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OCC: https://www.regulations.gov/commenton/OCC-2022-0002-0001
FDIC Federal Deposit Insurance Corporation: comments@fdic.gov
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Re: CRA NPR Comments – OPPOSE UNLESS AMENDED
OCC Docket ID OCC–2022–0002;
FDIC RIN 3064-AF81;
Federal Reserve Docket No. R-1769 and RIN 7100-AG29

To Whom It May Concern:

The Thai Community Development Center (Thai CDC) thanks the agencies for soliciting comments on a unified proposed Community Reinvestment Act (CRA) rule that retains key components of the CRA, modernize aspects where the financial industry has outgrown the rules, and strengthen the ability of communities to stabilize and revitalize neighborhoods through the CRA required investment and lending.

We acknowledge that the CRA has been hugely impactful in providing credit, investments and financial services to underserved communities in California. In fact, the California Reinvestment Coalition, its members, and allies have negotiated over $75 Billion in loans, investments, and financial services for communities of color[1] and low-income communities in California over the last two years as part of Community Benefits Agreements. Yet despite hard work by regulators and community partners, the promise of CRA has not yet been realized. While the agencies make several positive recommendations in the proposed rule, we must oppose this iteration unless critical issues are addressed and the needs of our communities are better met.

Thai CDC was founded in 1994 on the idea that all peoples have a basic right to a decent standard of living and quality of life. Since its establishment, Thai CDC has strived to advance the social and economic well-being of low-income Thais and other minority and immigrant communities in the greater Los Angeles area through a comprehensive community development strategy that includes human rights advocacy, affordable housing development, access to healthcare, small businesses counseling, neighborhood empowerment projects, social enterprises and a range of social and human services. Unfortunately, many of our community members face significant barriers to quality housing, employment, education and financial services and products necessary for economic mobility and wealth creation. We believe that reforming the CRA and strengthening its implementation will significantly reduce barriers to economic opportunity and address the historic and present-day racial discrimination and

[1] 1 The use of the terms "people of color" and "communities of color" is meant to be inclusive of African American/Black, Latine/Hispanic, Asian American/Pacific Islander, and Native American persons and neighborhoods.

economic inequities that beset low-income and Limited-English proficiency (LEP) communities of color like our own. Below is a summary of our core recommendations that will make the final version of the rule stronger and more responsive to the critical needs of the communities we serve:

Race and Ethnicity Should Be an Explicit Part of Any CRA Evaluation

First and foremost, the agencies have failed the most important test for CRA reform – will it substantially advance racial equity and close racial wealth gaps? Despite speaking to the possibilities of changes in Reg B and the Consumer Financial Protection Bureau and 1071 and raising hopes that the rules would clearly address the racial redlining concerns that gave rise to the CRA, the agencies again avoided talking about…race.

The CRA should require banks to serve all communities, especially borrowers and communities of color. Closing the racial wealth gap will make the nation and the economy stronger, elevate the Gross Domestic Product and give the U.S. the moral standing that it has lacked over many decades. Examiners should review bank performance in meeting the credit needs of communities of color, similar to how banks are evaluated on their performance in meeting the needs of low and moderate income (LMI) borrowers and communities. Urban Institute analysis shows that LMI communities and communities of color are not the same. Bank records in extending fairly priced credit, financing community development, opening responsive account products and maintaining branches to and in communities of color should factor into a bank's CRA rating. This proposal not only fails to require this, but it also offers little as an alternative approach to addressing redlining and discrimination.

The proposal to disclose HMDA mortgage lending data on Performance Evaluations is disappointing. Merely requiring disclosure of already publicly available data on a report that the public rarely accesses is not meaningful transparency. The agencies further clarify that any disparities in HMDA data will not impact the CRA rating of a bank. At a minimum, this proposal should be enhanced to also require all banks to place these home lending data tables and maps revealing inevitable disaggregated race and ethnicity disparities in a prominent place on their own websites, include similar tables and maps for small business lending by disaggregated race, ethnicity, gender and neighborhood when the Section 1071 data become publicly available, and provide that the data will impact CRA ratings.

