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Subcommittee on Consumer Protection and Financial Institutions
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Chairman Perlmutter, Ranking Member Luetkemeyer, and members of the U.S. House Financial Services Committee, thank you for the opportunity to provide testimony to the Consumer Protection and Financial Institutions Subcommittee on the federal banking regulators' joint rule proposal to strengthen and modernize Community Reinvestment Act regulations to more effectively achieve its original intent of addressing inequities and discriminatory practices such as redlining within our financial system.

My name is Seema Agnani and I am the Executive Director for the National Coalition for Asian Pacific American Community Development (National CAPACD). National CAPACD is a coalition of more than 100 organizations that advocate for and organize low-income Asian American, Native Hawaiian, and Pacific Islander (AANHPI) communities to advance the economic and social empowerment of low-income AANHPI and the equitable development of AANHPI neighborhoods. We strengthen and mobilize our members to build power nationally and further our vision of economic and social justice for all. Our member organizations employ a diverse set of community development strategies tailored to local community needs, including housing and financial empowerment services, workforce development, community organizing, the creation of affordable housing and community institutions, and engagement and support for small businesses and entrepreneurs to advance equity and create vibrant, healthy communities.

I have personally worked in community development from the inception of my career - from developing affordable housing to establishing the country's first housing counseling organization serving the South Asian and Indo-Caribbean community of Queens, New York. In fact, I read the CRA legislation while flying to New York for my first job interview in 1993 given its importance and impact on the community development sector's ability to address inequities in housing, access to credit and the many other strategies that enable communities to live and thrive with dignity.

Background

The Community Reinvestment Act (CRA) was a landmark civil rights era legislation, passed due to community advocacy in response to financial institutions' systematic redlining, discrimination and disinvestment in low-income communities - especially communities of color. Since President Jimmy Carter signed the CRA in 1977, over $6 trillion has flowed into LMI neighborhoods in the form of home mortgages, small business loans, investments in affordable housing, and other CRA-related investments.[1]

Unfortunately, it is well documented that economic inequality continues to widen in the US leaving many without opportunities - and the vast majority are people of color. Many communities and neighborhoods continue to face barriers in accessing sound financial services, access to good credit, and investments in essential aspects of a healthy community such as affordable housing. With the numerous significant changes in the financial services industry, since its inception, modernizing the CRA is essential and offers a real opportunity to expand access to financial services and credit to LMI communities and communities of color, and tackle modern-day redlining, and increase investments in historically divested neighborhoods.

Despite the fact that discrimination in lending is still widespread, 98% percent of banks pass their CRA exams. The Black homeownership rate is as low as it was when discrimination was legal, and overall homeownership rates for families of color lag at 30 points lower than for White families. Abusive payday lenders, charging unspeakable interest rates to those at the lowest end of the economic spectrum to meet basic needs, are largely concentrated in communities of color. Simultaneously, Asian-American, Pacific Islander, Latino, and Black communities are being pushed out of gentrifying neighborhoods they have long occupied as a result of predatory investments, a lack of affordable housing, and lack of access to affordable and effective credit. The CRA needs to be updated to cover the broader range of financial entities that exist now and needs to be tightened to better define the types of projects and programs that provide actual, direct benefit to LMI communities of color and to disincentive the types of investments that promote displacement in LMI communities.

The State of low income Asian American, Native Hawaiian, and Pacific Islander communities

AANHPI communities are far from a monolithic community. Therefore, to address racial inequities and achieve inclusion, a more nuanced understanding of these communities is necessary. AANHPIs are a diverse population with varied immigration histories, settlement patterns, and linguistic and cultural identities:

Extreme Housing Instability

Right now, the single biggest threat to housing stability for low-income AANHPIs is displacement due to rising rents and eviction, particularly in high cost housing markets, leading to increases in the homeless population. The COVID-19 pandemic has only exacerbated this problem within our communities. National CAPACD found that one in four AANHPIs pay more than half of their income toward housing costs compared to whites (16 percent), putting many on the edge of financial vulnerability. This segment of the population is considered severely cost-burdened.[2] Moreover, the majority of AANHPIs living in poverty are concentrated

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[1] https://ncrc.org/wp-content/uploads/2017/11/CRA-101_b.pdf

