Federal Deposit Insurance Corporation
Attn: Martin J. Gruenberg
Acting Chairman of the FDIC Board of Directors
3501 North Fairfax Building, Arlington, VA 22226

MCCD
Metropolitan Consortium of Community Developers

August 3, 2022

Re: Comments on Proposed CRA Changes (RIN 3064-AF81)

Dear Mr. Gruenberg:

The Metropolitan Consortium of Community Developers (MCCD) appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) for the Community Reinvestment Act (CRA). MCCD is an association of 50 nonprofit organizations committed to expanding the wealth and resources of communities through housing opportunities and economic development initiatives in Minnesota. MCCD's mission to build strong and stable communities can only be achieved by addressing the inequities that have shaped housing and economic development policies at every level of government and that have prevented Black, Indigenous, and People of Color (BIPOC) and other communities from achieving housing stability, accessing capital, and wealth building opportunities.

This crucial work has been supported by the CRA since its enactment, yet many communities continue to see underinvestment or no investment at all. MCCD and our members are hopeful that the proposed changes to the CRA will better help support organizations working to meet the needs of the communities they serve, but the proposed changes could be strengthened to make a more meaningful impact.

Since its inception, CRA has been a fundamental financial pillar of the community and economic development work that our members use to serve the needs of low- and moderate-income people in the communities they work in. At the time, it was a landmark response to red-lining practices that targeted communities of color, but these practices continue today, just in a different form. With the wealth gap growing in this country, a strong CRA is needed now more than ever to ensure equitable investment and wealth creation in BIPOC Communities.

In Minnesota, 58% of BIPOC renter households are cost-burdened compared to 44% of white households, the racial homeownership disparities persist with just 25% of Black households owning their own home compared with 77% of white households. Additionally, 40% of BIPOC entrepreneurs or small business owners report challenges accessing credit and loans compared to 9% of white owned small businesses. The Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), and Federal Reserve Board of Governors (Federal Reserve) have a great opportunity with the proposed rulemaking to make the necessary changes to better service BIPOC communities, as it was truly intended to do.

We join organizations all over the United States, along with the National Alliance of Community Economic Development Associations (NACEDA) and the National Community Reinvestment Coalition (NCRC) in calling on the OCC, FDIC, and Federal Reserve to make the below changes to the proposed changes to strengthen the CRA.

1) **The NPR does not go far enough to explicitly consider race and ethnicity of bank customers and communities.** MCCD is disappointed about the absence and focus on race in the NPR. Regulators dedicated substantial space in the 2021 ANPR inquiring how race can be considered as part of CRA exams. What happened to the responses? Did regulators abandon that path of inquiry? If so, why? What was learned during the ANPR process that caused them to back away? The Community Reinvestment Act was passed in direct response to racism in banking. It's an issue CRA has never fully addressed, and this NPR represents another major instance in the almost five decades of shortcomings. MCCD asks regulators to please collect data related to race in the retail and community development tests; make that data public; and use it consequentially in CRA exams.

Specifically, MCCD asks regulators to:

- Add racial data to the list of factors considered when creating assessment areas.
- Compare lending data by race to peer-banks within assessment areas.
- Formally incorporate HMDA and 1071 data by race into an examination.
- Severely punish banks that are found to have violated civil rights, fair lending, or fair housing laws.
- Add an impact review factor to the community development finance test that considers investments made in historically redlined communities and areas in which the residents are predominantly people of color.

2) **Encourage the use of Special Purpose Credit Programs (SPCP).** SPCPs should go further to support the needs of women- and BIPOC-owned businesses. Banks can and should create SPCPs to assist borrowers or businesses that have been historically disadvantaged. As the OCC, FDIC, and the Federal Reserve contemplate allowing SPCPs to qualify for CRA consideration, MCCD request your support and advocacy for SPCPs that offer loans and other banking services to BIPOC-owned businesses, women-owned businesses, and other communities impacted by unfair banking practices.

3) **The asset categories as proposed (large, intermediate, small) will significantly reduce community development financing, particularly in rural areas and small cities.** The proposed bank asset sizes would move about 900-1000 banks into a lower asset category than under the status quo, and regulators have chosen to reduce community development responsibilities for banks in smaller asset categories. Research from NCRC estimates that well over $1b in community development financing could be lost because of this change. If that estimate proves to be anywhere close to accurate, it would be a significant failure for the regulating agencies.

4) **The community development financing test for intermediate banks must be required, not optional.** Under the proposal, intermediate banks are subject to a status quo community development test or the option for the new community development finance test. MCCD urges regulators to make all intermediate banks subject to the new community development finance test. Subjecting large and intermediate banks to the new test creates consistency among banks and examiners, and it provides others in the community development industry (non-bank investors, funders, community development nonprofits, public officials, researchers, and others) with a common understanding of how banks are regulated on community development activity.

5) **The newly formed "Retail Lending Assessment Areas" must be subject to a community development test.** MCCD strongly urges regulators to reconsider community development responsibilities in retail lending assessment areas. The NPR outlines how retail lending assessment areas would be formed in entire metropolitan statistical areas or the non-metropolitan statistical areas of a state. These areas are sizable chunks of geography that banks should have some level of community development responsibility, even if it is the status quo community development test.

