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August 5, 2022

RE: **Community Reinvestment Act Proposed Rulemaking [87 FR 33884]**
OCC: 12 CFR Part 25; Docket ID OCC-2022-0002; RIN 1557-AF15
Federal Reserve: 12 CFR Part 228; Regulation BB Docket No. R-1769; RIN 7100-AG29
FDIC: 12 CFR Part 345; RIN 3064-AF81

The Center for American Progress (“CAP”) welcomes the opportunity to submit comments on the Notice of Proposed Rulemaking (NPR) regarding modernizing the Community Reinvestment Act. CAP is an independent, nonpartisan policy institute dedicated to improving the lives of Americans through bold, progressive ideas and action. As part of its core mission, CAP conducts research and develops policy ideas that help enhance the economic security of all Americans, boost their opportunities for advancement, and promote equality.

CAP appreciates the NPR’s consideration of disaster preparedness and climate resilience as qualifying activities in CRA exams. Addressing climate change and systemic environmental racism is an urgent matter in all communities. Its urgency, however, is particularly critical in LMI communities and communities of color, where investment should simultaneously advance climate resilience and reverse the effects of environmental racism. For this reason, CAP offers

the following recommendations to strengthen the proposal and to boost the Community Reinvestment Act's capacity to address climate change and systemic environmental racism.

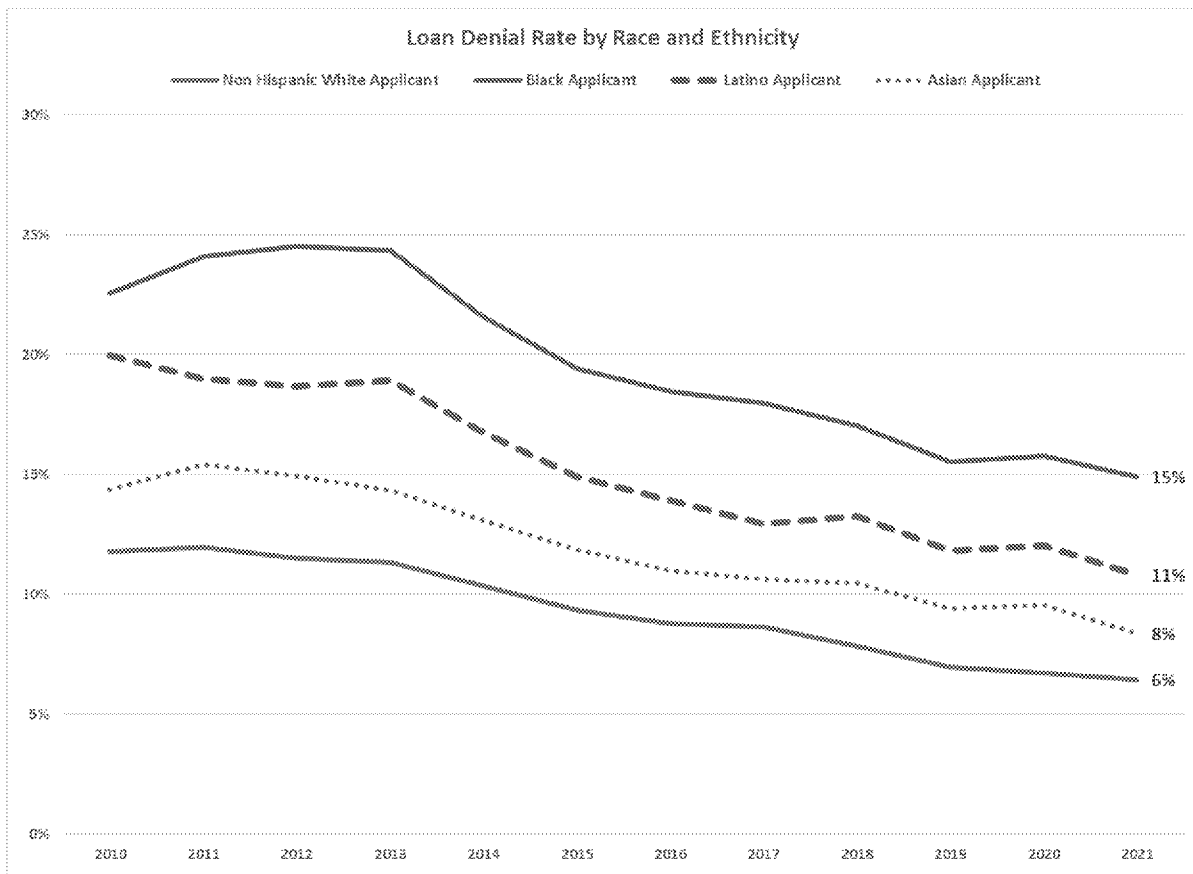
Explicitly include race and ethnicity in the criteria used for CRA examinations