The proposal raises the question as to whether CRA evaluations should consider Special Purpose Credit Programs (SPCPs). But, though SPCPs are meant to serve groups protected by fair lending laws, the proposal ponders SPCP evaluation only as to their impact on LMI consumers. The final rule must explicitly recognize the importance of SPCPs as a critical way for banks to help meet the local credit needs of communities of color, and SPCPs should garner CRA credit and positive impact points that enhance a bank's CRA rating, as should all activities that close wealth gaps for racial, ethnic, national origin, Limited English Proficient, LGBTQ and other underserved groups. These efforts are so important, even if their reach is limited.

One positive aspect of the proposal is the expansion of considerations of discrimination to include transactions beyond credit and lending, such as where discrimination occurs when a consumer tries to open a bank account. But an expanded definition of discrimination is only as helpful as the agencies' willingness and capacity to diligently look for evidence of discrimination and provide downgrades once it is found. The General Accountability Office recently found that fair lending reviews at the Office of the Comptroller of the Currency were outdated and inconsistent.[2] Agency enforcement of redlining or discrimination cases, as well as CRA ratings downgrades for discrimination, are exceedingly rare. Agency

[2] General Accountability Office, "Fair Lending: Opportunities Exist to Enhance OCC's Oversight of Banks' Lending Practices," GAO-22-104717, June 21, 2022 available at: https://www.gao.gov/products/gao-22-104717

fair lending reviews should be more extensive and rigorous, should solicit and rely on feedback from all relevant federal and state agencies as well as community group stakeholders, and should be reflected more substantively on CRA Performance Evaluations. Findings of discrimination, including for disparate impacts relating to displacement financing, fee gouging or climate degradation, should always result in automatic CRA ratings downgrades, if not outright failure. How can a bank that discriminates be said to be doing a Satisfactory job serving the community?

Language Access and Culturally Relevant Products and Services Should Receive an Upgrade in CRA Credit

One of the most persistent obstacles preventing our communities from accessing financial products and services is a lack of language access. Many of the communities we serve are comprised of immigrant populations for whom English is not their first or primary language. Because these individuals speak English with limited proficiency, they face significant linguistic barriers that make it difficult to participate in the local economy. Consumers who are LEP often struggle understanding and completing key financial documents, managing bank accounts, resolving problems with financial products and conducting everyday financial affairs that are technical and challenging to navigate even for native English speakers.

Due to these language barriers, LEP consumers are unbanked or underbanked at a much higher rate than native English consumers and have a much harder time accessing capital, loans and retail banking services offered by financial institutions. Consequently, these consumers often turn to alternative or higher risk sources of financing and forms of money management in order to meet their financial needs and goals.

In addition, LEP communities are also vulnerable to predatory lending and abusive and/or deceptive servicing practices. During the 2006 Home Ownership and Equity Protection Act hearings, LEP borrowers and advocates raised concerns with the Federal Reserve regarding borrowers who negotiated their loans in a non-English language but received English-only documents with less favorable terms than promised. A 2014 Government Accountability Office (GAO) report found statistically significant disparities in the rate of loan modification denials, cancellations, and redefaults for LEP borrowers and other protected groups as compared to non-Hispanic white borrowers after analyzing certain loan modification data under the Department of Treasury's Home Affordable Modification Program (HAMP).

It is important to emphasize that LEP communities are widespread across our state of California and throughout the rest of the country. According to the US Census Bureau (2015), almost 44% of California households speak a language other than English, and nearly one in five California residents are considered LEP. On a national level, approximately 61.6 million individuals, foreign and U.S. born, speak a language other than English at home in the U.S., according to the Migration Policy Institute. While the majority of these individuals also speak English with native fluency or very well, about 41 percent (25.1 million) were considered LEP. According to the U.S. Census Bureau, 2019 American Community Survey 1-Year Estimates, approximately 22 percent of the U.S. population over the age of 5 (in all, 67.8 million people) speak a language other than English at home and, of these, 37.6 percent are LEP. Given the magnitude of the LEP population in the U.S., we believe financial institutions need to do more to create an inclusive environment in the financial marketplace that is accessible to all consumers across our country regardless of their primary language.

