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Via Email
(regs.comments@federalreserve.gov)

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

Re: Comment Letter on Advanced Notice of Proposed Rulemaking Issued By The Board of Governors of the Federal Reserve System Seeking Public Comment On The Regulations Implementing The Community Reinvestment Act [Docket No. R–1723; RIN-AF94]

Dear Ms. Misback:

The Greater Harlem Chamber of Commerce ("GHCC") appreciates the opportunity to comment on the Advanced Notice of Proposed Rulemaking issued by the Board of Governors of the Federal Reserve System ("Board") seeking public comment on the regulations implementing the Community Reinvestment Act ("CRA"). The GHCC thanks the Board for undertaking the process of reviewing the existing CRA regulations to modernize the regulatory and supervisory framework in order to more effectively meet the needs of low-and moderate-income ("LMI") communities and address inequities in credit access. The GHCC in particular thanks the Board for being mindful of the particular economic impact of the COVID–19 pandemic on LMI communities and households, and for seeking feedback on how it should consider these impacts in CRA modernization.

Toward this end, as more fully discussed below, the GHCC recommends that the Board maintain a regulatory and supervisory framework for implementation of the CRA that:

- Encourages greater access to traditional banking services for small businesses and individuals in LMI communities.

- Provides greater recognition for investments in emerging technologies and other non-brick and mortar banking services that increase the availability of low-cost financial products for LMI businesses and communities.

- Ensure that any additional data reporting requirements do not impose undue and prohibitive costs on small banks serving LMI communities.

- Encourage and support activities of minority depository institutions and community development financial institutions.

- Coordinates a consistent approach among the OCC, FDIC, and the Board with respect to the CRA.

The GHCC believes that these recommendations, if adopted, would promote and enhance the ability of the CRA to fulfill the goals of the legislation to address persistent systemic inequity in the financial system for LMI and minority individuals and communities, and to provide the necessary framework to facilitate and support a vital financial ecosystem that supports LMI and minority access to credit and community development.

I. The Greater Harlem Chamber of Commerce

The GHCC is the oldest continual business organization in upper Manhattan, chartered in 1896 as the Harlem Board of Commerce. In 1993, the organization's name was officially changed to The Greater Harlem Chamber of Commerce. It was restructured as a not-for-profit business, civic and community development organization that focuses on commercial development, educational services, as well as on the development of the small business, arts, culture, and travel and tourism industries in upper Manhattan.

Over its 125 years, the GHCC has co-sponsored some of the most important key development projects in New York City. The GHCC's major development focus continues to be the Striver's Center area located between 130th and 141st Streets from Fifth to St. Nicholas Avenues. This development project concentrates on small businesses, boutiques, restaurants, mixed-use residential-commercial developments, health services and educational institutions, to provide a major anchor for Upper Manhattan's second Harlem Renaissance.

The mission of the GHCC is to improve the quality of life for all Harlem residents, as well as to develop and attract quality business and professional services to our community. Today the GHCC has more than one thousand, nine hundred members and associates. Our members consist of those who wish to contribute to and thrive from Harlem's world-renowned vitality and recognition as a worldwide tourist, entertainment, sports, arts, cultural, educational, historic, religious, and health services destination of international diversity.

II. Discussion

A. The Disproportionate Impact Of The COVID-19 Pandemic On LMI Communities And In Particular Minority Individuals and Communities Highlights The Need To Address Inequities In Credit Markets.

In the past year, the need for reinvestment in LMI Communities, in particular minority communities such as that served by the GHCC, has been starkly demonstrated. The economic hardships in these communities, and the historical inequities that businesses in these communities operate under, have been laid bare by the consequences of the COVID-19 pandemic.