The criteria currently adopted for CRA examinations are largely based on the income levels of communities that depository institutions serve.¹ Lending, services, and investments only count if they are made to low- and moderate- income people or places, distressed or underserved middle-income non-metropolitan census tracts, or designated disaster areas. Paradoxically, the law does not mention race, and the racial composition of communities is not taken into consideration in CRA examinations, despite the fact that reversing redlining in communities of color was one of the major motivations for the passage of the law.²

Redlining refers to the practice of systematically denying mortgages and other financial services by the federal government, local governments, and the private sector—including banks and other financial firms—to geographic areas demarcated based on their racial and ethnic makeup. The practice, which started in the 1930s, resulted in the consistent deflection of investment money away from central cities where people of color were concentrated. The Home Owners' Loan Corporation (HOLC), a government-sponsored corporation established in 1933 as part of the New Deal, institutionalized redlining to evaluate the quality of neighborhoods. Neighborhoods with large populations of African Americans and other people of color typically received the lowest ratings and were deemed too risky to secure government-backed mortgages. Subsequently, the Federal Housing Administration and the Veterans Administration loan programs adopted the HOLC rating system when determining where to approve mortgages.³ Research has shown that the 1930s-era HOLC ratings have continued to have lasting and significant effects on urban neighborhoods' levels of disinvestment, access to credit, and racial segregation patterns.⁴

According to NCRC research, the neighborhoods classified as risky by the HOLC have remained predominantly minority and lower income.⁵ Furthermore, disparities in home mortgage lending still persist.⁶ For example, CAP analysis of HMDA data shows that over the past decade denials of single-family home mortgage loans have decreased for all racial/ethnic groups (Figure 1). Loan denial rates, however, still remain significantly higher for nonwhite mortgage applicants than for their White counterparts. In 2021, in particular, the denial rate was 15 percent and 11 percent for Black and Latino applicants compared with 6 percent for non-Hispanic White applicants.

