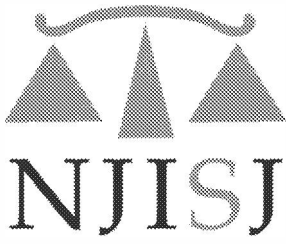


**“Social justice should be the underlying goal of all humanity.”
-Alan V. Lowenstein, Institute Founder**



**NEW JERSEY INSTITUTE
FOR SOCIAL JUSTICE**

August 5, 2022

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60 Park Place, Suite 511

Newark, NJ 07102-5504

ph. (973) 624-9400

fax (973) 624-0704

email: justice@njisj.org

www.njisj.org

do social justice.

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20th Street and Constitution Avenue, N.W.

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550 17th Street, NW

Washington, DC 20429

Acting Comptroller Michael J. Hsu

Office of the Comptroller of the Currency

400 7th Street, SW

Washington, DC 20219

Re: Comments on the Notice of Proposed Rulemaking to Update the
Community Reinvestment Act (CRA)

Dear Chairman Powell, Acting Chair Gruenberg and Acting Comptroller Hsu:

The New Jersey Institute for Social Justice is pleased to have the opportunity to comment on the Notice of Proposed Rulemaking (NPR) in regard to modifications to and modernization of the implementation of the Community Reinvestment Act (CRA).

The New Jersey Institute for Social Justice (“the Institute”) uses cutting-edge racial and social justice advocacy to empower people of color by building reparative systems that create wealth, transform justice and harness democratic power – from the ground up – in New Jersey.

We are encouraged by the current efforts to modernize and update the CRA; however, we believe the proposed rule should include consideration of race in the implementation of the law, and, specifically, include consideration of race in CRA examinations. Combatting racial discrimination is at the core of

the CRA and ensuring that banks adequately serve communities of color should be fully integrated into its implementation. As the regulating agencies update and refine the rules for the CRA, it would be a missed opportunity if the CRA continues to focus on serving the needs of low- and moderate-income (LMI) communities where financial institutions do business¹ without the proper consideration of race in CRA examinations. The CRA should directly combat redlining and racialized patterns of disinvestment, which it was intended to do and which requires an incorporation of racial data and analysis of outcomes by race in CRA exams.

Ongoing Racial Disparities in Lending Contribute to the Racial Wealth Gap

Despite the positive impacts and investments in LMI communities spurred by the CRA since its enactment in 1977,² racial disparities in lending persist across the country³ and in New Jersey.⁴ These ongoing racial disparities in financial services perpetuate economic inequities and the racial wealth gap between Black and white people, which is approximately \$160,000 nationally and about \$300,000 in New Jersey.⁵ As the Institute's recent analysis in our report *Making the Two New Jerseys One: Closing the \$300,000 Racial Wealth Gap in the Garden State* reveals, in New Jersey white families hold \$322,500 in median wealth compared to only \$17,700 for the state's Black families.⁶ One of the primary drivers of this racial wealth gap is a vast homeownership divide along race, which substantially contributes to New Jersey having one of the largest racial wealth gaps in our nation. Greater racial equity in lending, particularly relating to homeownership and mortgage lending, would help to close the racial wealth gap in New Jersey and the nation overall. A modernized CRA that includes an explicit consideration of race should be a part of that.

Our report *Black Homeownership Matters: Expanding Access to Housing Wealth for Black New Jerseyans* explains that 76% of New Jersey's white households own a home; by contrast, less than four in ten (38%) of Blacks households do.⁷ In fact, well-qualified Black borrowers face greater barriers to home mortgage loans than white families with more modest incomes in New Jersey; in 2017 in New Jersey, high-income Black loan applicants were denied for single-family home loans at a greater rate (12%) than low-income white applicants (10%).⁸ Nationally, higher-income Black

¹ BOARD OF GOVERNORS OF THE FEDERAL RESERVE, *Community Reinvestment Act (CRA)*, https://www.federalreserve.gov/consumerscommunities/cra_about.htm (last visited August 5, 2022).