In this light, we believe the Community Development Financing Test, Retail Services and Products Test, Community Development Services Test, and any other related elements of the CRA examination, should provide appropriately calibrated CRA credits for banks that offer linguistically and culturally appropriate

services and resources so that LEP consumers able to equitably access safe and affordable credit that helps them improve their economic and social well-being.
Examples of eligible activities include grants or contributions to nonprofits or financial intermediaries (small business development centers, HUD certified counseling) that offer culturally or linguistically appropriate products and services, like technical assistance to help start a business or purchase a home, recruiting local branch employees with language and cultural capacity that is well tailored to local needs (e.g. offering Thai language services where there is a Thai community within the service footprint rather than other languages that do not reflect local population characteristics), and volunteer opportunities for bank employees with language skills and cultural sensitivity training or expertise. We are defining "appropriately calibrated" credit to mean credit that takes into consideration the extra time and effort needed to provide these services. Banks that offer them, particularly when similarly situated banks do not, should receive a boost in CRA credit. This should be explicitly outlined in the non-exhaustive list of eligible CRA activities (more detail than what is currently contained in the Interagency Questions and Answers) the agencies will be putting together for guidance.

Moreover, this should not solely be through Artificial Intelligence (AI) or machine translation given its limitations but through partnerships with community-based organizations with the capacity to reach those most vulnerable.

Data Collection Needs to Be as Robust as Possible

Overall, we support as robust a data collection process as is feasible for the examination. The more data collected, the greater our understanding of how banks are meeting the credit needs of consumers and ultimately, the more accurate and effective the evaluation. More specific recommendations related to data collection include but are not limited to the following

- We agree that once Dodd Frank Section 1071 data is available, this should be used for CRA evaluations on the small business side much like Home Mortgage Disclosure Data (HMDA) is currently used for mortgage lending on CRA exams.
- The agencies are proposing to disclose data on mortgage lending by race and ethnicity (HMDA data) in an organized, easy to read format, and to eventually do the same for small business lending when 1071 data becomes available. We strongly support this recommendation. However, as mentioned above, we would like this data to have a direct impact on CRA performance. We would also like the data disaggregated by race and ethnicity as much as possible. Our AANHPI community alone comprises more than 50 separate groups in this country. Aggregated data on race masks the different experiences these groups are having with mainstream banking and could lead to an inequitable distribution of financial products and services.
- There are different points throughout the proposal where the agencies are recommending that large banks collect data on various CRA metrics. For some of these, they are limiting the mandate to large banks with assets of $10 billion or more. These exemptions should be removed and the final rule should require all large banks to collect this data. Any additional burdens that may be caused by this requirement are outweighed by the value this data provides for the CRA evaluation and overall impact.
- As suggested earlier, we support the recommendation to track data in a standardized format with a template and defined data fields that measure both input and impact. This increases consistency, makes it much easier to make comparisons between banks, and helps examiners understand the financing landscape. The template could be refined over time to reflect what is learned about lending and servicing.
- Data should be publicly available whenever possible. This includes presenting data in ways that are easily digestible to the public, not just researchers and academics. This could include dashboards or

reports that illuminate what the data reveals about how the banking industry is meeting the needs of consumers.

