and mortar branches to determine CRA assessment areas has flaws, the current proposed rule would actually create more challenges than it solves. By focusing on places of deposit concentration, in addition to branch locations, to determine areas for investment, very poor regions – like the Mississippi Delta lacking branches and money to deposit – will continue to be least prioritized. CDFI credit unions have long recognized that delivering financial services in low-income communities is characterized by high-need and low account balances. The places where people need the financial institution are often characterized by large numbers of account with low account volume. More than 40% of Americans do not have $1000 in savings. On average, CDFI credit union accountholders maintain even lower account balances. These accounts however are often high transaction, as every dollar that comes in is needed to meet basic household necessities. Reliance on assessment areas due to deposit volume only reinforces the misdirection of activity toward higher account balances. At the same time, it dilutes the investments that might otherwise go to low-income communities in which the branches are actually located (and large numbers of people are transacting.)

With the proposed CRA Modernization rule, impactful, community-based activities – including those involving CDFIs – will be valued less than under the current system. It will make banks less accountable to local communities and high-impact activities. This approach to CRA rating will silence the voices and input of community groups during CRA exams. Many of America's hardest hit communities are just now beginning to recover from the Great Recession of more than a decade ago. The proposed CRA Modernization rule could arrest their recovery and leave them further behind.

Sincerely,



Cathleen A. Mahon,
President & CEO