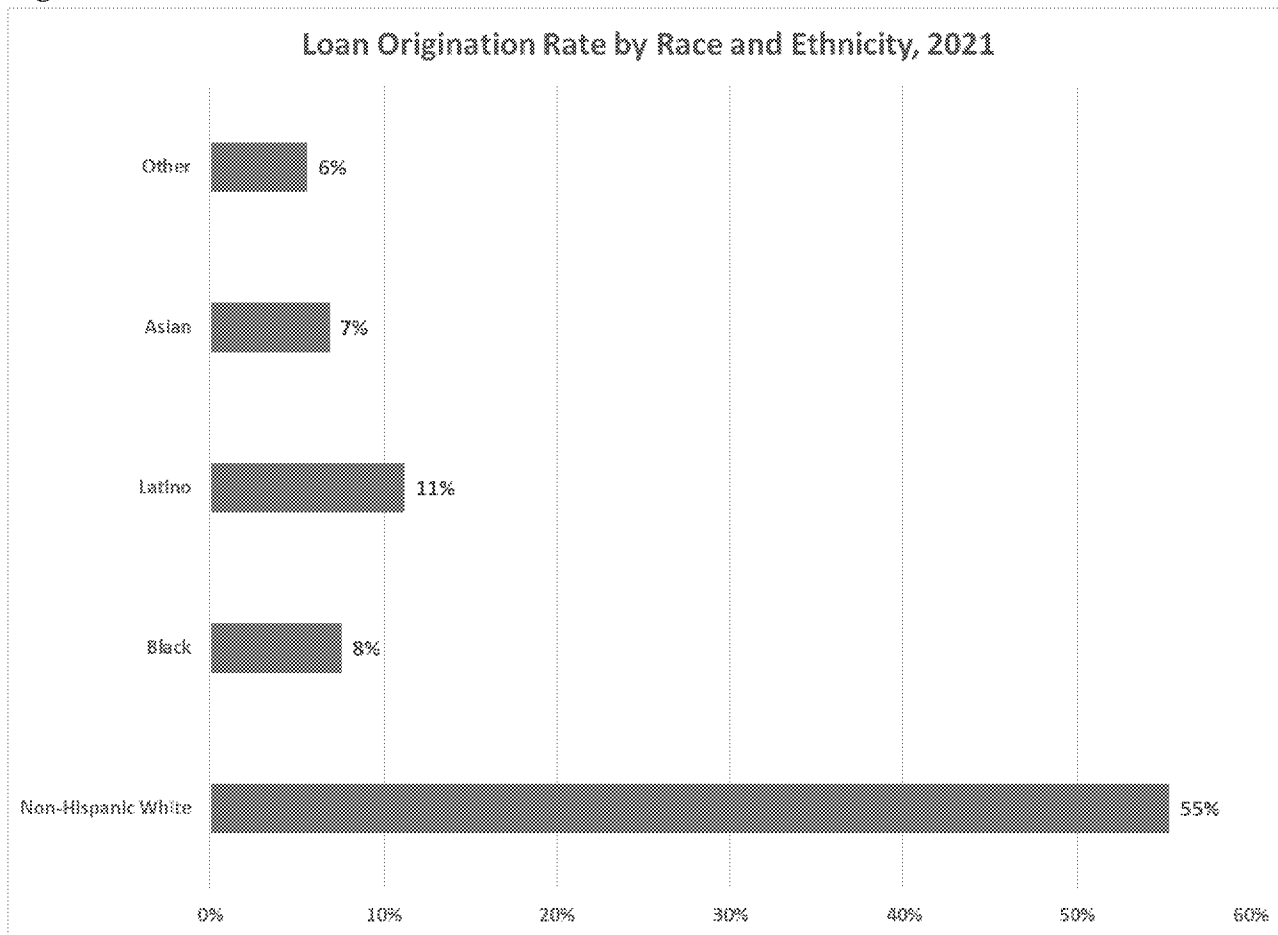
Figure 1



Source: CAP analysis of data from FFIEC , “Home Mortgage Disclosure Act,” available at <https://ffiec.cfbp.gov/data-publication/2021> (2017 through 2021), and <https://www.ffiec.gov/HMDA/> (2004 through 2016), (last accessed July 2022).

Most importantly, borrowers of color still lag behind non-Hispanic White borrowers in terms of their share of loan originations for single-family home mortgage loans (Figure 2).

Figure 2



Source: CAP analysis of data from FFIEC, “Home Mortgage Disclosure Act: Dynamic National Loan-Level Dataset,” 2021, available at <https://ffiec.cfpb.gov/data-publication/dynamic-national-loan-level-dataset/2021> (last accessed July 2022).

Given the persistence of racial disparities in home mortgage and small business lending, it is important that financial institutions’ records are examined and evaluated based on the level of lending that they practice in favor of nonwhite racial and ethnic individuals and communities. This is particularly critical in geographic areas that display significant racial disparities in homeownership rates, access to home mortgage credit, and small business lending.