It's important to emphasize that data disaggregation at the national level is essential for identifying AANHPI subgroups by region and providing more translated materials to LEP communities. For example, the Cambodian population in Long Beach, CA, is nearly half a million residents; however, there are no federal resources available in Khmer, the predominant language spoken by the Cambodian community. Similarly, the Bangladeshi population in New York City is the largest poverty group that lives there, yet there are almost no federal housing related resources readily available in Bangla, the predominant language spoken by this community. There is also a need to focus on providing language services for Native Hawaiian and Pacific Islander communities, based on region

Community Development

We are disappointed that the proposal continues to focus on encouraging banks to invest in CDFIs as the primary community development activity. While such activities can be an impactful way for banks to support community needs, we are concerned about the resulting discouragement of support to Community Development Corporations and other non CDFI certified community-based organizations. We are concerned that providing a lengthy list of eligible activities and making it easier to qualify for credit will exacerbate the current dynamic whereby banks engage in the easiest and potentially less impactful of CD activities, especially for communities of color. <u>For the most part, CRA credit should only be provided where the majority of beneficiaries are in fact, LMI or Black, Indigenous or People of Color (BIPOC) regardless of where the activity occurs or whether the recipient is a CDFI.</u> CD activities should be tied to local community needs as identified in Performance Context analysis or community-negotiated Community Benefits Agreements, either as a condition of receiving CRA credit or through the use of enhancing impact scoring. We strongly oppose any raising of current asset thresholds, since doing so would result in less community development financing and branch consideration in rural areas served by community banks that would be subject to easier examinations and lower reinvestment obligations under the proposal if they are reclassified.

Affordable housing. Affordable housing remains a perennial need and priority for our state. Mission-driven and community organizations have developed impressive capacity to use the scarce resources available to create affordable homes, especially with the demise of tax increment financing and redevelopment in California. However, the proposal threatens to damage one of the key tools in this limited affordable housing development infrastructure by doing away with the separate CD lending and CD investment tests. By combining CD lending and CD investing, we are greatly concerned that banks will retreat from Low Income Housing Tax Credits (LIHTC), which can be more complex and provide a lower rate of return than CD lending. Any decrease in appetite for LIHTC will likely result in fewer affordable housing deals, as well as higher costs that will translate into decreased affordability for projects that do get built. On behalf of our members and the communities they serve, we strongly urge the regulators to retain separate evaluations for CD lending and CD investing.

Furthermore, affordability standards should adequately capture low-income households, particularly in high opportunity areas. The agencies are considering setting the affordability standard for rental housing in conjunction with other programs at 30% of 80% of Area Median Income (AMI) and at 30% of 60% of AMI for naturally occurring affordable housing. Both of these standards are too high, and should be closer to 30-50% of AMI in hot market neighborhoods for true affordability. The proposal itself presents data that shows lower standards create a more targeted approach that increases the occupancy rates of LMI households, which better supports the stated intent of the CRA [FR 33895]

*Anti-displacement***.** We appreciate the proposal's attempt to address displacement concerns by requiring that rents remain affordable in order to qualify for CRA credit. But the agencies need to go further to discourage banks from financing displacement. While the proposal appears to refuse CRA credit for certain CD activities if they result in displacement, this requirement must be extended to all community development activity, especially affordable and NOAH housing analysis. Regulations should not allow community development credit unless banks can demonstrate that landlord borrowers are complying with tenant protection, habitability, local health code, civil rights, credit reporting act, UDAAP and other laws. Banks should engage in due diligence on the Beneficial Owners of LLC property owners - data they already collect - to determine if there is any potential for eviction, harassment, complaints, rent increases, or habitability of potential bank borrowers. It is not enough to cease offering CRA credit for harmful products. Banks must be penalized for harm. Bank regulators should conduct extensive outreach to community groups and engage in community contacts to investigate whether landlord borrowers, backed by their banks, are exacerbating displacement pressures or harming tenants. Because displacement often has a disparate impact on BIPOC and protected classes, examiners should consider disparate displacement financing to be discrimination, perhaps under the expanded definition, that should trigger CRA ratings downgrades and subject banks to potential enforcement action.

Broadband and Native Land Areas. Certain CD activities should be further encouraged by allowing for credit to the extent of LMI and BIPOC benefit even if that is less than 50%. Here, we think of broadband activities, which can be a gateway to all CRA activity (banking, housing, jobs, education, health, etc.), and support for Native Land Areas. We support CRA credit for lending, investment and services provided to members of the Native American community and (Black Native American) Freedmen, regardless of where they reside.