The number of working business owners in the United States decreased by 22% between

February and April 2020. The disproportionate share of that decrease fell on Black-owned businesses. Black business owners experienced by far the largest losses (41%), while Hispanic business owners also experienced major losses (32%). In contrast, the losses for white business owners in the same time frame were 17%. Similarly, the number of immigrant business owners declined by 36%, while the decline in U.S. born business owners was only 18%.[1]

The decrease in Black-owned businesses has been even more extreme in New York State. According to a Federal Reserve Report, Black-owned businesses declined by 70% between February and June 2020.[2] In Harlem, many Black business owners, even the owners of well established businesses such as the landmark restaurant Sylvia's, worry that the number of Black owned business will decline even further.[3] The Harlem Skin and Laser Clinic and nail salon Junie Bee Nails are just two of the local Black-owned businesses that have closed permanently during the pandemic.[4]

As explained by Ken Harris, president of the National Business League, "Black-owned businesses . . . are more likely to be in industries like restaurants or retail that lockdowns have hit especially hard."[5] Some of the business sectors that have reported greatest losses are hotels and leisure (down 35%), construction (down 27%), restaurants (down 22%), professional and business services (down 18%), and health services (down 16%). These are many of the same sectors with the highest concentration of Black and Hispanic business owners.[6] According to one estimate, 40% of the revenues of black-owned businesses are earned in the five most vulnerable sectors—including leisure, hospitality, and retail—compared with 25% of the revenues of all U.S. businesses.[7]

The problems faced by minority-owned businesses in LMI communities predate the COVID-19 pandemic. A Federal Reserve Bank of New York report analyzed data from late 2019, before the COVID-19 pandemic began to affect the economy, and characterized 73% of white-owned businesses as healthy or stable, with 27% characterized as at risk or distressed. By contrast, only 43% of black-owned businesses were characterized as healthy or stable, with 57% characterized as at risk or distressed.[8]

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[1] Robert W. Fairlie, *The Impact of Covid-19 on Small Business Owners: Evidence of Early-Stage Losses from the April 2020 Current Population Survey* (Nat'l Bureau of Econ. Rsch., Working Paper No. 27309, 2020), *available at* https://www.nber.org/system/files/working_papers/w27309/w27309.pdf.

[2] Claire Kramer Mills, Ph.D., and Jessica Battisto, *Double Jeopardy: COVID-19's Concentrated Health and Wealth Effects in Black Communities*, New York Federal Reserve (August 2020), *available at* https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy_COVID19andBlackOwnedBusinesses

[3] Imani Moise and Anna Irrera, *In New York's Harlem, small businesses reel from coronavirus toll on Black communities*, REUTERS July 14, 2020), *available at* https://www.reuters.com/article/us-health-coronavirus-black-business/in-new-yorks-harlem-small-businesses-reel-from-coronavirus-toll-on-black-communities-idUSKCN24F1QV

[4] *Id.*

[5] Lauren Leatherby, *Coronavirus Is Hitting Black Business Owners Hardest*, N.Y. TIMES (June 18, 2020), *available at* https://www.nytimes.com/interactive/2020/06/18/us/coronavirus-black-owned-small-business.html.

[6] Dennis Zink, *Business Alchemist: The Impact of COVID-19 on Minority Businesses*, HERALD TRIBUNE (Nov. 2, 2020), *available at* https://www.heraldtribune.com/story/business/briefs/2020/11/02/dennis-zink-impact-covid-19-minority-businesses/6053821002/.

[7] Elise Gould & Valerie Wilson, *Black Workers Face Two of the Most Lethal Preexisting Conditions for Coronavirus—Racism and Economic Inequality*, ECON. POL'Y INST. (June 1, 2020), *available at* https://www.epi.org/publication/black-workers-covid/.