² *Id.*

³ Lincoln Quillian et al., *Racial Discrimination in the U.S. Housing and Mortgage Lending Markets: A Quantitative Review of Trends, 1976-2016*, RACE AND SOCIAL PROBLEMS, March 2020, 13-28, <https://link.springer.com/article/10.1007/s12552-019-09276-x>.

⁴ NICHOLE NELSON ET AL., N.J. INST. FOR SOC. JUST., BLACK HOMEOWNERSHIP MATTERS: EXPANDING ACCESS TO HOUSING WEALTH FOR BLACK NEW JERSEYANS 11-13 (2022), https://assets.nationbuilder.com/njisi/pages/689/attachments/original/1651592853/Black_Homeownership_Matters_Report_5.3.22_web.pdf?1651592853.

⁵ LAURA SULLIVAN ET AL., N.J. INST. FOR SOC. JUST., MAKING THE TWO NEW JERSEYS ONE: CLOSING THE \$300,000 RACIAL WEALTH GAP IN THE GARDEN STATE 7-8 (2022), https://assets.nationbuilder.com/njisi/pages/689/attachments/original/1645217098/Making_the_Two_New_Jersey_One_2.15.22-compressed.pdf?1645217098.

⁶ *Id.* at 8.

⁷ NELSON, *supra* note 4, at 3.

⁸ *Id.* at 12.

homeowners have mortgages with higher interest rates than lower-income white homeowners.⁹ In Essex County, New Jersey – home of the Institute (Newark) – Black people seeking a mortgage were over three times more likely than white people to have lenders deny their home-purchase loan applications.¹⁰ These data point to the reality that unfair lending practices by race continue to create barriers to wealth building in New Jersey and that New Jersey families of color would benefit from a strengthened CRA that included consideration of lending outcomes by race/ethnicity in CRA exams. In addition, we encourage the consideration of race-conscious Special Purpose Credit Programs (SPCPs) that provide targeted lending opportunities to groups that have historically faced discrimination¹¹ in CRA examinations.

Redlining and Other Public Policies Are the Foundation of Today’s Financial Disparities that the CRA Aims to Address

In the Institute’s report *Erasing New Jersey’s Red Lines: Reducing the Racial Wealth Gap through Homeownership and Investment in Communities of Color*, the analysis underscores how access to wealth in New Jersey is built on a foundation of systemic inequities. From slavery to redlining, racially restrictive covenants, the denial of GI benefits for Black World War II veterans, exclusionary zoning, and the proliferation of targeted predatory lending practices during the Great Recession, our policies have supported wealth-building for white families while creating barriers to similar opportunities for Black families and other families of color.¹² Redlining in the 20th Century systematically led to the denial of home loans and wealth-building opportunities for generations of Black people who resided within redlined communities, while simultaneously creating a system for white people to build futures, homes and wealth outside of the red lines.¹³ In fact, modern-day redlining persists in New Jersey and other states – as the recent settlement of the Justice Department, the Consumer Financial Protection Bureau and state Attorneys General with Trident Mortgage highlights – leaving people of color with fewer lending and wealth-building opportunities and facing continued devaluation of properties in communities of color.¹⁴ Since redlining and other discriminatory practices are the foundation of our current systems of housing and land ownership and shape the segregated and inequitable patterns of our communities today, the Institute affirms that just as a system of oppression built today’s inequities, a system of liberation must be created to eradicate them. This can only be done through intentional policy

⁹ Raheem Hanifa, *High-Income Black Homeowners Receive Higher Interest Rates Than Low-Income White Homeowners*, JOINT CENTER FOR HOUSING STUDIES OF HARVARD UNIVERSITY: HOUSING PERSPECTIVES (Feb. 16, 2021), <https://www.jchs.harvard.edu/blog/high-income-black-homeowners-receive-higher-interest-rates-low-income-white-homeowners>.

¹⁰ NELSON, *supra* note 4, at 12.

¹¹ *Id.* at 23.