Climate. We are pleased to see the proposal list climate resiliency and disaster preparedness as eligible activities in light of the devastating impacts of climate change on LMI and BIPOC communities meant to benefit from the CRA. The definitions in the proposal are strong and should be retained, perhaps with more detailed examples. But the agencies have again failed to provide for downgrades where banks engage in harm, such as financing pipeline construction and/drilling in environmentally sensitive locations. We have seen financial institutions tout green initiatives, which presumably could earn CRA credit, even where such positive efforts were completely undermined and overwhelmed by substantially greater investments in harmful activities, many of which result in an overshare of environmental burden in LMI communities and communities of color. It is not enough to define positive activities. Banks must suffer penalties and downgrades for financing the active and forever destruction of our environment. This is especially the case here, as climate degradation by banks has created a vicious circle where redlined communities disproportionately suffer climate harm at the hands of industries and banks. The regulators should treat the financing of climate harm as discrimination that can subject banks to CRA ratings downgrades and possible CRA exam failure where this harm disproportionately impacts communities of color, as is often the case.

Mortgages

CRA credit should only be given for mortgage loan originations (not loan purchases by banks from other lenders) to owner occupants (not to investors), unless the originating lender is a mission-driven nonprofit, or the investor purchaser is an LMI or BIPOC buyer or mission-driven nonprofit organization. We support the proposal to consider lending to low-income borrowers and communities separately from lending to moderate income borrowers and communities. We urge the regulators to evaluate lending for each loan purpose (home purchase, refinance, home improvement, HELOC) separately. CRA consideration should NOT be given for mortgage lending to non BIPOC, middle- and upper-income borrowers in LMI census tracts, as this fuels displacement, unless a census tract is shown through the use of established models and data to be in an area not subject to gentrification. We are strongly opposed to any suggestion that a bank could fail to serve nearly 40% of its assessment areas and still pass its CRA exams. This seems a recipe for redlining of LMI and rural communities and communities of color.

Furthermore, the CRA should cover independent mortgage companies and other non-depository institutions. According to a recent summary of Home Mortgage Disclosure (HMDA) data by the Consumer Financial Protection Bureau (CFPB), the share of mortgages originated by non-traditional, independent mortgage companies is more than 60[3], 20 or the majority of home lending in the United States. Unlike banks who offer these products, these independent entities are not subject to regulations like the CRA, despite the fact that they account for such a significant share of the market.

Since they are not covered, they are under no obligation to offer safe and affordable products that meet the credit needs of low-income families and communities of color in their service footprint. This means that, unlike banks, these independent companies have the freedom to focus their lending on more affluent borrowers and higher profit margins (skimming off the top or cherry-picking loans). If we are serious about modernizing the CRA to make it more responsive to the lending landscape that exists now (not 30 years ago), and most importantly upholding the spirit of the CRA by making sure entire communities are serviced by the financial marketplace, these types of nonbank entities should be subject to CRA examination. This is not unprecedented. The state-level CRA law in Massachusetts covers these entities, and has for some time.

Small Business Lending

We strongly support the proposed focus on small business lending to smaller businesses. We urge the regulators to require evaluation of both 1) lending to businesses with under $250,000 in gross annual revenue (as proposed), as well as 2) lending to businesses with under $100,000 in gross annual revenue. Such an approach would ensure that small businesses are served and would be consistent with the current CRA Small Business Lending reporting regime. We are disappointed however by the proposal to define small businesses as ones with $5 million or less in gross annual revenue. Approximately 95% of small businesses, 97.7 of minority owned businesses and 98.3% of women owned businesses have less than $1 million in annual revenue[4], so to establish the definition at $5 million seems counterproductive. The CRA rules should focus examiner attention on section 1071 data reporting, once public, to ensure equal access to fairly priced credit for women and BIPOC-owned businesses and for businesses with less than $1 million in revenue.

Moreover, the CRA should incentivize banks to offer microloans and financial products and services to smaller businesses by upgrading CRA ratings for institutions that provide them.