[8] Federal Reserve Bank of New York, *Can Small Firms Weather The Economic Effects of COVID-19?*, FED SMALL BUSINESS (April 2020), *available at*

One factor contributing to the disproportionate economic impact in LMI communities is systemic disadvantages in accessing capital and financing. African American-owned businesses have struggled historically to obtain financing due to discriminatory lending practices and a lack of relationships with big banks. As explained by Marc Morial, president and CEO of the National Urban League, "[s]tructural racism has created an environment where black businesses are starved for capital."[9] The Brookings Institution found, based on data from a 2018 Small Business Credit Survey, that large banks approve approximately 60% of loans sought by white small-business owners, 50% of those sought by Hispanic small-business owners, and just 29% of those sought by Black small-business owners.[10]

These disparities have only been made worse by the COVID-19 pandemic: "Because a lot of Black business owners don't have the kind of equity due to structural racism, they have less of a cushion to withstand this particular moment in time."[11] Moreover, "[b]lacks receive business loans at about half the rate of their white counterparts, and when we do receive loans, it's at higher interest rates."[12]

Unemployment in LMI communities has been further exacerbated by COVID-19, which has put even further pressure on small businesses. "Black businesses . . . tend to cater to Black consumers, many of whom have been hit very hard by the shutdowns,"[13] and African Americans "have suffered record numbers of job losses . . . along with the ensuing related economic devastation."[14] "The Black unemployment rate rose to 15.4 percent in June."[15]

This combination of historical lending inequities and the crushing impact of the COVID-19 pandemic makes all the more important the Board's consideration of modernization of the regulatory and supervisory framework of the CRA. This is essential for the CRA to meet its stated goals of effectively supporting investment and availability in LMI communities of color, and to address systemic inequities in the availability of credit and financing in such communities.

It should be noted in the context of the CRA that the existence of local banking institutions that know our community and its needs is very important to the Greater Harlem community. Carver Federal Savings Bank, a local institution, has been very active in supporting the Greater Harlem community during the Covid-19 pandemic. Carver was responsible for the distribution of $35 Million in the first round of PPP funding city-wide, including approximately

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https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/covid-brief.

[9] Kat Stafford, *Black Businesses Hit Hard by COVID-19 Fight to Stay Afloat*, ASSOCIATED PRESS (June 1, 2020), *available at* https://apnews.com/article/de11d28607a35ea8d983a11105955681.

[10] Sifan Liu & Joseph Parilla, *Businesses Owned by Women and Minorities Have Grown. Will COVID-19 Undo That?*, BROOKINGS INST. (Apr. 14, 2020), *available at* https://www.brookings.edu/research/businesses-owned-by-women-and-minorities-have-grown-will-covid-19-undo-that/.

[11] Rodney A. Brooks, *More Than Half of Black-owned Businesses May Not Survive COVID-19*, NAT'L GEOGRAPHIC (July 17, 2020) (quoting Andre Perry, a fellow at the Brookings Institution), *available at* https://www.nationalgeographic.com/history/2020/07/black-owned-businesses-may-not-survive-covid-19/.

[12] *Id.*

[13] Brooks, *supra* note 8.

[14] Gould & Wilson, *supra* note 4.

[15] Brooks, *supra* note 8.

$4.5 million in Upper Manhattan. The loans made by Carver to small businesses in the Upper Manhattan area ranged in size from just under $4 thousand to approximately $1.5 million. Approximately 80% of Carver's deposits are recycled in LMI communities through its lending practices. [Data to be confirmed],

With these considerations in mind, GHCC offers specific comments in Part II.B below.

B. The CRA Should Be Modified And Strengthened To Better Meet The Needs Of LMI Communities And Address Ongoing Systemic Inequity In Credit Access.

The CRA is a seminal statute that remains as important as ever as the nation continues to confront challenges associated with the COVID-19 pandemic. At the outset, the GHCC strongly supports many elements of the current approach to CRA, as manifested in the significant volume of loans and investments directed toward LMI consumers and communities that it has generated. We also strongly support retaining CRA's focus on LMI consumer and communities, but it has been 25 years since the last significant revision to the CRA regulation. To ensure its continued effectiveness in supporting these efforts, we agree that the CRA regulatory and supervisory framework must evolve along with the landscape of banking and community development. We are grateful for the opportunity to provide feedback regarding how the CRA can have even greater impact as it is in our nation's collective interest to ensure that the CRA remains a strong and effective tool to address ongoing systemic inequities in access to credit and financial services for LMI and minority individuals and communities.