Include environmental and climate indicators in geographic targeting

Climate change and environmental racism pose existential threats to the very communities the CRA was meant to protect. As the United States becomes increasingly diverse, natural disasters represent an increasing threat for communities of color and the persistent overexposure of these communities to other environmental hazards and risks makes them even more vulnerable to the consequences of climate-related natural disasters.⁷ Even though climate change affects all Americans, communities of color have a disproportionate exposure and susceptibility to environmental hazards and natural disasters compared with affluent and White communities largely because of their disadvantaged social and economic context created by systemic racism.⁸

The discriminatory policies and practices of the past played a key role in the levels of vulnerability to environmental hazards and natural disasters that communities of color experience today. Historical redlining practices, restrictive covenants, slum-clearance projects, and the siting of affordable and subsidized housing have contributed to the concentration of people of color in disinvested neighborhoods that are more likely than other communities to feature outdated housing lacking adequate insulation, flood proofing, off-grid energy, and air conditioning. A 2021 study conducted by Redfin shows that homes located in formerly redlined areas are more likely to be at high risk of flooding than those located in non-redlined areas.⁹

People of color continue to be more likely than Whites to reside in low-income neighborhoods which have fewer economic and political resources to prepare for and recover from natural disasters and address the risks that environmental hazards pose on their communities. Also, because of variations in the residential patterns of different racial and ethnic groups, there are important differences in the levels of exposure to specific types of natural risks depending on the geographic concentration of individual racial and ethnic groups. These differences, which are quantified in Table 1, underscore the importance of targeted investments that address specific risks and vulnerabilities.

Table 1

Population share in areas with high exposure to climate and environmental risks by race and ethnicity (2020)

| | Non-Hispanic White | Black | Asian/Pacific Islander | Hispanic | Native American | Other | Total Population |
|--|-----------------------|-------|---------------------------|----------|--------------------|-------|---------------------|
| Climate-related risks | | | | | | | |
| Heat waves, droughts, wildfires | 20% | 22% | 13% | 16% | 32% | 19% | 19% |
| Hurricanes, coastal flooding, riverine flooding | 16% | 18% | 10% | 19% | 21% | 15% | 17% |
| Environmental risks and hazards | | | | | | | |
| Proximity to RMP sites, TSDFs, NPL sites, traffic, and water discharge pollution | 27% | 41% | 50% | 47% | 33% | 34% | 34% |
| Exposure to diesel PM, PM2.5, ozone, and lead | 24% | 36% | 46% | 51% | 44% | 33% | 33% |
| Exposure to air toxic cancer risk and respiratory hazard risk | 10% | 23% | 19% | 21% | 15% | 13% | 14% |

Source: CAP calculations of data from Steven Manson, Jonathan Schroeder, David Van Riper, Tracy Kugler, and Steven Ruggles, "IPUMS National Historical Geographic Information System: Version 16.0," [dataset]. Minneapolis, MN: IPUMS. 2021, available at <http://doi.org/10.18128/D050.V16.0> (last accessed June 2022); FEMA, "National Risk Index," November 2021, available at <https://hazards.fema.gov/nri/data-resources#shpDownload> (last accessed November 2021); EPA, "EJScreen: Environmental Justice Screening and Mapping Tool," 2020 version, available at <https://gaftp.epa.gov/EJSCREEN/2020/> (last accessed November 2021).