   MCCD is also disappointed regulators chose not to delineate facility-based assessment areas (FBAAs) around loan production offices (LPOs). MCCD asks regulators to reconsider. However, if regulators choose not to delineate FBAAs around loan production offices, MCCD maintains that loan production offices should automatically trigger at least one retail lending assessment area, which should also include a required community development test. LPOs are too often the only lending or banking-related presence in rural areas and small towns. The NPR gives banks the option to claim credit for banking services provided at their LPOs. Responsibilities should come with that opportunity.

6) **Regulators should give more consideration and acknowledgement to banks that utilize effective, creative, and exemplary local community engagement strategies.** In past CRA commenting opportunities, national advocates have been very critical of how little attention regulating agencies have paid to local community engagement strategies banks employ to identify community needs in low- and

moderate-income (LMI) areas. MCCD maintains that criticism and offers a potential solution that fits within the framework offered by the NPR. MCCD proposes that exemplary community engagement strategies in LMI areas be recognized as a standalone impact review factor when regulators are considering CRA credit for an eligible community development activity.

7) **MCCD encourages regulators to begin thinking *now* about how to roll out a new rule to stakeholders, in addition to banks.** Few people in the community development field remember how the last set of CRA changes were implemented over 25 years ago. Regulators must make a significant effort to reach community-based development nonprofit organizations and other key stakeholders. The Federal Reserve Bank System, for example, has a dedicated function to CRA education that has served the field well for years. However, MCCD fears that that function (and related functions in the other regulating entities) will provide woefully insufficient levels of education to the field. This is particularly important because this process has become so complicated and technical that many community-based organizations currently feel ill-equipped and overwhelmed to meaningfully participate in the process.

8) **The NPR does not do enough to clarify the role of community-based development organizations (CBDOs) in CRA.** The NPR sometimes recognizes the important role community development corporations (CDCs) and CBDOs play, such as in the eligible activities section in which a qualifying housing activity has a 'primary community development purpose,' if developed by one of these organizations.

   MCCD joins our national partners in requesting regulators to adapt and adopt a definition of CDCs similar to the one offered by the Office of Community Services within the US Department of Health and Humans Services

   In addition, there are several places in the NPR where the role of these organizations can be clarified and, at the same time, help regulators and banks achieve their stated CRA-related objectives. For example, a similar 'primary purpose' standard could be applied to economic development activities that include a CBDO.

9) **Maximize the amount of data that will be publicly available as part of the CRA examination and pre-approval process.** MCCD appreciates the level of detail regulating agencies propose to publish as part of CRA exams. MCCD also urges transparency and published determinations as part of the bank-accessible pre-approval process proposed.

   MCCD urges the regulating agencies to also make public all data associated with a CRA exam to further the regulating agencies' stated goals of making CRA exams more consistent and transparent. This type of data has the potential to be transformative for the community development field and is particularly important for the gathering and publication of community development finance-related data. MCCD encourages regulators to play a leadership role related to this matter.

   And whenever possible, the regulating agencies should use plain language in publications to make the information more accessible to community members. This information would benefit all stakeholders – fellow regulators, financial institutions, and community advocates.

10) **The definition of economic development should focus on the smallest businesses.** The NPR encourages banks to finance Community Development Financial Institutions (CDFIs) and other intermediaries that focus on making loans to businesses with revenues under $5 million. MCCD requests that you support this proposal, and also encourages regulating agencies to award more points to economic development financing that focuses on intermediaries that target the smallest businesses with revenues under $1 million.

11) **Update language to eliminate the use of "minority" to describe communities that have faced government- and societal-sponsored racism.** MCCD asks that regulators adopt updated, person-first language by no longer using "minority" to describe those who belong to the Black, Indigenous, and People of Color communities (BIPOC). Language referring to these communities is better encompassed by BIPOC as it centers the experience of Black and Indigenous Communities in the work to address longstanding disparities. BIPOC acknowledges that people of color are faced with differing types of prejudice and discrimination, and it provides space for understanding the unique barriers encountered by BIPOC Communities.

A strong CRA works to ensure that our economy is healthy, inclusive, and equitable. Any revisions to CRA regulations must take into account input from community development stakeholders that use CRA to carry out the work of the communities they serve. MCCD and our members strongly believe that regulating agencies have a great opportunity to make meaningful changes to the Community Reinvestment Act and we hope you will carefully consider our comments.

Respectfully,

[redacted]

Elena Gaarder
Chief Executive Officer
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Minneapolis, MN 55407

An identical letter has been sent to Ms. Vonda J. Eanes, Director for CRA and Fair Lending Policy Compliance with the Office of the Comptroller of the Currency and Dr. Lael Brainard, Vice Chair of the Board of Governors with the Federal Reserve Board.

Cc:
U.S. Senator Amy Klobuchar
U.S. Senator Tina Smith
U.S. Representative Jim Hagedorn
U.S. Representative Angie Craig
U.S. Representative Dean Phillips
U.S. Representative Betty McCollum
U.S. Representative Ilhan Omar
U.S. Representative Tom Emmer
U.S. Representative Michelle Fischbach
U.S. Representative Pete Stauber