In considering how the CRA's history and purpose relate to the nation's current challenges, the GHCC believes that the Board's approach to a modified and modernized CRA should, along with other objectives, permit community-based banks, including those located in Harlem, to both provide and develop flexible, creative, and innovative banking products and services directed specifically to the unique circumstances of their communities. In particular, we support a CRA regulatory and supervisory approach that supports and fosters banks' flexibility to develop strategies and initiatives that address local market conditions and respond to challenges and opportunities unique to each community. Most importantly, we support ensuring that CRA is effective in serving communities with the greatest needs. In this view, any reforms to the CRA should serve to strengthen the engagement between banks and their communities and advance the law's core purpose of addressing disinvestment and unequal access to credit.

We generally support the Board's approach to tailor CRA performance evaluations to bank size and business model, which would allow small banks to elect to have their retail services evaluated. Small banks should be able to choose to have these services evaluated on a qualitative basis to improve their overall ratings and not be required to collect the data necessary to be evaluated under the Retail Services Subtest. However, we believe that all small banks should have the option to have their retail services evaluated, not just those that opt for the Retail Lending Subtest metrics-based approach. Strong incentives also should be built in, in order to maximize the number of small banks that would elect to include their retail services activities in their CRA evaluations. We believe that this would help ensure that the CRA encourages banks to meet the broad spectrum of credit needs of their communities. For small banks that choose to have their retail services evaluated, we would urge the Board to ensure that small banks are evaluated in a similar fashion to their larger counterparts by incorporating the same two components that are part of the Retail Services Subtest for large retail banks: (1) delivery systems; and (2) deposit products. Under such an approach, we would recommend that appropriate weight be given to delivery systems in creating and maintaining meaningful access to banking products and services for LMI consumers and communities, given the critical role of deposit products in particular in providing an entry point to the banking system for LMI consumers, as well as a pathway for them to obtain access to credit. In addition, this approach would allow for the continued recognition of the importance of bank branches, particularly for LMI consumers and communities, while also ensuring that the CRA is flexible enough to give credit to other bank delivery channels (with an increased focus on non-branch delivery channels) and services that promote greater accessibility and usage. Looking at retail lending activities and retail services collectively also helps to ensure that bank activities are comprehensively evaluated.

In addition, GHCC favors the preservation of the current intermediate small bank category with its specific Retail Lending and Community Development Tests. Importantly, under the current approach for intermediate small banks, the Community Development Test evaluates all community development activities together. While GHCC understands the Board's interest in reducing complexity and creating more consistent evaluation standards, we also believe that many of the banking institutions within this threshold category provide important and valuable resources and services for LMI communities that should be recognized and supported. Increasing the small bank threshold above the existing $326 million limit would reduce the scope of activities evaluated under CRA for some banks compared to the approach used currently. This would result in fewer banks' community development activities evaluated for purposes of CRA, and fail to account for the impact of those banks that may not necessarily have substantial community development activity.

1. The CRA's Regulatory and Supervisory Framework Should Encourage Greater Access to Traditional Banking Services for Small Businesses and Individuals in LMI Communities.

Significant research has long correlated the relationship between bank branches in LMI communities and access to credit and basic financial services. Under the Board's CRA regulatory and supervisory framework, greater recognition should be provided for affording greater access to traditional banking services, even if not immediately quantifiable, for small businesses and individuals in LMI communities, and specifically those in Harlem. This will facilitate greater access to credit and also diminish reliance on potentially abusive lending practices in connection with, for example, payday lending (which, although illegal in New York State, is still accessible on the internet). Furthermore, by being inclusive in their lending and investing, banks help their local communities to thrive.

