the 22 fund

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

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th St., and Constitution Ave., N.W.
Washington, D.C. 20551

James P. Sheesley, Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W. Washington, D.C. 20429

RE: Question 13, Community Reinvestment Act, RIN 3064-AF81, Docket ID OCC-2022-0002

To whom it may concern:

I am writing on behalf of The 22 Fund, an early-growth, impact venture capital fund investing in tech-based, U.S. manufacturing companies, to grow their international sales. Our mission is to create the clean, quality jobs of the future in underserved and low- and moderate-income (LMI) communities in the United States and increase mobility and generational wealth for BIPOC and women.

Our fund exists to provide capital to a segment of the market that has historically been overlooked by traditional capital providers. Further, our Fund is dedicated to supporting goals aligned to Federal agencies, including the closing of what the Small Business Administration (SBA) and Export-Import Bank refer to as the "Equity Gap," described as the funding gap for BIPOC and women owner businesses in the U.S, and we are acutely aware of the equity gap in funding that exists for growing BIPOC and women owned businesses that exceed $5million in gross annual revenues.

Most of the companies targeted by our fund are seeking growth capital to enhance stability and increase scale of their businesses, and most of these companies are **just over the cusp of what is considered a small business by the Proposed Regulations, with annual revenues around or over $5 million.** It is important to note that because we provide growth capital, **it is our goal that companies we invest in and support will experience sustainable growth, inevitably growing greater than $5 million in annual revenues, which is necessary to supporting job creation, retention, and improvement.** If the companies are not able to expand and grow, then we as a fund are not achieving the impact we hope to have in supporting local economic development through the cultivation of businesses owned by diverse founders.

How CRA has Supported our Fund:

I am a black woman leading and raising a first-time fund owned by women and persons of color. This experience, being a first-time fund, we have faced hurdles throughout our fundraise process. Despite these hurdles, we have several U.S. banks that have already or will be investing in us early with critical funding to be able to expand our operations and begin investing. This first institutional capital provided to our fund has not only given us more credibility with other funders but has been a catalyst in supporting our total fundraise, necessary to achieving our mission to provide more capital to businesses owned by women and BIPOC.

Of our initial funders, several banks have committed their investment with CRA credit-eligible capital. As part of their due diligence, the Banks asked if we were looking to get an SBIC licenses. In the past, we have researched the SBIC program. However, the **barriers to entry in the SBIC program are substantial. Despite providing substantially the same types of investments as our SBIC counterparts to the same small size of companies**, we found that as first-time, diverse fund managers, the SBIC process would be not just unobtainable, but would also come with extreme cost and legal burden.

We were thrilled, when discussing investment with our Bank investors, that SBIC licensing would not be absolutely necessary, and that firms like ours could still be eligible for CRA qualifying investment through use of the "size and purpose test". As the CRA counterparts walked us through the important drivers of economic development used to constitute CRA eligibility, **we were excited by the alignment between the mission of CRA and that of our fund, much of which is focused on quality job creation, retention, and improvement for LMI individuals and communities, which we view as over indexed in communities of color**. The ability of The 22 Fund to receive CRA-funding allowed us to attract additional institutional investors and jumpstarted our growth path. Most banks and other mainstream investors are not investing in first time funds - the majority (~90%) of diverse fund managers are raising their first funds and would have similar challenges in obtaining SBIC licensure.

This CRA-eligible capital that we have received has seeded our fund with much needed capital to invest in manufacturing companies to improve job quality, increase exports and increase wealth for women and people of color and LMI communities. We've been able to provide funding to companies that will be critical drivers of economic equality, job growth, and manufacturing for our country.

<u>Comments specific to Question 13:</u>

In our understanding of the **economic development definitions laid out in the CRA NPR, Bank use of the "size and purpose test" to qualify CRA investments into non-SBIC funds like ours, would be eliminated.** Given the impact CRA capital has had in supporting our fund, we urge the agencies to continue to allow CRA credit consideration for economic development activities using the "size and purpose test" to qualify economic development activity related to support for small businesses with gross annual revenues of more than $5 million. This test allows for sufficient flexibility to support transparent, equitable, and innovative economic development activity related to financing small businesses by requiring that the small businesses:

> 1. meet the "size" eligibility standards of the SBDC or SBIC Programs, and
>
> 2. meet the "purpose" test by supporting job creation, retention, and/or improvement for LMI people, in LMI communities, in redevelopment areas, or by financing intermediaries that invest in or lend to start-ups or recently formed small businesses.

We have recently been made aware of the issues raised in **Question 13** in the recent NPR for CRA Reform and feel that there are some specific items that we see should be addressed:

1. *Should the agencies retain a separate component for job creation, retention, and improvement for low- and moderate-income individuals under the economic development definition?*
   We overwhelmingly support this and feel this should be a requirement. As a fund focused on economic development for black and brown communities, job creation, retention, and improvement is integral to understanding how our efforts move the needle in these communities, and CRA efforts to promote economic development should be no different. CRA regulations should continue to allow banks to receive CRA credit for activities that support job creation, retention, and/or improvement by financing (either directly or through an intermediary) small businesses that meet the current "size" test (the eligibility standards of the SBDC or SBIC programs, and the current "purpose" test (set forth in the Interagency CRA Proposal) by documenting support for permanent job creation, retention, and/or improvement for low- or moderate-income (LMI) persons, in LMI geographies, in areas targeted for redevelopment by federal, state, local, or tribal government, or by financing intermediaries that lend to, invest in, or provide technical assistance to start-ups or recently formed small businesses.

As a Fund that has been exposed to the methods of measuring job creation, retention, and improvement for LMI communities, including use of the “size and purpose test”, we do not see challenges in collecting and reporting on this type of information, as it is closely aligned to the mission and goals of our Fund.

2. *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?*
   No, our fund does not require CRA credit for investments in or loans to businesses that exceed the size eligibility standards of the SBDC or SBIC Programs. If this was included, all the capital would go to larger, non-diverse funds who already have access to plenty of capital.

   a. However, the agencies should specifically confirm that bank ***investments*** in non-SBIC financial intermediaries (such as The 22 Fund) that lend to, invest in, or provide technical assistance to businesses with gross annual revenues of $5 million and over, but are consistent with the size eligibility standards of the SBIC program, are eligible for CRA credit consideration.

   b. The agencies should also clarify that for such financial intermediaries, **the size of the small business is determined at the time of initial investment by the intermediary**. The purpose of capital for small businesses is to grow business, and businesses should not be disqualified for CRA credit if they grow beyond $5 million in gross annual revenues. Growing is the whole purpose of investing in these companies.

3. A*re 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?*
   We believe that the agencies should retain the 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 would 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 already collect on a regular basis and is typical when looking at activities related to economic development.

Again, I sincerely appreciate the opportunity to provide comments to the proposed rule and hope for critical consideration of these comments.

Yours Truly,

[redacted]

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