Nonwhite racial and ethnic groups are overrepresented in census tracts at very high risk of hydro-meteorological natural disasters such as hurricanes, coastal flooding, and riverine flooding because they often reside in low-lying sites that are vulnerable to flooding, such as inland flood risk zones and coastal communities experiencing rising sea levels.¹⁰ People of color also tend to bear the brunt of extreme heat events and other climatological natural disasters.¹¹ Land cover characteristics, limited greenspace, the density of buildings and structures, and heat-retaining construction materials combine with increasing heat levels to produce the urban heat island effect, particularly in racially segregated areas.¹² The National Oceanic and Atmospheric Administration (NOAA) indicates that extreme heat waves represent the most serious weather-related threats to human health.¹³

What makes communities of color even more vulnerable to the risks of natural disasters and jeopardizes their ability to respond and adapt to climate change is their historically unequal exposure to environmental hazards, due to decades of environmental racism.¹⁴ As discussed in CAP's report "A CRA To Meet the Challenge of Climate Change," environmental racism is

undeniably related to climate change because it determines who are the communities most likely to suffer from the consequences of activities that produce global warming. People of color are more exposed to pollution from all types of sources compared with white people.¹⁵ The disproportionate exposure of people of color to air pollution and other pollutants is due to the close proximity of racially segregated neighborhoods to highways, industrial plants, and other sources of pollution.¹⁶

No indicators related to environmental injustice and climate change are currently included in the criteria adopted for CRA examinations. The criteria used for CRA examinations should then be reconsidered to encourage banks to provide loans, investments, and other services that address climate resilience with a stronger focus on geographic racial and ethnic disparities.

The collection of climate data from multiple sources and coordination and consulting among agencies and stakeholders are of paramount importance for the assessment of climate risk in communities of color, and for stress testing, scenario analysis, and geographic targeting. Collaboration and alignment among different agencies in terms of data collection and distribution are strongly encouraged. At a minimum, the regulators overseeing CRA should align their geographic targeting with the Environmental Protection Agency (EPA), the Federal Emergency Management Agency (FEMA), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Geological Survey (USGS), the Federal Housing Finance Agency (FHFA), and the Council on Environmental Quality, as well as other sources of proprietary data such as the First Street Foundation. CAP's report offers a practical example of how race and environmental and climate factors could be incorporated into a set of revised criteria for CRA examinations.¹⁷

Expand the list of climate-related activities to be considered for CRA purposes

While geographic targeting is very important in order to boost investment in communities of color that face critical challenges related to climate change and environmental racism, it is also crucial to incentivize the types of investment activities that reverse decades of environmental racism and promote economic stability, hazard mitigation, and climate resilience. Banks are currently evaluated based on their community development investments in their assessment areas. For investments to count under the CRA, they must create or retain jobs, promote workforce education or training, or promote the development of affordable housing and transportation.¹⁸ Many environmentally-friendly investments already count as community development under the current regulations.¹⁹ Financial institutions, however, are not regulatorily assessed on investments that are specifically made in healthy, pollution-free, and climate-resilient housing and infrastructure projects.

The NPR adds “disaster preparedness and climate resiliency” to the definition of community development and proposes a list of climate-related activities that can count in CRA examinations. These activities include the types of projects that have a strong potential to advance community resilience in the most climate-vulnerable communities. The NPR cites several examples of eligible activities. These include the development of financial products that help communities prepare for and withstand the impact of future disasters; supporting the establishment of flood control systems in flood-prone underserved areas; retrofitting affordable housing to withstand future disasters or climate-related events; promoting green space in underserved census tracts in order to mitigate the effects of extreme heat, particularly in urban areas; energy efficiency improvements to community facilities that lower energy costs; financing community centers that serve as cooling or warming centers in low- or moderate-income census tracts that are more vulnerable to extreme temperatures; infrastructure to protect targeted geographies from the impact of rising sea levels; and assistance to small farms to adapt to drought challenges.²⁰ CAP supports the list of eligible climate-related activities proposed in the NPR. Projects counting toward an institution’s environmental investment score, however, could take a number of additional forms, among them the development of community solar and microgrids, energy efficiency improvements for homes and buildings, the creation and expansion of green jobs with family-sustaining wages and small businesses, and toxic waste and industrial site clean-up, among others.

