NATIONAL COUNCIL ON AGRICULTURAL LIFE
AND LABOR RESEARCH FUND, INC.

August 4, 2022

Office of the Comptroller of the Currency
Benjamin W. McDonough, Chief Counsel
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

Federal Deposit Insurance Corporation
James P. Sheesley, Asst. Executive Secretary
550 17th Street, NW
Washington, DE 20429

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

Re: Joint Proposal to Strengthen and Modernize Community Reinvestment Act Regulations
Docket ID OCC-2022-0002 (OCC); RIN 3064-AF81 (FDIC); Docket No. R-1769 and RIN 7100-AG29 (Federal Reserve)

National Council on Agricultural Life and Labor Research Fund, Inc. (NCALL) is pleased to provide the following comments on the joint Notice of Proposed Rulemaking (NPR) on an approach to strengthen and modernize regulations that implement the Community Reinvestment Act (CRA).

NCALL is a Delaware-based nonprofit Community Development Financial Institution (CDFI) and chartered member of the NeighborWorks America (NWA) network with a mission to "strengthen communities through housing, lending, and education." We offer a full range of homeownership, financial education and foreclosure prevention services in addition to our real estate development and lending programs. We target both rural and urban areas on the Delmarva Peninsula with an emphasis on serving low-income, underserved, and underrepresented people and families.

Enacted in 1977, the CRA was part of a series of key pieces of legislation – including the Fair Housing Act and the Equal Credit Opportunity Act – to address systemic inequities in access to credit, including the practice of redlining. The CRA encourages banks to help meet the credit needs of the entire community in which they do business, with a particular focus on low- and moderate-income (LMI) communities, while operating in a safe and sound manner.

While it is true that banks have made substantial investments of CRA dollars in LMI communities since the passage of the legislation, significant disparities continue to exist in many LMI areas and are most prevalent for Black, Hispanic, and Native American communities across the nation. The racial wealth and homeownership gap has not only persisted but is expanding, and the pandemic has exacerbated these issues in minority, rural, and other underserved communities.

363 Saulsbury Road, Dover, DE 19904 • (302) 678-9400 • Fax (302) 678-9058 • www.ncall.org

The NPR is a good start to strengthening the CRA and represents the most significant proposed changes to the regulation in several decades. In addition, we applaud the coordinated interagency approach to CRA modernization. Below, we outline the strengths of the proposal as well as the opportunities to improve upon it.

Areas of the Proposal with Positive Reform

Automatic Credit for Activities Conducted in Partnership with Community Development Financial Institutions (CDFI)

NCALL, as a certified CDFI since 2004, strongly supports this aspect of the proposed regulation. Banks of all sizes are critical partners in our community development work. They provide financing capital, participation loans, and operating support for us, as well as providing the critical equity investments in tax credit projects as noted below. CDFIs play an important role in providing financial products to underserved communities, and providing CRA credit to banks for partnering with us is crucial to our mission-driven work.

Furthermore, we recommend such automatic credit be extended for bank activities with other organizations that, similar to CDFIs, have a mission of promoting community development and provide financial products and services to low- and moderate-income individuals and communities. Such organizations include those in the NeighborWorks America network, HUD-designated community housing development organizations (CHDOs), HUD-approved housing counseling organizations, and HUD-approved nonprofit organizations.

Updating Assessment Areas

NCALL applauds the revision to assessment areas to reflect shifts in the financial services industry away from deposit-based banking. The proposed rule would provide banks with consideration for activities outside their deposit-based areas, and to align examinations and accountability more closely with financial institutions' actual markets and lending.

Expanded Consideration of Community Development Activities Conducted Outside of Bank Assessment Areas

NCALL's decades-long work in rural areas of the Delmarva Peninsula has made us keenly aware that bank branch locations rarely align with the neighborhoods most in need of investment. The geographic flexibility that is proposed has the potential to increase the flow of lending and investments to communities where banks have limited assessment areas.

Areas of the Proposal that Need Improvement

Disaggregate Demographic Data by Race and Ethnicity

Although the purpose of the CRA was in response to redlining and other racist policies, the focus historically has been on LMI communities only, without requirements to target Black, Indigenous, and People of Color (BIPOC) communities. Research has shown that LMI is an ineffective proxy for race, as there are far more white LMI people than Black. This dilutes the impact of LMI-focused investments on racial equity. In addition, even higher income BIPOC still have fewer assets and less access to credit than low-income whites.

Therefore the CRA must require banks to gather and report disaggregated racial and other demographic data as part of the CRA exams. Although the NPR proposes using data from the Home Mortgage Disclosure Act (HMDA) to produce exam tables describing lending by race, these results currently will not influence a bank's rating. Also, HMDA's coverage is not complete, as many small and nonmetropolitan lenders are exempt from reporting under HMDA.

