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

James P. Sheesley
Assistant Executive Secretary
Attention: Comments RIN 3064-AF81
Federal Deposit Insurance Corporation
550 17th Street NW, Washington, DC 20429

RE: Community Reinvestment Act (CRA) [R-1769]

August 5, 2022

To whom it may concern:

The National Coalition for Asian Pacific American Community Development (National CAPACD), Center for Responsible Lending (CRL),[1] and National Association for Latino Community Asset Builders (NALCAB) are pleased to submit collective recommendations as the *Building Back Better for Entrepreneurs of Color* partnership to the interagency request for public input regarding the Community Reinvestment Act (CRA) [R-1769]. We are a group of national nonprofit organizations concerned with the economic well-being of Extremely Low Income (ELI) and Low- and Moderate-Income (LMI) communities of color, and believe that CRA implementation can be further strengthened to address historic and present-day racial discrimination and economic inequity in our communities. We thank the Federal Reserve Board, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) for the opportunity to provide input on comprehensive CRA regulatory updates.

Who We Are

The *Building Back Better for Entrepreneurs of Color* partnership was established to engage policymakers on the unique challenges faced by Asian American, Native Hawaiian, Pacific Islander, Latinx, and Black entrepreneurs and micro entrepreneurs in accessing opportunity, funding, knowledge, and support at the federal level. We collectively represent a powerful network of organizations and experts rooted in and driven by communities of color, and work to ensure that our communities thrive. As organizations with track records of joint advocacy efforts at the federal level, we aim to collectively advance strategies that elevate and center the voices and experiences of entrepreneurs

[1] The Center for Responsible Lending has submitted a separate comment regarding NPRM R-1769

and micro entrepreneurs of color to shift the discourse on national policies in the United States today.

National CAPACD is a coalition of more than 100 member organizations with a mission to build a powerful coalition of Asian American, Native Hawaiian, and Pacific Islander (AANHPI) community-based organizations working with low-income populations. We utilize a comprehensive set of community development strategies from community organizing to development to advance equity and create vibrant, healthy communities. National CAPACD member organizations employ a diverse set of strategies tailored to meeting local community needs, including: the creation and acquisition of affordable housing & community institutions, assistance for renters and homeowners, services for financial capability and empowerment, community organizing, workforce development, and small business sustainability and entrepreneurship.

CRL is a nonprofit, non-partisan research and policy organization dedicated to protecting and expanding home ownership and family wealth and working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, one of the nation's largest nonprofit community development financial institutions. For over 40 years Self-Help has created asset-building opportunities for lower-income individuals, rural communities, women, and families and businesses of color.

NALCAB is a nonprofit intermediary and certified Community Development Financial Institution (CDFI). We represent and serve over 180 nonprofit community development organizations across the country. Over half of our members are lenders, and more than 50 of which are certified CDFIs. Many of the people served by the NALCAB Network are low- to moderate-income individuals who are first- or second-generation immigrants. These organizations uplift Latino communities by strengthening access to capital, technical assistance, and the ability to start and grow successful businesses.

The Need for CRA Reform for Communities of Color

After the landmark civil rights era Community Reinvestment Act of 1977 was signed into law, trillions of dollars flowed into LMI neighborhoods in the form of home mortgages, small business loans, affordable housing construction, and other CRA-related investments. However, there is still a significant lack of lending and investing in these communities as a result of a larger, systemic history of redlining, neglect, and discrimination faced by communities of color across the country. Low-income communities, communities of color, and communities with Limited-English proficiency (LEP) have not received adequate lending and investments from financial institutions at which they bank. Unfortunately, it is well documented that economic inequality continues to widen in the United States, leaving many people, especially people of color, without opportunities.[2] Many communities and neighborhoods continue to face barriers in accessing safe and affordable financial services, good credit, and investments that are essential aspects of a healthy community, such as small business development. In addition to these existing barriers, LEP communities face challenges in accessing culturally and linguistically-relevant services and systems, and have difficulty finding translated materials and interpreters. Moreover, the CRA should be updated to cover the broader range of financial entities that currently exist, including online banking programs that are now on the rise, and tightened to better define the types of projects and programs that provide direct benefit to LMI communities of color and to disincentivize investments that promote displacement.