In particular, as one step to support this objective, the GHCC supports an evaluation of bank retail services activities that focuses specifically on the degree to which deposit products are responsive to the needs of LMI consumers. We fully support the proposal to elevate the focus on the availability of affordable checking account and savings account products in serving LMI communities. Deposit products that are tailored to meet the needs of LMI consumers should be considered to be responsive, especially given the number of LMI individuals who are unbanked or underbanked. Such products may include: low-cost transaction accounts which are accessible through debit cards or general-purpose reloadable prepaid cards; individual development accounts; accounts with low or no monthly opening deposit or balance fees; accounts with low or no overdraft and insufficient funds fees; free or low-cost government, payroll, or other check cashing services; and reasonably priced remittance services.

We recognize that, under current examination procedures, examiners review deposit products on a limited basis when considering the full range of services offered by a bank in census tracts of different income levels (in part because of the limited data provided by banks). That said, we believe that the evaluation of deposit products that are responsive to the needs of assessment areas, and particularly LMI communities and consumers, should be elevated and strengthened. Along with assessing the availability of deposit products and the degree to which these products are tailored to meet the needs of LMI communities and consumers, we urge the Board to also consider how to evaluate the usage and impact of such products. Such an evaluation could include an assessment of the types of deposit products offered, product costs, account features tailored for needs of LMI consumers, and product usage by LMI businesses and consumers versus usage by all consumers and businesses.

In a similar light, the GHCC also supports efforts to strengthen and modernize the CRA framework to ensure that appropriate recognition is provided to those banking institutions that provide for and enhance the convenience and overall banking needs of their LMI communities, including Harlem, with respect to credit services. Accordingly, we support the proposal to evaluate retail lending performance for small retail banks that opt into the Retail Lending Subtest, and encourage the Board to consider ways to incentivize small banks to opt in in order to maximize participation. At the same time, we recognize that the proposal to also permit small banks to have their retail lending activities evaluated under the current qualitative approach at their choosing would more fully account for qualitative performance context factors that may be especially relevant for smaller banks, such as capacity constraints.

We understand that there would likely be a careful balancing act to consider between weighing the burdens imposed on smaller banks that opt in to the new retail lending evaluation framework due to additional reporting obligations against the benefits provided by increased promotion of retail lending, including home mortgage loans, small business loans, and well-priced consumer loans. However, the GHCC urges the Board to provide an appropriate regulatory and supervisory framework, along with clear quantitative standards, regarding the CRA treatment of consumer loans given how the credit vehicle of consumer lending can fulfill key needs for LMI borrowers. If households with urgent liquidity needs are unable to access a credit card or other consumer loan at a reasonable rate, they may opt to use more costly and less sustainable forms of short-term credit. Indeed, this credit access issue is especially critical given the disproportionate impact of the COVID-19 pandemic on LMI communities generally and on the Greater Harlem community specifically, as outlined above. Efforts by banks to provide access to payday loan alternative products – particularly in LMI communities – should be fully encouraged and incentivized. The evaluation of separate consumer loan categories could help enable improved recognition of and greater transparency regarding the different characteristics, purposes, average loan amounts, and uses. That said, the CRA framework should not devalue the number of loans, complexity of transactions, and amount of technical assistance put forth by community banks to effectively service the needs of LMI communities. While loan sizes may be typically smaller in LMI communities, making a small loan generally takes just as much time, effort, and expense as a large loan.

The current approach to evaluating small banks on only those retail lending activities that are considered "major product lines" (an undefined term in Regulation BB) allows examiners to select major product lines for evaluation at small banks based on a review of information, including the bank's business strategy and its areas of expertise. However, a more fulsome, holistic, and comprehensive evaluation of the totality of a small bank's retail lending

– particularly in LMI communities – could incentivize small banks to be more responsive to the needs of their community (which, in turn, could help further address inequities in credit access).

Along these lines, the GHCC also supports the Board's proposal to clarify that the evaluation of branch-related services would assess services that are not covered in the branch distribution analysis and that could improve access to financial services, or decrease costs, for LMI consumers. Such services could, among others, include extended business hours (including weekends, evenings, or by appointment), and providing bilingual/translation services in specific geographies and disability accommodations; free or low-cost government, payroll or other check cashing services; and reasonably priced international remittance services. While some of these activities may be harder to quantify, they are highly valuable to LMI communities.