Most importantly, if investments are harmful for the environment or can threaten tribal rights (for example, building of gas pipelines), they should not count for CRA credit. At the same time, if green community investments do not benefit LMI communities and communities of color – for instance by displacing them – they should not count for CRA credit. In contrast, green community investments that target and primarily benefit LMI communities and communities of color should be weighed more favorably and receive extra CRA credit compared with activities that do not simultaneously address green finance and target LMI communities and communities of color.

To further strengthen the Community Reinvestment Act and its potential for enhancing lending and investment in LMI communities and communities of color, CAP recommends:

Expand assessment areas to include online lending. Online banking and financial technology companies have loosened the relationship between geography and credit access. Further, a growing share of mortgage lending occurs outside depository institutions’ assessment areas. Current geographic definitions of assessment areas are too limited, and the narrow definition of service areas may discourage investment in rural areas, which by current metrics often lie outside

the defined service areas of depository institutions. By fine tuning the geographic guidelines, banks can turn their investments to these areas, instead of “CRA hotspots” that are already saturated markets. Banks and non-banks should also be incentivized to invest outside of their traditional assessment areas. This requirement will expand access to credit in banking deserts and rural areas.

Increase community engagement. Studies have shown that community engagement through grassroots organizing and community benefits agreements (CBAs) result in higher CRA performance.²¹ Some communities have employed local grassroots coalitions to engage with lenders and negotiate community development strategies, yielding better outcomes for organized communities. CRA stakeholders often make CBAs with banks that plan to merge, requiring financial institutions to spell out how they plan on maintaining their commitment to their communities after the merger is consummated.²² The role of community benefits agreements (CBAs) should be formalized within the CRA to ensure that communities of color have a role in identifying investment needs and increase accountability for financial firms.

Eliminate the asset threshold adjustments proposed in the NPR. The NPR proposes to adjust asset thresholds for qualifying for various CRA examinations. In particular, the NPR proposes to raise the asset thresholds of banks classified as small banks and those classified as intermediate banks. The proposed adjustments would be deleterious for LMI communities and other underserved communities which rely heavily on small banks for community development financing. The banks, therefore, should maintain current levels of CRA responsibility.

Thank you for the opportunity to submit comments on the advance notice of proposed rulemaking.

Any questions regarding this comment letter or related issues should be directed to Michela Zonta at mzonta@americanprogress.org.

Sincerely,

Michela Zonta, Senior Policy Analyst, Housing Policy, Economic Policy, Center for American Progress

¹ Federal Financial Institutions Examination Council, “Regulatory Background,” available at <https://www.ffiec.gov/cra/pdf/Regulatory%20Background%20-%20Distressed%20and%20Underserved%20Tracts%20FINAL.pdf> (last accessed November 2020).

² Josh Silver and Jason Richardson, “NCRC Proposal For Underserved Tracts Would Increase Lending In Communities of Color By Billions of Dollars” (Washington: National Community Reinvestment Coalition, 2020), available at <https://ncrc.org/ncrc-proposal-for-underserved-tracts-would-increase-lending-in-communities-of-color-by-billions-of-dollars/>.

³ The FHA “Underwriting Manual,” in particular, provided specific guidelines for the evaluation of properties and neighborhoods in a way that would reinforce racial segregation. See Massey and Denton, *American Apartheid: Segregation and the Making of the Underclass*; Kenneth T. Jackson, *Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1985); Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright, 2017); Federal Housing Administration, “Underwriting Manual: Underwriting and Valuation Procedure Under Title II of the National Housing Act” (Washington: U.S. Department of Housing and Urban Development, 1938), available at <https://www.huduser.gov/portal/sites/default/files/pdf/Federal-Housing-Administration-Underwriting-Manual.pdf>.

