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Re: Docket ID OCC-2022-0002; RIN 1557-AF15; Docket No. R-1769; RIN 7100-AG29; and 12 CFR Part 345; RIN 3064-AF81

To Whom It May Concern:

The Inclusivity Institute appreciates the opportunity to comment on the Joint Notice of Proposed Rulemaking (NPR) regarding the Community Reinvestment Act (CRA). The NPR released in June of this year represents a bold effort to update and modernize the CRA. This joint effort will help ensure this affirmative obligation on banks evolves with banking practices and technological advancements and addresses areas of needed improvement from the existing regulations to more effectively address systemic inequities in credit access for minority and low- and moderate-income (LMI) individuals and communities.

While the CRA has successfully been able to facilitate over 2.58 trillion in home loans to low- and moderate-income borrowers or in LMI census tracts, there is much more progress to be made as racial wealth and housing disparities remain pervasive in communities throughout the country. While we applaud many of the revisions proposed, there are critical areas the Institute believes should be improved and addressed to capitalize on this critical opportunity. The Inclusivity Institute offers these suggestions as a non-profit organization committed to combatting extreme levels of housing and economic segregation that persist and fuel deeply rooted racial inequalities. The Institute is working with multi-sector partners to achieve this by developing and scaling up innovative programs that efficiently address policy and market failures that disproportionately harm low-income and minority households. Further, we are developing research analysis that measures the impacts of federal, state, and local policies on housing affordability and segregation.

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In large part, the need for such strategies is tied to the legacy of redlining practices that intentionally stripped minorities of wealth building opportunities by limiting access to credit and homeownership in America. These practices intensified racial and economic segregation throughout the country. Through our work with community development and fair housing advocates, practitioners, affordable housing developers, and financial institutions, we are working to targets the spectrum of persistent housing inequities and racial gaps in economic prosperity that reinforce segregation.

In just two years, the Inclusivity Institute has sought to fulfill our mission by developing:

- a private-non-profit partnership model to provide early interventions for renters in crisis to tackle our nation's longstanding eviction crisis;
- a medium-term renter assistance model to help LMI renters weather episodes of economic instability that last several months;
- a mobility voucher program with intentional community resource connections to help LMI single parents seeking affordable rental housing in high growth, well-resourced communities; and,
- a bold new alternative to predatory loans that saturate underserved communities that would provide a non-profit retail lending storefront to meet urgent credit needs at safe and sustainable rates while building relationships with consumers, helping them repair or improve their credit.

Robust and responsive CRA regulations drive investment in these kinds of critical efforts across the country. While we are pleased to see important proposed improvements in CRA regulation, including increasing the rigor of the subtests on the CRA exams, expanding geographical areas on exams, and collecting more data to scrutinize bank performance, the Institute believes there are several key improvements needed to better meet the aspirations of modernizing this essential tool.

Transparency and More Targeted Reporting

The Institute believes the agencies should incorporate race and ethnicity in CRA exams. A recent national level analysis showed continuing disparities in loan denials by race and when people of color receive home loans, there are still inequitable outcomes in equity accumulation. Additionally, the Institute encourages the agencies to incorporate race in CRA exams in order to be explicit in working to address racial legacies of redlining and improve transparency in bank performance. Lastly, we believe the NPR's proposal to reclassify banks as small and intermediate small banks would reduce community reinvestment activity, allowing hundreds of banks to eliminate their service test and accountability for placing branches in LMI communities.

Assessment Areas & Divestment Locally

In the U.S., from 2008-2020, over 13,000 bank branches have closed, a loss of 14% of branches overall. 4,000 more banks closed in just 2 years from 2020-2022. Banks are replacing their branches with ATMs and virtual tellers while non-traditional banking institutions insert themselves in the gaps they leave. Many of these gaps are in low- to moderate-income areas. The current CRA rules designate assessment areas based on the location of brick-and-mortar banks. While maintaining the geographic criteria is critical, it does not account for what banking has become over the last 27 years. While mobile banking and additional ATMs are often touted as a reason local bank branches are not as necessary, the connections created between people and their local branches can provide countless informal benefits.

Having a familiar relationship with bank associates can lead to a better understanding of a customer's finances, associates providing useful advice, and the customer being made aware of prime products available to them. Many lenders originate loans for those all throughout the country for steeper rates and new CRA rules must adjust to reality and gauge their community reinvestment more accurately. Appropriately tying the assessment areas for mobile banks to where their deposits are coming from would create accountability that was previously missing.