[2] https://www.stlouisfed.org/open-vault/2019/august/wealth-inequality-in-america-facts-figures

A Snapshot of Our Communities

Poverty

Data show that communities of color experience poverty at greater rates than their White counterparts. For example, the U.S. Census Bureau found in its *Income and Poverty in the United States: 2020* report that the percentage of people living below the poverty rate was 19.5% for Blacks, 17.0% for Latinx (any race), 10.1% for Whites, 8.2% for Whites (not Latinx), and 8.1% for Asian Americans.[3] While Asian Americans were reported to have the lowest rate of poverty, it is misleading in aggregation. To demonstrate this, the Pew Research Center reported that income inequality most rapidly increased among Asian Americans between 1970-2016,[4] and their findings for "Asians" included "Pacific Islanders".[5] Failure to sufficiently disaggregate income and wealth data on Asian Americans exacerbates the model minority myth and perpetuates a false narrative that all Asian Americans do not experience much poverty when in reality, many live in high-cost metropolitan areas and struggle to make ends meet. It is also important to note that Table B-1 does not show data separately for Native Hawaiians, Pacific Islanders, American Indians, Alaska Natives, or those reporting two or more races.[6] By not disaggregating, there can only be a skewed understanding of how to better serve these communities or none at all. Disaggregated data is very important to understanding different racial and ethnic poverty rates, and the overall challenges and needs experienced by communities of color.

Further, the harms of living in high-poverty areas are not limited to households whose incomes fall below the poverty threshold. Federal Reserve research shows that even when controlling for individual characteristics, such as race, gender, income, and education, individuals living in areas with highly-concentrated poverty report that they are less likely to pay off a $400 emergency expense without borrowing and are more likely to use alternative financial services, such as payday lenders.[7]

Micro and Small Businesses

Our communities are also business owners who are in need of access to credit and trusted financial institutions. According to the 2020 Annual Business Survey (ABS), approximately 1 million employer businesses in the U.S. are owned by entrepreneurs of color, compared to approximately 4.4 million employer businesses owned by White entrepreneurs.[8] Between 2018 and 2019, Latinx-owned employer firms grew by 4.6% and in 2019, were 6.0% (346,836) of all businesses in the U.S. with approximately $463.30 billion in annual receipts.[9] In 2019, there were approximately 581,200 Asian American-owned employer firms with $874.6 billion in annual receipts, 134,567 Black-owned employer firms with $133.7 billion in annual receipts, 7,331 Native Hawaiian and Pacific Islander-owned employer firms with $8.5 billion in annual receipts, and 26,064 American Indian and Alaska Native-owned employer firms with $35.8 billion in annual receipts.[10] In total, non White-owned employer firms had approximately $1.5 trillion in annual receipts, compared to White-owned employer firms, which had approximately $12.7 trillion total in annual receipts.[11] As this illustrates,

3 https://www2.census.gov/programs-surveys/demo/tables/p60/273/tableB-1.xlsx
4 https://www.pewresearch.org/social-trends/2018/07/12/income-inequality-in-the-u-s-is-rising-most-rapidly-among-asians/
5 https://www.pewresearch.org/social-trends/2018/07/12/methodology-15/#race-and-ethnicity
6 https://www2.census.gov/programs-surveys/demo/tables/p60/273/tableB-1.xlsx
7 https://www.federalreserve.gov/econresdata/notes/feds-notes/2015/financial-well-being-of-individuals-living-in-areas-with-concentrated-poverty-20151124.html
8 https://www.census.gov/library/visualizations/2021/comm/employer-and-nonemployer-firms.html
9 https://www.census.gov/newsroom/press-releases/2021/characteristics-of-employer-businesses.html
10 https://www.census.gov/newsroom/press-releases/2021/characteristics-of-employer-businesses.html
11 https://www.census.gov/library/visualizations/2021/comm/employer-and-nonemployer-firms.html

there is a disparity in the number of employer businesses owned by entrepreneurs of color in comparison to that of White entrepreneurs.

According to National CAPACD's 2019 report, [*Small Business, Big Dreams: A Survey of Economic Development Organization and Their Small Business Clients in Low-Income Asian American and Pacific Islander Communities*], many AANHPIs rely on friends and family for access to capital and/or unsustainable sources of funding that make them susceptible to predatory loan schemes. Research released in 2018 by the Small Business Administration (SBA) Office of Advocacy (using 2014 Annual Survey of Entrepreneurs data) concluded that AANHPIs were more likely than any other racial category to utilize personal resources for financing their start-up costs. AANHPI micro-entrepreneurs experience significant challenges in securing capital from mainstream U.S. financial institutions, due to reasons of: poor credit (28% of survey respondents), difficulty in navigating the loan application process (20% of survey respondents), linguistic barriers (18%), and lack of knowledge regarding capital availability (17%). AANHPI business owners have great need for trusted resources that can provide culturally-competent, one-on-one technical assistance and business counseling.