With respect to small business financing, the GHCC is mindful that loans to other businesses might have larger loan amounts and, therefore, potentially be seen as having more of an impact on various CRA regulatory and supervisory metrics. That said, we support the Board's proposal to use the number of a bank's loans, not the dollar amount of those loans, in calculations of a bank's retail lending distribution metrics. In our view, this would help treat different-sized loans equally within product categories. We emphasize that access to financing for these businesses and consumers is vital in fostering continued growth and broader economic opportunity in their communities, especially for those small businesses in LMI communities. We also urge you to consider providing additional incentives for banks serving populations historically disadvantaged in accessing small business credit and affected by systemic inequities in credit access.

Continued support, and recognition of, efforts to afford greater access to traditional banking services and products is also especially critical in light of the struggles many small businesses and individuals, including those in LMI communities, continue to face regarding internet access and cell phone capabilities. While broadband is increasingly intertwined with the daily functions of modern life, the Federal Communications Commission ("FCC") has recently estimated that 21 million Americans still lack broadband access. Certain communities and families in New York City remain without access to the internet. As of 2019, across the city, nearly one-third of households lacked access to broadband internet at home. Indeed, according to the New York City Comptroller's analysis, internet disparities track closely to socioeconomic factors like poverty. Communities and populations without reliable high-speed internet service cite a growing gap between the resources and opportunities available to their residents and those in communities that have a robust network, including with respect to banking services. In addition, while the share of Americans that own cell phones has increased substantially over the last decade, and many Americans own a range of other information devices, smartphone ownership exhibits greater variation based on age, household income and educational attainment, including in LMI communities. Many Americans now use smartphones as their primary means of online access at home, and a substantial number are "smartphone-only" internet users – meaning they own a smartphone, but do not have traditional home broadband service. Reliance on smartphones for online access is especially common among younger adults, non-whites and lower-income Americans. These data points underscore the critical importance of traditional banking services and products (including relatively easy access to bank branches) to ensuring the credit needs of these communities and individuals.

2. The CRA's Regulatory and Supervisory Framework Should Also Provide Greater Recognition for Investments in Emerging Technology and Other Non-Brick and Mortar Banking Services that

Increase the Availability of Low-Cost Financial Products for LMI Businesses and Communities.

The GHCC agrees with the Board's objective to update CRA standards in light of changes to banking over time, particularly the increased use of mobile and internet delivery channels. The financial services industry has indeed undergone transformative changes since the CRA statute was introduced, including the expanded role of mobile and online banking services. As many banks nationwide closed their branch lobbies in response to the COVID-19 pandemic, consumers have relied more on self-delivery channels such as ATMs, online banking, and mobile banking services. Accordingly, we believe that greater recognition should also be provided under the Board's CRA regulatory and supervisory framework for investments in emerging technology and other non-brick and mortar banking services. Here, too, we believe that greater availability of online banking (e.g., to facilitate fast payroll, insurance and other payments to small businesses and individuals), use of mobile payment and banking apps, and other recent fintech products, could collectively decrease barriers and increase the availability of banking services to those who currently are lacking such access.

To help fulfill this objective, the proposal to permit small banks to request that their retail services be considered during the CRA evaluation should help enhance the availability and effectiveness of non-branch delivery channels in helping to meet the needs of LMI census tracts and individuals. We note that a reduced focus on retail services could result in small banks offering fewer products and services to LMI consumers and in LMI communities. The GHCC fully supports giving a small bank more credit for non-branch delivery channels if the bank maintains data demonstrating corresponding benefits to LMI consumers. The current guidance used by examiners is useful to help consider whether a bank's non-branch delivery channels (including ATMs, mobile, and internet) are an effective means of delivering retail banking services in LMI communities and to LMI consumers – with a focus on ease of access, cost to consumers, rate of adoption, and use of such delivery channels. However, to help provide more even consideration than exists under the current approach, the Board should consider developing clear qualitative standards to evaluate non-branch delivery channels and ensure that such standards can adequately account for usage by and accessibility to LMI consumers.