Financial Literacy Should Not Be Expanded to Cover All Income Levels

The agencies are considering removing the income level caps for financial literacy programs. Right now, credit is reserved for programs offered to lower income households. Under the proposal, banks would receive CRA credit for financing these programs without regard to the income level of participants. We are opposed to this recommendation. These literacy programs are chronically under-resourced. Given these capacity constraints, a more impactful approach would be to target these programs to the low-

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[3] 20https://www.consumerfinance.gov/data-research/hmda/summary-of-2021-data-on-mortgage-lending/

[4] See https://files.consumerfinance.gov/f/documents/201705_cfpb_Key-Dimensions-Small-Business-Lending-Landscape.pdf

income families and communities of color who need them the most. This modification could also be used as a loophole to avoid supporting LMI families and communities of color. Moreover, higher income populations are much less likely to need counseling from these sources, given the greater economic and social capital they have to access resources on their own. Incentivizing literacy programs for these households goes against the main purpose of the CRA, targeting divested and under-resourced communities.

Branches and the Retail Services and Products Test

The agencies propose to revise the Services test. We urge the regulators to retain core consideration of branch access as part of the CRA, and to expand bank branch obligations in a more meaningful way, especially as regards closures. NCRC analysis shows a continued march by banks to close branches, especially in low income, BIPOC, and rural communities. We know that local branches mean more local jobs, more small business lending in the community, and fewer visits to fringe financial providers like check cashers and payday lenders. The CRA rules should clearly and strongly penalize branch closures and poor coverage in LMI, BIPOC and rural communities, and encourage through impact scoring the opening of branches in such communities.

Accounts and the Retail Services and Products Test

We support and urge proposals to provide both a quantitative and a qualitative review of responsive deposit and retail credit products. Banks should be evaluated not only for offering, for example, Bank On accounts, but for actually connecting consumers with such accounts. We strongly believe that regulators should review the quality of all bank credit and deposit products, especially in the consumer arena. This includes marketing, language access, terms, rates, fees, defaults, and collections. All bank subsidiaries, affiliates and Rent-a-Bank partnerships should be evaluated. Rent-a-Bank partnerships, in evading state law protections, are particularly pernicious and should be banned. But until then, all products originated through the use of exported bank rate caps should be evaluated as lending by that bank. All consumer loans should be evaluated if they constitute a major product line, not just auto loans. And again, it is imperative that there be a qualitative review of language access, pricing, fees, rates, delinquencies, collections, complaints by consumers and community groups, and investigations and enforcement actions by federal and state agencies. We are very concerned that combining all these critical components of CRA - meaningful access to branches, accounts, and responsive credit products - will give them insufficient consideration in a test representing only 15% of a bank's CRA rating.

Assessment Areas

We appreciate the proposal to expand CRA coverage beyond branch locations, as we have urged for years. The Retail Lending Assessment Areas are positive, though we suggest the thresholds be lower (50 mortgages or 100 small business loans should trigger CRA responsibility) and that bank obligations to serve these areas extend beyond retail lending to other bank offerings in order to ensure that more rural communities are covered and that they are better served. But the agencies fail to create deposit-based assessment areas that require banks to reinvest dollars back into the communities from which the deposits derive. **This is the whole idea behind CRA**. Every large bank knows exactly where its deposits reside, and they should be required to disclose this publicly and to accept CRA assessment areas where significant deposits are domiciled. This is the only way to keep up with emerging industry and consumer trends, to ensure that deposits through neo-banks and other deposit-gathering third parties are assigned to local communities, and to prevent abuses and evasions such as San Francisco-based companies like Square and Charles Schwab Bank establishing out-of-state non branch banks with no proposed CRA responsibility in California despite soliciting a plurality of deposits from California.

There are a number of points in the proposal where the agencies would impose lesser obligations on banks with between $2 billion and $10 billion in assets compared to banks with over $10 billion in assets. We strongly feel that all large banks should be subject to the same responsibilities outlined for the largest banks.