Similarly, Latino entrepreneurs have limited access to traditional credit and banking services. Even after controlling for business performance measures like credit risk, profitability, liquidity, and business age, "the odds of loan approval from national banks are 60% lower" for Latino-owned businesses in comparison to white-owned businesses.[12] Latino owned businesses are more likely to rely on informal financing and are frequently averse to taking on debt. Latino owned businesses have more success with relationship banking - working with small, local financial institutions rather than large banks.[13]

In addition, small businesses owned by people of color tend not only to be smaller, but also to have lower cash reserves and are more financially fragile than white-owned businesses. For example, a study by the JP Morgan Chase Institute found that while over half of all US small businesses had more than two weeks of cash reserves, 94% of small businesses in majority Black communities and 89% of small businesses in majority Hispanic communities had fewer than two weeks of cash reserves.[14] With limited cash reserves on hand, access to credit is critical for small businesses, especially Black and Latino-owned businesses that have minimal cash reserves.

However, the Federal Reserve found that only 23% of Black-owned small businesses had all or most of their financing needs met compared to 56% of white-owned firms. Conversely, Black-owned small businesses were far more likely than white-owned ones to report: denial of all financing applications (21% to 9%), receiving some but not all financing requested (14% to 8%), being discouraged from applying for financing due to concerns of being rejected (19% to 7%), and not applying for financing due to high credit costs, confusing or difficult applications or other reasons (9% to 6%).[15]

12 https://www.gsb.stanford.edu/faculty-research/publications/state-latino-entrepreneurship-2020
13 https://www.fedsmallbusiness.org/analysis/2018/latino-owned-small-businesses-national-trends
14 https://www.jpmorganchase.com/institute/research/small-business/place-matters-small-business-financial-health-in-urban-communities
15 https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2021/sbcs-report-on-firms-owned-by-people-of-color

Recommendations

The proposal for CRA reform presented by the regulators is the most significant opportunity to make meaningful changes to the CRA in close to 30 years. What the agencies put forth is a significant improvement on current practices and has the potential to benefit many more underinvested and underserved communities. We applaud the agencies for taking the responsibility to modernize the CRA seriously by outlining such a thoughtful proposal. With this said, there is still room to build on what is drafted to achieve even better results. Below please find a set of recommendations that we believe, if adopted, will make the final version of the rule stronger.

Race and Ethnicity Should be an Explicit Part of any CRA Evaluation

Unlike what is currently proposed by the agencies, we believe that the CRA must explicitly consider race and ethnicity in its evaluation process. The grades and ratings given to a particular bank should reflect the extent to which communities of color are effectively served and whether institutions are addressing discriminatory programs and practices. The more attention banks give to these matters, the higher the CRA credit they should receive. The original intent of the legislation will be strengthened by intentionally using race and ethnicity as part of the CRA evaluation.

The agencies are also proposing to include race-based data collected under the Home Mortgage Disclosure Act (HMDA) in public portions of the evaluation process for large banks but they explicitly state that this data will not be used to determine how well banks are meeting their CRA obligations to equitably and inclusively serve all the communities where they do business. Race-based data from HMDA sources and eventually Section 1071 data on race and small business financing should be considered in determining an institution's overall grade and be made publicly available so that the CRA can more effectively serve minority borrowers.

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

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 are able to equitably access safe and affordable credit that helps them improve their economic and social well-being. These resources are extremely important to the LEP households across the country that are predominantly part of minority communities. Today, we see history repeating itself with no-doc mortgages being marketed in neighborhoods where people of color live - often in languages other than English. National CAPACD member organizations like Chhaya CDC in Queens, NY and others are coming across examples of these in their communities.

Examples 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 Korean language services where there is a Korean 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.

The Definition of Economic Development for CRA Purposes is an Improvement on Current Practices but Still Needs some Changes

Overall, we welcome the proposed changes to what constitutes economic development under the community development test (and is therefore eligible for CRA credit). The purpose test that is currently part of the review process requires that banks show the economic development activities they are financing are creating, retaining, or improving jobs. Given that a substantial portion of small businesses are sole proprietors, particularly for businesses of color, this definition is too limiting. While we think banks should get credit for workforce development and job creation, particularly in areas where the needs are most acute, we believe that helping sole proprietors should also constitute an eligible activity under the test. While it is important to provide pathways for sole proprietorships to take on additional employment, it is also important for them to grow and thrive even if they are unable to hire employees.