Increase the Weight of the Community Development Financing Test
Under this proposal, retail test performance for large banks would weigh heavier than community development test performance . As structured, community development performance would not affect most large banks' overall CRA rating. This unequal weight of the two tests could have the unintended consequence of undermining the importance of community development in CRA. We recommend that the two tests receive equal weighting.

In addition, Special Purpose Credit Programs (SPCP), which are financing products with favorable terms targeted to historically underserved classes – including race – should apply not only to the retail lending test as proposed but also to the community development financing test.

Require a Minimum Amount of Equity Investments in Community Development Finance Activity
The proposed rule makes a major shift by combining community development loans (debt) and investments (equity) under one community development financing test. This change would allow banks to receive a significant portion of their score for this test through debt. This removes the longstanding precedent where equity investments comprise a portion of the overall CRA rating.
NCALL is deeply familiar with the impact of equity investments in the communities we serve. NCALL is a recipient of New Markets Tax Credits (NMTC) and we have assisted fellow nonprofits with packaging 16 successful Low Income Housing Tax Credit (LIHTC) applications for the development of affordable, multifamily housing communities on the Delmarva Peninsula. A decrease in equity investments by banks would severely reduce the effectiveness of these tax credit programs.

In addition, bank investments in NMTC and LIHTC projects should have explicit recognition on the list of Impact Review Factors as qualified activities for CRA credit.

Economic Development Activities Tied to a Government Plan, Program, or Initiative
For activities like economic development, revitalization, and recovery in designated disaster areas, the proposed requirement that the activity be conducted "in conjunction with a government plan, program, or initiative" is a limitation that narrows the scope of the activities that qualify compared to existing CRA guidance.

The proposal would miss important opportunities to motivate and recognize private activities that do not have affirmative government support. The needs of targeted communities far exceed what governments can meaningfully support, and it would be extremely difficult to define such support.

NCALL has been involved in numerous community plans that are resident driven and not government led. A prime example is the Restoring Central Dover initiative, a high impact, community-led plan with a steering committee comprised of residents, business owners, nonprofits, schools/colleges, churches, local law enforcement, and the City of Dover. Although the City of Dover is involved in the strategic guidance of the plan, its role is no greater than any other member of the steering committee and it is not leading the initiative.

Ensure that Smaller Areas Receive Weight on CRA Exams
An unresolved issue in the proposal is how to weigh performance in large metropolitan areas, smaller metropolitan areas, and rural counties. The agencies generally would weigh performance at an assessment area level based on the share of loans and deposits in that assessment area. This approach by

itself would result in the larger urban areas not only contributing more to the overall rating but possibly obscuring poor performance in smaller metropolitan areas and rural counties.

The agencies' attempt to correct this is by requiring a Low Satisfactory rating in 60% of the assessment areas in order to pass overall. This still may not be an adequate solution since the smaller areas could represent a minority of areas, allowing a bank to pass the 60% threshold by focusing on the larger areas. This proposal needs more development.

In addition, we are concerned with the definition of rural within the proposal. It appears that the working definition of rural is "census tracts located in non-Metropolitan Statistical Areas (MSA)." This definition would adversely affect Delaware, which is divided into three MSA despite the state containing rural areas that are largely agricultural. NCALL prefers the census definition of rural which is "open countryside, rural towns (places with fewer than 2,500 people), and urban areas with populations ranging from 2,500 to 49,999 that are not part of larger labor market areas (metropolitan areas)."

Reconsider New Bank Size Thresholds that Could Reduce Community Development Financing
The agencies' proposal to raise the bank size threshold could have a negative impact on community development financing, especially in smaller or rural markets. Under the proposal, more than 700 financial institutions currently classified as Intermediate Banks would be reclassified as Small Banks. Small Banks do not have community development finance responsibilities, and this would be a significant increase in the number of banks that lack that requirement.

Philanthropy/Grants
NCALL is concerned that the proposal does not detail how community development grants will be considered. Prior treatment of grants enabled banks to receive investment credit for philanthropic activities that met the definition of community development. Grants are referenced just once in the proposal and only related to down payment and settlement cost assistance under the retail lending test. Grants are a critical resource to the nonprofit community and we must ensure that banks are encouraged to continue or increase the level of investment they are making today.

The Delaware Bankers Association reports that Delaware's banks made over $11 million in grants and contributions in 2021. In our three most recent fiscal years, banks have contributed an average of 8% of NCALL's total non-government operating support, and nearly 20% of our capital grants for affordable housing development and community development lending. The grants for operating support help fund critical consumer services such as homeownership counseling and foreclosure prevention.

NCALL appreciates the opportunity to provide these comments on the potential changes to the Community Reinvestment Act. The proposed rule takes important steps towards updating CRA to better reflect the current financial services environment. However, we believe the NPR remains a work in progress. We hope the agencies will give thoughtful consideration to our comments and those of our colleagues in the community development field. Driving capital and investments into underserved areas remains at that heart of CRA, and reducing the racial wealth and homeownership gaps must be as well.

Sincerely,

[redacted]

Karen B. Speakman
Executive Director