



August 3, 2022

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

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, DC 20219

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Via Email: regs.comments@federalreserve.gov
cra.reg@occ.treas.gov
comments@fdic.gov

Re: Community Reinvestment Act Regulations
Docket ID R-1769 and RIN 7100-AG29

Regulation BB: Community Reinvestment Act [R-1769]

The Board, FDIC, and OCC propose to amend their regulations implementing the Community Reinvestment Act of 1977 (CRA) to update how CRA activities qualify for consideration, where CRA activities are considered, and how CRA activities are evaluated.

To Whom It May Concern:

The Ally Capital Collab ("ACC"), a coalition of Black, Indigenous, and People of Color (BIPOC) female-led venture capital firms and our Allies - a nationwide network of venture capital funds and industry associations that serve and support thousands of industry professionals, small businesses and communities across the country, are pleased to submit these comments to the Federal Reserve, Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC) (together, the "Agencies") on behalf of its members and Allies and in response to the Notice of Proposed Rulemaking (NPR) with proposed revisions to the Agencies' Community Reinvestment Act ("CRA") regulations.



ACC, The 22 Fund, Supply Change Capital, Wocstar Capital, Black VC, Investors of Color, Zane Venture Fund, How Women Invest, Reinventure Capital, Council of Urban Professionals, Reign Ventures, Zeal Ventures, Altura Capital, Women of Wealth Magazine, Ventureneer and more than 115 other signatories are committed to providing access to capital to communities of color, women and diverse business owners across the country. Collectively, we support the goals of the Community Reinvestment Act (CRA) and have witnessed its positive impact on the allocation of capital and investment to underrepresented and undercapitalized communities. Specifically, **because of CRA, banks have been able to allocate capital to first-time and emerging fund managers and particularly fund managers of color who are committed to investing in low and moderate-income (LMI) areas and BIPOC-owned businesses**, thereby addressing the systemic issues of race, economic, equity and investment disparities that have resulted in less than 2% of venture capital being invested in companies of color¹.

ACC and our Allies applaud the Agencies for their leadership and for encouraging a regulatory framework that advances transparency, facilitates the flow of capital and addresses the needs of small businesses in underrepresented, LMI communities.

However, ACC and our Allies have significant concerns about The NPR's proposal to dramatically change CRA's ability to support financial intermediaries. The proposed elimination of the "size test" and "purpose test" ("size and purpose test"²) will eliminate the ability of banks to receive CRA credit for lending to or investing in equity and debt venture capital funds that finance small businesses with revenue greater than \$5M.

ACC and our Allies respectfully submit that the Agencies maintain CRA credit for 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.**

The negative unintended consequence of removing the "size and purpose tests" will be felt most severely by small businesses and the first-time and emerging fund managers, particularly women and people of color, who are actively working to support and invest in such companies. Historically BIPOC first-time and emerging fund managers have been the least capitalized fund managers in the industry. CRA regulations have been a powerful catalyst in the ability of banks to address this racial and economic disparity and to invest in funds which ultimately invest in businesses in communities of color, LMI areas and that are providing jobs in local communities.

While CRA credit is preserved for bank investments in Small Business Investment Companies (SBICs) licensed by the SBA, **the majority of BIPOC first-time and emerging fund managers are non-SBIC funds.** Given the size of the funds (i.e. assets under management), small teams, operations and their early stage, most new and/or BIPOC-led funds are unable to pursue SBA's license approval

¹ <https://news.crunchbase.com/venture/something-ventured-funding-to-black-startup-founders-quadrupled-in-past-year-but-remains-elusive/>

² The "size" and "purpose" tests are set forth in Interagency Questions & Answers Regarding CRA at Section 12(g)(3)-(1); the "purpose" test specifically includes activities that either: (1) "support permanent job creation, retention, and/or improvement" (a) for low- or moderate-income (LMI) persons, (b) in LMI geographies, (c) in areas targeted for redevelopment by federal, state, local, or tribal government, (d) by financing intermediaries that lend to, invest in, or provide technical assistance to start-ups or recently formed small businesses, or (e) through technical assistance or supportive services for small businesses or farms, such as shared space, technology, or administrative assistance; or (2) that support Federal, state, local, or tribal economic development initiatives that include provisions for creating or improving access by LMI persons to jobs or job training or workforce development programs.



process which is time and capital intensive, yet, **the funds make substantially the same types of investments that SBIC funds make in small businesses.**

Thus, eliminating CRA credit for non-SBIC funds would continue the systematic, racial, and economic exclusion of first-time and emerging fund managers, particularly women and BIPOC funds and access to capital for minority or women-led or owned small businesses, which have also historically less support and funding from venture capital and traditional bank lenders.

QUESTION 13

Specific to Question 13 in the Notice of Proposed Rulemaking, the ACC respectfully submits the following responses:

- 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?**
 - a. Yes, 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 Questions & Answers at Section.12(g)(3) – 1.) , 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.
 - b. **In order to not unduly prejudice minority and emerging fund managers**, the Agencies must allow for CRA credit for banks that make loans to or investments in financial intermediaries that make loans to, invest in, and provide support to small businesses with over \$5 million in gross annual revenues but that still meet the size eligibility standards to the SBIC program, and also meet the current purpose test.

- 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?**
 - a. No, not any size. The Agencies should continue to use the **size eligibility standards of the SBDC and SBIC programs.**
 - 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.

- 3. Are 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?**

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- a. The current regulatory guidance that provides that “examiners will employ appropriate flexibility in reviewing any information provided by a financial institution that reasonably demonstrates that the purpose, mandate, or function of the activity meets the “purpose test” should be continued.
 - i. i.e. 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.

* * *

The Ally Capital Collab and its Allies sincerely appreciate the Agencies’ efforts to modernize CRA regulation so that it may continue to address barriers that perpetuate the racial wealth gap and equal economic opportunity across communities.

Thank you for the opportunity to share our comments regarding the NPR. We would be pleased to answer any questions and participate in any further efforts to improve CRA.

Sincerely,



Gayle Jennings-O’Byrne
Wocstar Capital



Tracy Gray
The 22 Fund



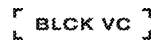
Noramay Cadena
Supply Change Capital



Shila Nieves Burney
Zane Venture Fund



Julianne Zimmerman
Reinventure Capital



Mandy Bynum McLaughlin
BLCK VC



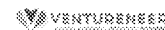
Dr. Lee Lewis
Women of Wealth
Magazine



Erica Duignan Minnihan
Reign Ventures



Julie Abrams
How Women Invest



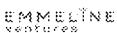
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businesses owners, and
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the following link
<https://chnng.it/v6wjPVxZqP>

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