Further, the Institute certainly wants to highlight that ATM deposits are not the same as a full-service branch with loan origination opportunities and there are racial inequities that are clear and persistent in the availability physical branch locations versus merely ATM or virtual teller access. We believe the quality and types of services must continue to be a factor in examining the parity of services provided. Lastly, we believe, reviews of lending must include an affordability analysis and impose penalties when banks offer on their own or in partnerships with non-banks abusive, high-cost loans (i.e. payday rent-a-bank schemes) that exceed state usury caps and that exceed borrowers' abilities to repay.

Predatory Products & Product Types

Despite CRA efforts to enhance services in LMI communities, payday loan storefronts have steeply increased the past 20 years. As bank branches continue to close, the payday loan storefronts open. In recent years lending platforms have emerged that have claimed to make credit more readily available to a wider group of consumers, but recent studies by FinReg Labs show that often the algorithms they employ utilize data points that approximate race. This exacerbates the very discrimination fintech claims to cut down on. Many people that don't turn to these new loan platforms will seek payday lenders because of their speed and proximity. Indiana, these rates can climb up to 391%. Because of these extremely high rates, our organization has begun to formulate plans for a payday loan alternative storefront offering installment loans at 10 to 15% APR.

These types of innovations are necessary to give low to moderate income families access to safe, quick, and low interest credit. Typically, to satisfy CRA obligations, banks support CDFIs. While this is important, these CDFIs primarily focus on small business loans. As critical as these small business loans are, especially regarding black and brown communities, a person should not have to be an entrepreneur to get access to affordable credit. Although not outright enumerated in the current rules, an organization such as ours speaks to the heart of the community reinvestment act. A family or an individual in desperate need of emergency credit should not have to turn to a payday lender, which would more than likely put them in a worse position then when they started. In Indiana the average payday loan is turned over six times before it is paid off. Supporting Inclusivity Institute's small dollar loan storefront and other innovative programs is true community reinvestment and helps everyday people who may not qualify for traditional bank products to access affordable credit.

We appreciate the NPR's recognition that CDFIs are an important part of CRA, however, while the NPR makes important strides in codifying the partnerships between CDFIs and banks, there are several areas where the language should be strengthened to provide even clearer guidance and incentives with regards to how CDFIs should be treated. Also, while the NPR does note that the Community Development Financing Test does propose including grant contributions as an Impact Review Factor, it is less clear how influential those factors are in a bank's final rating. The Institute recommends including multipliers or additional credit for activities undertaken with certified CDFIs.

Consider Race and Ethnicity when Determining CRA Requirements

When specifically speaking of the racial homeownership gap between black and white homeowners, which since the 1977 Community Reinvestment Act has not decreased so much as a percentage point. Broadly targeting LMI borrowers and census tracts is critical, but in 45 years it has become clear this method is not enough to move the needle on racial equity. Looking at the 2020 HMDA (Home Mortgage Disclosure Act) data, the Urban Institute determined that black applicants were twice as likely as white applicants to be denied a mortgage. Without lending requirements that are specific to mortgages originated within underserved populations, there is no incentive for mortgage lenders to intentionally serve these populations. To intentionally serve these populations in sound ways, alternative forms of underwriting, accounting for factors such as cash flow, utility payments, and rent should be researched further. HUD has issued a statement that Special Purpose Credit Programs (SPCPs) can be offered by a profit-making organization to meet a demonstrable social need. Enumerating that these programs are legal and feasible, while encouraging banks to use them to further CRA goals, would play a critical role in decreasing longstanding racial inequities.

Other Regulatory Changes to Improve CRA's Intended Community Impacts

Although not addressed in the NPR, through our partnerships with financial institutions, we have become aware of a regulatory issue that is, perhaps unintentionally, decreasing the incentives for banks to invest in quality affordable rental housing. On bank call reports, affordable rental housing is treated as CRE even through these housing assets as a class have proven to be one of the most stable classes of assets in which banks may invest.

Although multifamily housing loans have a separate designation in the bank call reports, they are aggregated in total with other commercial real estate. This is despite the fact that the default rate on multifamily affordable housing is multiples less than other commercial real estate, and even significantly less than financing associated with single family residential mortgages. We believe that loans and equity investments of affordable multifamily housing should not be aggregated in the total for commercial real estate in the call reports and should generally be examined as the safe and sound asset class that they are.

We appreciate the opportunity to comment.

Sincerely,

Kathleen Lara

Executive Director