⁴ Daniel Aaronson, Daniel Hartley, and Bhash Mazumder, “The Effects of the 1930s HOLC ‘Redlining’ Maps” (Chicago: Federal Reserve Bank of Chicago, 2017), available at <https://www.chicagofed.org/publications/working-papers/2017/wp2017-12>. See also Emily Badger, “How Redlining’s Racist Effects Lasted for Decades,” *The New York Times*, August 24, 2017, available at <https://www.nytimes.com/2017/08/24/upshot/how-redlinings-racist-effects-lived-for-decades.html>; Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*; Kristopher J. Brooks, “Redlining’s legacy: Maps are gone, but the problem hasn’t disappeared,” CBS News, June 12, 2020, available at <https://www.cbsnews.com/news/redlining-what-is-history-mike-bloomberg-comments/>.

⁵ Jason Richardson and others, “Redlining and Neighborhood Health: Higher Prevalence of COVID-19 Risk Factors” (Washington: National Community Reinvestment Coalition, 2020), available at <https://ncrc.org/holc-health/>; Bruce Mitchell and Juan Franco, “HOLC ‘Redlining’ Maps: The Persistent Structure of Segregation And Economic Inequality” (Washington: National Community Reinvestment Coalition, 2018), available at <https://ncrc.org/holc/>.

⁶ Jason Richardson et al., “NCRC 2020 Home Mortgage Report: Examining Shifts During COVID-19,” NCRC, January 2022, available at <https://www.ncrc.org/ncrc-2020-home-mortgage-report-examining-shifts-during-covid/>.

⁷ EPA, “Climate Change and Social Vulnerability in the United States: A Focus on Six Impacts,” September 2021, available at https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf. The report indicates that Blacks face higher levels of all impacts analyzed in the study compared with all other demographic groups.

⁸ Ian P. Davies, et al., “The unequal vulnerability of communities of color to wildfire,” *PLoS ONE* 13 (11) (2018): 1–15, available at <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0205825>.

⁹ Lily Katz, “A Racist Past, a Flooded Future: Formerly Redlined Areas Have \$107 Billion Worth of Homes Facing High Flood Risk – 25% More Than Non-Redlined Areas.” Redfin, March 14, 2021, available at <https://www.redfin.com/news/redlining-flood-risk/>. The findings are based on the analysis of flood risk by redlining grade in 38 U.S. major metropolitan areas.

¹⁰ Jessica Villalón, “Flooding Disproportionately Impacts People of Color,” Bayou City Waterkeeper, September 218, 2020, available at <https://bayoucitywaterkeeper.org/flooding-disproportionately-impacts-people-of-color/>.

¹¹ Jeremy S. Hoffman, Vivek Shandas, and Nicholas Pendleton, “The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas,” *Climate* 8 (1) (2020): 1–15, available at <https://www.mdpi.com/2225-1154/8/1/12>.

¹² <https://www.epa.gov/heatislands/learn-about-heat-islands#characteristics>. See also Paul Coseo and Larissa Larsen, “How factors of land use/land cover, building configuration, and adjacent heat sources and sinks explain urban heat islands in Chicago,” *Landscape and Urban Planning* 125 (2014): 117–129; Mehdi P. Heris, Brian Muller, and Alana M. Wilson, “Why Does Planning Matter in Microclimate Management and Urban Heat Mitigation?,” *Journal of Planning Education and Research* (2019), available at <https://journals.sagepub.com/doi/10.1177/0739456X19883000>; Brian Stone and others, “Urban heat management in Louisville, Kentucky: A framework for climate adaptation planning,” *Journal of Planning Education and Research* (2019), available at <https://journals.sagepub.com/doi/10.1177/0739456X19879214>. Bev Wilson, “Urban Heat