[2] https://www.nationalcapacd.org/wp-content/uploads/2021/03/NationalCAPACD_HousingCounselingReport_final_031221.pdf

in the hottest, most expensive metropolitan areas (MSAs). Low-income AAPIs feel the current housing crisis resulting from rapid gentrification especially acutely; more than 50 percent of the total AANHPI poverty population lives in the top 10 MSAs compared to 25 percent of the nation's poverty population. Over 73 percent of AANHPIs in poverty live in metropolitan areas where the regional median rent is higher than the national median rent of $1,012 per month, as compared to 44 percent of the general poverty population. Similarly, at the neighborhood level, 64 percent of AANHPIs in poverty live in higher rent zip codes, as compared to 37 percent of the general poverty population. This translates to extremely unstable housing, high rates of overcrowding, an inability to build savings due to the large percentage of income that goes toward paying rent, and a disproportionate risk of losing their homes. These residents, if displaced, are at risk of becoming homeless given their extremely low income. Our members report elders skipping meals and increased collection of recycling to make rental payments. National CAPACD is deeply concerned by the rapid displacement of AAPIs and communities of color from the neighborhoods they call home, and is committed to strategizing solutions to respond to this crisis

Income Inequality and Rapid Growth in Poverty

The economic conditions of AANHPIs in the US are often misrepresented and misunderstood as there is limited accurate data collection to reflect the significant income inequality in the AANHPI community. AANHPIs have the greatest income inequality and racial wealth gap of any other racial or ethnic group in the United States today, with extremely concentrated wealth in the highest income brackets and extreme poverty among low-income community members. As documented by the Pew Research Center, from 1970 to 2016, the top income bracket of Asian Americans experienced tremendous economic growth while those in the lowest income bracket experienced highly concentrated poverty. Indeed, the top 10% of Asian Americans make 10.7 times more than the bottom 10%. National CAPACD has documented these data for years; our research also demonstrates extreme poverty in Native Hawaiian and Pacific Islander communities. Between 2010 and 2016, the number of AAPIs living below the federal poverty line grew by nearly one quarter of a million people, a 13 percent increase.

Limited-English Proficiency

All of the economic challenges mentioned above compounded by the fact that AANHPIs have both high levels of language diversity (fully 77 percent of Asians and 43 percent of Native Hawaiians and Pacific Islanders speak a language other than English at home) and high rates of limited English proficiency (40 percent of Asians and 15 percent of Native Hawaiians and Pacific Islanders). Many low-income AANHPI communities also include a high proportion of LEP families. According to the U.S. Census, approximately 71% of Asian Americans speak a language other than English at home, compared to 20% of the total population. Of these, 32% of Asian Americans and 8% of Native Hawaiians and Pacific Islanders are considered LEP, compared to 9% of the total U.S. population. Those with limited English proficiency are particularly disadvantaged in their ability to navigate the mortgage process and understand the terms, access a safe and sustainable small business loan or any other financial product. Utilization rates of the first round of the Payment Protection Program by AANHPI businesses was extremely low as a direct result of the lack of in-language information about the program along with the lack of existing relationships with financial institutions. This leaves many outside of the financial system - leading them to predatory and unregulated lenders that either have the cultural and linguistic competence such as payday lenders or many mortgage companies or online lenders.

Unequal Access to Lending Opportunities

The true financial vulnerability of many low- and moderate-income AANHPIs is often masked by aggregated data of the racial category, allowing model-minority stereotypes to further perpetuate. National CAPACD looked at the 2018 home mortgage application data reported by the CFPB revealing that different AANHPI sub-groups show wildly different outcomes and pricing for the loans they received, indicating that many AANHPI communities are still very underserved in lending opportunities.[3] Additionally, more limited opportunities for AANHPIs results in more homebuyers using a mortgage company as opposed to a bank to fund their home purchase, on average paying almost $1,800 more at the closing table.

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Recommendations

While we applaud the joint proposal's emphasis on expanding access to credit, investment, and basic banking services in low- and moderate-income communities, National CAPACD respectfully submits the following recommendations to improve the final rule:

1. ***Explicit goals and evaluation of investments by Race and Ethnicity***

Any CRA modernization must explicitly consider race and ethnicity in its evaluation process. Bank grades and satisfactory ratings should only be given if communities of color are effectively served and with strong anti-discrimination practices in place. The current rule proposal requires regulators to make assessments on banks' lending and investment activities to LMI communities without regard to race or ethnic groups that live within them. Many of the geographic areas assessed through the CRA include high concentrations of Black, Latino, and AANHPI populations. Instead, the regulators have chosen to use LMI communities as a proxy for race. A study from the Urban Institute has shown that not only do LMI neighborhoods not highly overlap with neighborhoods of color, but also that the CRA's current focus solely on LMI neighborhoods and borrowers has left significant gaps in lending to minority neighborhoods and borrowers.[4] This was the original intent of the legislation and it should be strengthened in order to ensure that all LMI communities are benefiting from CRA investments. Currently, the agencies have proposed to include data collected under the Home Mortgage Disclosure Act (HMDA) in public portions of the evaluations process for banks with more than $10 billion in assets but stipulates that HMDA data will not be used for grading. Race-based data such as HMDA data as well as Section 1071 data that is assessed on LMI census-tract level, should be used towards an institution's overall grade and be made publicly available so that the CRA can be a better and more transparent tool in serving minority borrowers.