Finally, while we support expanding CRA beyond branches, the CRA should retain a focus on local communities and we urge the agencies to prioritize Facilities (branch) Based assessment areas, perhaps through greater weighting of bank performance there.

Community Participation

Though the agencies suggest that community participation is to be expanded, there is little evidence of that in the proposal. Current CRA rules and implementation, as well as this proposal, do a poor job of encouraging and valuing community input. Community comments on exams are not solicited, and when provided, they are ignored. Community contacts appear a relic of the past, and were never bank-specific, instead asking about community needs and how banks generally were doing. Banks and the relevant agencies should post all comments on bank performance on their websites and be required to provide a response.

The agencies should actively solicit community stakeholder input on the performance of particular banks during CRA exams and bank mergers. Ninety days should be provided to the public to comment. Banks and regulators should clearly disclose contact information for relevant staff. Bank mergers should default to public hearings when public commenters raise concerns. Regulators must scrutinize bank merger applications to ensure that community credit needs, convenience and needs, and public benefit standards are met. Community Benefits Agreements should be encouraged as evidence that these standards can be met by the bank, and regulators should condition merger approvals on ongoing compliance with CBAs. Agencies should routinely review all existing consumer complaints, community comments, CFPB and agency investigations during CRA exams and merger reviews. In particular, community groups should be solicited for their views on bank practices relating to climate, displacement, discrimination, and other harms.

Products and Services That Are Eligible for CRA Credit Must Be Safe and Affordable

It is also important to state that issues of safety and soundness are related to consumer safety as well as institutional preservation. The products and services provided to consumers by banks need to be safe and affordable. Low-income AANHPI communities are routinely targeted by abusive financial actors offering predatory products and services that strip them of wealth and security. Banks that offer high cost, predatory products or have unreasonably high delinquency rates should have their CRA ratings downgraded or face other consequences that lower CRA performance. We also think an ability-to-repay (ATR) standard would be a strong addition to the final rule. Financial products that use ATR as part of the underwriting process should receive extra credit for those products. This makes sure borrowers are able to afford a particular loan product before "green lighting" the application[5]

Conclusion

The Thai Community Development Center appreciates the opportunity to comment on the proposed CRA rules. While there are positive aspects of the proposal, and the agencies are to be commended for working

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[5] 9 https://www.gao.gov/assets/gao-14-457.pdf

together, the Thai Community Development Center **cannot** support this proposal in its current form. Below is a summary of the core recommendations that Thai CDC is proposing that we believe, if adopted, will make the final version of the rule acceptable:

- Race and Ethnicity Should Be an Explicit Part of Any CRA Evaluation
- Language access and culturally relevant products and services should receive an upgrade in CRA credit
- More robust data on lending and community development practices needs to be collected to the extent possible
- Downgrade banks for harm such as discrimination, displacement, and fee gouging
- Ensure affordable housing tax credits and lending are reviewed separately, and the ladder increased to small business and organizations of color
- Require banks to serve all areas (not 60%) where they take deposits and lend, and refrain from raising current asset thresholds which will decrease rural reinvestment
- Penalize the closing of branches and prioritize the opening of branches and in underserved areas
- Financial Literacy Should Not Be Expanded to Cover All Income Levels
- The Retail Servicing and Community Development Financing and Serving Tests Need to Be More Rigorous
- Enhance community participation so that CRA activity is tied to community needs, CRA ratings reflect community impact, and bank mergers are denied unless they provide a clear public benefit that regulators will enforce.

As you can see, significant changes need to be made to the final rule to ensure that borrowers and communities of color are explicitly considered under the nation's anti-redlining law, that banks are penalized for harm caused to communities - such as through displacement, climate degradation, fee gouging, and discrimination - that community input is encouraged, valued and elevated, and that complex formulaic evaluation methodologies do not result in allowing banks to fail to meet critical community needs relating to affordable housing, homeownership, small business lending, broadband, and rural and Native American community access. Thank you for considering these comments.

Sincerely,

[redacted]

Chanchanit Martorell
Executive Director