Management and the Legacy of Redlining,” *Journal of the American Planning Association* (2020), available at <https://doi.org/10.1080/01944363.2020.1759127>. For instance, trees, an important heat-mitigating factor, are more likely to be found in parcels of owner-occupied housing. Because of decades of mortgage lending discrimination and limited access to homeownership, low-income communities of color feature fewer trees and greater exposure to heat. See Nik Heynen, Harold A. Perkins, and Parama Roy, “The Political Ecology of Uneven Urban Green Space: The Impact of Political Economy on Race and Ethnicity in Producing Environmental Inequality in Milwaukee,” *Urban Affairs Review* 42 (1) (2006): 3–25, available at <https://journals.sagepub.com/doi/abs/10.1177/1078087406290729>. In addition, the construction of high-speed roadways in low-income communities of color has involved heat-retaining materials such as asphalt. See Raymond A. Mohl, “Stop the road: Freeway revolts in American cities,” *Journal of Urban History* 30 (5) (2004): 674–706, available at <https://journals.sagepub.com/doi/10.1177/0096144204265180>. See, for example, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3701995/>; <https://www.nature.com/articles/s41467-021-22799-5>; Voelkel, J., Hellman, D., Sakuma, R. & Shandas, V. Assessing vulnerability to urban heat: a study of disproportionate heat exposure and access to refuge by socio-demographic status in Portland, Oregon. *Int. J. Environ. Res. Public Health* 15, 640 (2018); Chakraborty, T., Hsu, A., Manya, D. & Sheriff, G. Disproportionately higher exposure to urban heat in lower-income neighborhoods: a multi-city perspective. *Environ. Res. Lett.* 14, 105003 (2019); Hoffman, J. S., Shandas, V. & Pendleton, N. The effects of historical housing policies on resident exposure to intra-urban heat: a study of 108 U.S. urban areas. *Climate* 8, 12 (2020); Chakraborty, T., Hsu, A., Manya, D. & Sheriff, G. A spatially explicit surface urban heat island database for the United States: characterization, uncertainties, and possible applications. *ISPRS J. Photogramm. Remote Sens.* 168, 74–88 (2020).¹³ <https://www.weather.gov/hazstat/>.

¹⁴ Michela Zonta and Zoe Willingham, “A CRA To Meet the Challenge of Climate Change: Advancing the Fight Against Environmental Racism,” Center for American Progress, December 2020, available at <https://www.americanprogress.org/article/cra-meet-challenge-climate-change/>.

¹⁵ These include industry, agriculture, transportation, construction, residential and recreational sources. See Christopher W. Tessum et al., “PM2.5 pollutants disproportionately and systemically affect people of color in the United States,” *Science Advances* 7 (18) (2021): 1-6, available at <https://www.science.org/doi/pdf/10.1126/sciadv.abf4491>.

¹⁶ <https://www.sciencedaily.com/releases/2019/03/190311152735.htm>.

¹⁷ Michela Zonta and Zoe Willingham, “A CRA To Meet the Challenge of Climate Change: Advancing the Fight Against Environmental Racism.”

¹⁸ Sydney Goldstein and Lei Ding, “Banks’ Community Reinvestment Act (CRA) Opportunities for Promoting Job Creation, Workforce Development, and Place-Based Investments.” (Philadelphia: Federal Reserve Bank of Philadelphia, October 2017), available at <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/06/banks-community-reinvestment-act-opportunities.pdf>.

¹⁹ For examples of community development activities that address environmental considerations see Department of Treasury, Office of the Comptroller of the Currency, and Federal Reserve System, “Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Guidance,” July 25, 2016, available at <https://www.govinfo.gov/content/pkg/FR-2016-07-25/pdf/2016-16693.pdf>.

²⁰ <https://www.govinfo.gov/content/pkg/FR-2022-06-03/pdf/2022-10111.pdf>, 33905-33906.

²¹ Alexandria Robinson, “Explainer: How NCRC brings banks and local leaders together for community benefits agreements,” National Community Reinvestment Coalition, September 11, 2019, available at <https://ncrc.org/explainer-how-ncrc-brings-banks-and-local-leaders-together-for-community-benefits-agreements/>.

²² NCRC, “California Reinvestment Coalition, National Community Reinvestment Coalition And CIT Announce \$7.75 Billion Community Benefits Plan,” Press Release, November 1, 2019, available at <https://ncrc.org/tag/community-benefits-agreement/>.