2. ***Preventing Displacement and Homelessness; Focus on Creating Affordable Housing***

The final rule must preserve the original intent and spirit of the CRA to expand financial opportunity, equity, and help spur investments in underserved areas. The final rule must create more safeguards in protecting communities of color from discriminatory practices while also preventing gentrification of hot markets where many LMI AANHPIs reside. The definition of

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[3] https://www.nationalcapacd.org/data-research/mortgage-lending-in-the-asian-american-and-pacific-islander-community/

[4] https://www.urban.org/sites/default/files/2022-04/should-the-community-reinvestment-act-consider-race_1.pdf

affordable housing in the final rule must be narrowly tailored in a way that would prevent gentrification from being an unintended consequence of the rule. Banks must do more to affirmatively prevent the effects of gentrification to get credit, including proactive evaluations as to whether their lending activity is displacing communities of color, or in many cases resulting in increased homelessness. Investments in affordable housing should be rewarded if put towards the preservation of "naturally occurring affordable housing," and not just new affordable housing in order to prevent displacement and increased risk of homelessness. Additionally, within the proposal, rental affordability is targeted at 30% of 60% of AMI while the other affordability standards are targeted at 30% of 80% of AMI. Unfortunately, this is still too high -- National CAPACD and its members have been pushing affordability standards closer to 30-50% of AMI in hot market neighborhoods for true affordability.[5] For example, within the Chinatown San Francisco neighborhood in California, about one million single room occupancy (SRO) units were destroyed or converted to make way for urban renewal, condominiums, and development from the 1970s through the 1990s. While these older buildings are often substandard living conditions, they remain the most affordable option for new immigrants, seniors, people with disabilities, survivors of domestic violence, and low-wage workers. According to the SRO Families United Collaborative census, 62% of families in 2014 were at risk of displacement without leases, and some of the SRO buildings have been flipped for tech workers and students with higher rents after evictions. With San Francisco Area Median Income (AMI) above $100,000 for a family of four, the median AANHPI household income is approximately $34,000, so the SRO Families United Collaborative pushed for 20-50% AMI locally.[6]

3. *Incentivize Language Access*

The agencies should provide incentives and CRA credits for banks that offer linguistically appropriate services and resources so that LEP consumers do not fall prey to predatory lenders and can access good credit. Currently CRA regulations provide detailed information regarding activities that are eligible for CRA consideration in the evaluation of a bank's CRA performance. Activities that address the gaps in reaching the limited-English proficient community should be added to the list of qualifying activities, including but not limited to recruitment of local branch employees with language and cultural capacity that meets the needs of local communities, grants or contributions to nonprofits or organizations that offer culturally appropriate or language services to LMI borrowers of color, in-language technical assistance on financial matters, and offering volunteer services to provide language services. This should not solely be through AI or machine translation given its limitations but through partnerships with community based organizations with the capacity to reach those most vulnerable. Additionally, the CRA exam process must create ample opportunity for public engagement and comment, with outreach to LEP communities.

4. *Creating Adequately Defined Assessment Areas*

To prevent practices like redlining from happening again, the CRA needs to continue to have meaningful, enforceable requirements for the geographic distribution of CRA investments. Online and internet banking is on the rise--anecdotal reports from National CAPACD's network business counselors have also noted that more clients are turning to online lending, and clients

[5] https://www.nationalcapacd.org/wp-content/uploads/2017/08/anti_displacement_strategies_report.pdf
[6] https://www.nationalcapacd.org/wp-content/uploads/2017/08/anti_displacement_strategies_report.pdf

are with greater frequency dealing with egregious predatory loan practices and marketing.[7] A recent study by the Urban Institute shows that 33 percent of small business lending is done outside banks' assessment areas and that banks are less focused on CRA-eligible small business lending such as lending to LMI areas and to businesses with limited revenue when lending outside their assessment areas.[8] The current proposal goes a step in the right direction by expanding the assessment areas for large banks without branches if they meet a threshold for lending activity but the rule must also prioritize uplifting minority-owned small businesses. We share the sentiment of our community partner National Community Reinvestment Coalition, that the regulators need to both proactively and carefully consider the responsibility online institutions have to local LMI communities of color and as well as defining the areas within which those institutions will be assessed.

Conclusion

National CAPACD will continue to educate and work with its members in advocating for a CRA rule that provides resources to underinvested, low-income communities. Thank you for the opportunity to serve as a witness before the Subcommittee and to share our views on this critically important topic. I look forward to your questions.

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[7] https://www.nationalcapacd.org/wp-content/uploads/2019/03/CAPACD_SmallBusinessReport_final_web.pdf

[8] https://www.urban.org/sites/default/files/2022-03/bank-lending-outside-cra-assessment-areas.pdf