Smaller Businesses or Business Loans of Lower Value Should Receive Higher CRA Ratings

Impact Factor Review (Economic Development)

The agencies are proposing a set of impact review factors that will help determine the community development financing performance of a particular bank. One of the listed factors is activities that support small businesses with Gross Annual Revenues (GAR’s) of $250,000 or less. As we outline below, how the agencies are proposing to measure impact and responsiveness on CRA tests needs significant work. With this said, we think having a set of factors is a step in the right direction, including one that focuses on small business support.

Instead of establishing a threshold of $250,000 in this context, a better approach is to award greater credit for servicing businesses with lower GAR’s. As mentioned above, smaller businesses have the greatest needs and quite a few are minority-owned. Awarding extra credit for supporting them can incentivize lending to these smaller businesses. In National CAPACD’s *Small Business, Big Dreams report,* we found among respondents who sought capital (exclusive of eligibility for debt-based financing) that 20% desired loans between $25,000 and $50,000, 47% receive loans through friends and family, 33% rely solely on their own money, and 23% desired loans over $50,000. In addition, National CAPACD community-based member CDFIs indicated in the report that they typically grant loans between $10,000 and $25,000. National CAPACD has two member organizations that are also CDFIs that successfully deployed loans over $25,000, the Renaissance Economic Development Corporation in New York, NY and Pacific Asian Consortium in Employment in Los

Angeles, CA. These smaller loans are sought after by many of our member organizations' clients and also meet their credit needs.

Under the Retail Products and Services Test, the agencies are proposing a category that encourages examiners to consider the credit products and programs that meet the credit needs of small businesses, including microloans (loans of $50,000 or less). The current regulation does not explicitly mention these needs, so this is a welcome addition. Like with businesses that have less revenue, loans of smaller value should be awarded greater credit in most instances. Theoretically, this could mean a loan of $100,000 could receive more credit than one for $250,000. Since the upfront costs associated with smaller dollar loans are similar to larger ones, yet larger loans are more profitable for banks, there is less incentive to offer small dollar products. The CRA could step in and help create that incentive by offering more credit for smaller loans.

Evaluating Small Business Lending

When it comes to evaluating the small business lending record of a particular bank, the proposal divides the analysis into two parts, one related to geography and the other to borrowers. The geographic metric measures the percentage of lending made in low-and moderate income (separated by income level)) census tracts to small businesses with GAR's of $250,000 or less and small businesses with GAR's of more than $250,000 but less than or equal to $1 million. The borrower metric measures the percentage of loans made to small businesses with GAR's of $250,000 or less and small businesses with GAR's of more than $250,000 but less than or equal to $1 million for the assessment area as a whole. The current approach already evaluates businesses at or below $ 1 million. The proposal is adding the separate assessment for those with GAR's of $250,000 or less and asks whether the thresholds should be shifted up or down.

The decision to create a separate analysis for even smaller firms is based on data presented in the proposal that indicates smaller firms tend to have the hardest time obtaining financing. This new approach takes this into consideration and in doing so better satisfies the purpose of the CRA [FR 33938]. The data highlighted also shows that firms with GAR's of $100,000 or less face even greater needs, but they are recommending $250,000 as a way to balance targeting those with the greatest needs, against "capturing a large enough population of firms, particularly employer firms."

We would recommend creating three separate analyses, the two already proposed as well as a separate one for businesses with revenues at or below $100,000. We think an additional metric would not be overly burdensome, and would add an important dimension to the examination without excluding businesses. Most importantly, we think it is important to choose an approach that does the most to satisfy the purpose of the CRA, and addressing unmet needs is at the core of the statute. This analysis will do more to support LMI-owned businesses and entrepreneurs of color who are more likely to have businesses with less annual revenue. In addition, sole proprietors represent a significant share of businesses, particularly for lower-income and minority entrepreneurs, and they also tend to be businesses with lower revenues.

<u>Data Collection</u>

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 as much as possible. The 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.
- 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. We think 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 meets the needs of consumers.

<u>Conclusion</u>

We appreciate the regulators taking the time and effort to develop a proposal to make the CRA more responsive to the realities of a modern banking system, and most importantly, to consider ways to make this system work for everyone, not just those who already have the economic and social capital to ensure a prosperous future. The latest version of the rule is an improvement on current practices, but it can be made even stronger. In this letter, we have presented a series of recommendations that we think will go a long way toward improving the rule. We appreciate the opportunity to present feedback on the proposal, and would like to see the final rule incorporate these suggestions. We look forward to the release of the final version of the legislation.

Sincerely,

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