¹² JAYNE JOHNSON ET AL., N.J. INST. FOR SOC. JUST., *ERASING NEW JERSEY’S REDLINES: REDUCING THE RACIAL WEALTH GAP THROUGH HOMEOWNERSHIP AND INVESTMENT IN COMMUNITIES OF COLOR* (2020), https://d3n8a8pro7vhmx.cloudfront.net/njisj/pages/689/attachments/original/1588358478/Erasing_New_Jersey's_Red_Lines_Final.pdf?1588358478.

¹³ *Id.*

¹⁴ Press Release, The U.S. Department of Justice, Justice Department and Consumer Financial Protection Bureau Secure Agreement with Trident Mortgage Company to Resolve Lending Discrimination Claims (July 27, 2022), <https://www.justice.gov/opa/pr/justice-department-and-consumer-financial-protection-bureau-secure-agreement-trident-mortgage>.

that directly combats racial discrimination and inequities. In the context of the CRA, this must include a direct consideration of race in the evaluation of financial institutions. By explicitly addressing racial equity in CRA exams, regulators can ensure that financial institutions serve communities of color and are not perpetuating existing racial disparities in lending and wealth.

The Community Reinvestment Act Was Intended to Combat Redlining

The CRA was created as a direct response to redlining and the law was enacted to mitigate racist lending practices in communities of color, particularly Black communities.¹⁵ Therefore, the proposed regulations should explicitly include race as part of CRA examinations to hold banks accountable for serving Black communities and other communities of color in order to alleviate continuing racial inequalities in lending practices.

Mitigating the effects of systemic racism – both current and prior – is the intent of the law. Thus to apply the law as intended, CRA examinations must directly consider race and ethnicity in overseeing banking activity. By including explicit consideration of race and ethnicity, CRA regulators can both identify *and* address persistent racial disparities that have direct impacts on ongoing financial inequities between communities of color and white communities. Relying on standards which focus on LMI communities cannot remove the existing racial and ethnic barriers to financial access that persist or redress historical policies that for generations stifled economic opportunities in Black communities and other communities of color.

Some suggest that fear of legal challenges may be holding regulators back from the incorporation of race into CRA exams.¹⁶ However, race-conscious CRA examinations can be designed to survive a strict scrutiny test in federal courts.¹⁷ It is crucial during this critical time in which regulators are updating CRA rules that the intent of the law – to combat racial inequities in lending and access to financial services – be fully integrated into the application of the CRA.

Conclusion

As CRA rules are being updated and modernized, regulators have an important opportunity to alleviate structural racial inequities in access to financial services and lending that persist in communities of color, particularly in Black communities.

Racist public policies led to a need for the CRA; therefore, explicitly race-based criteria that hold banks accountable to serving communities of color is necessary to genuinely address race-based

¹⁵ Linna Zhu et al., *The Community Reinvestment Act Meant to Combat Redlining's Effects. 45 Years Later, Black Homebuyers Are Still Significantly Underserved*, URBAN INSTITUTE: URBAN WIRE (Mar. 24, 2022), <https://www.urban.org/urban-wire/community-reinvestment-act-meant-combat-redlinings-effects-45-years-later-black>.

¹⁶ Meir Rinder, *Proposed CRA Rule Receives Mixed Reviews from Housers*, SHELTERFORCE (Jul. 14, 2022), <https://shelterforce.org/2022/07/14/proposed-community-reinvestment-act-rule-receives-mixed-reviews-from-housers/>.

¹⁷ BRAD BLOWER ET AL., NAT'L CMTY. REINVESTMENT COAL., ADDING ROBUST CONSIDERATION OF RACE TO COMMUNITY REINVESTMENT ACT REGULATIONS: AN ESSENTIAL AND CONSTITUTIONAL PROPOSAL (2021), <https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/>.

disinvestment and barriers to financial services. The Institute urges the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency to address ongoing racial inequities in financial services by explicitly including analysis and outcomes by race/ethnicity in the CRA. Such reforms are needed to ensure that people of color in New Jersey and across the U.S. have full and equitable access to lending and banking services and that the CRA directly combats ongoing racial disparities in financial opportunities and the racial wealth gap.

Respectfully,

Laura Sullivan
Director of Economic Justice Program
New Jersey Institute for Social Justice