3. **The CRA's Regulatory and Supervisory Framework Should Allow for Actual Downgrades of a Bank's CRA Rating for Predatory Lending and Lending to Bad Landlords.**

GHCC also supports efforts to ensure that banks are subject to appropriate CRA consequences for lending activities that do not correlate with the CRA mission and objectives of meeting the needs of LMI communities and addressing inequities in credit access. More specifically, banks should be subject to actual CRA rating downgrades for engaging in predatory lending and lending to bad landlords (i.e., those who, for example, fail to adequately maintain their premises or harass tenants). While the Board's approach seems to leave the door open to not giving CRA credit for such loans and lending activity, we believe that there should also be the potential for banks to be subject to a downgrade on, for example, the Community Development Test.

4. **The CRA's Regulatory and Supervisory Framework Should Ensure that Any Additional Data Reporting Requirements Do Not Impose**

Undue and Prohibitive Costs on Banks Serving LMI Communities.

Providing greater availability of banking services involves real costs that community banks in particular may not be able to support. We recognize that many of the objectives outlined by the Board – including those addressing inequities in credit access and the needs of LMI communities – would require additional, if not better and more consistent data. Indeed, the Board has solicited comment on striking an appropriate balance between providing greater certainty for how banks are assessed through the increased use of metrics and minimizing the associated data collection and reporting burden. The GHCC agrees that the certainty provided through the use of any additional metrics in CRA performance evaluations needs to be balanced against the potential data burden implications. We sincerely appreciate the sensitivity with which the Board has addressed and considered those concerns, including its efforts to prioritize approaches that would exempt small banks from new data collection requirements. Accordingly, we recommend that the Board undertake a careful review to ensure that CRA reporting requirements (including any additional data collection) not impose undue and prohibitive costs, especially on community banks and other financial institutions serving LMI communities. In an effort to reduce burden, we would also urge the Federal Reserve Board to rely to the greatest extent possible on existing data collections and public data sources for any proposed metrics. In addition, we remind the Board of the importance of getting right the tradeoff considerations that necessarily come to play between the interest in providing greater certainty which can come from qualitative metrics and qualitative judgments, along with the interest in ensuring that any such CRA supervisory and regulatory adjustments provide *actual* impact by more effectively meeting the needs of LMI communities and addressing inequities in credit access.

5. The CRA's Regulatory and Supervisory Framework Should Encourage and Support the Activities of Minority Depository Institutions and Community Development Financial Institutions.

Minority depository institutions ("MDIs") play a critical role in the provision of credit and other banking services to the African-American communities, many of which are underserved and are LMI communities. MDIs, which frequently are organized, owned and managed by members of the communities in which they serve, are likely to have an informed understanding of the needs of their respective communities, and the knowledge to tailor their products and services to those specific needs. One of the challenges that MDI's face, however, is access to capital, and the capacity to maximize their banking services.

Similarly, community development financial institutions ("CDFIs") organized pursuant to federal law and approved by the U.S. Treasury Department bring valuable financial and human resources to bear on investments in, and developments of, underserved communities. CDFIs often may be organized by local community members to support local community investment and development on diverse areas (e.g., housing, small business, education, vocational training), although in many other cases, they can be more regional or even national in scope. At the same time, CDFI's attract capital and talent that is committed to, and knowledgeable about, community development.

Consistent with federal law,[16] federal banking policy has long supported the activities of MDIs and CDFIs through support of measures to preserve MDIs, technical assistance, support of financial innovation, training and education). These institutions, however, continue to face

[16] *See, e.g.*, Section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

financial and resource deployment challenges. In our view, appropriate changes to the CRA supervisory and regulatory framework could benefit these specialized institutions that, by their nature, are focused on serving the needs of LMI communities across the board.

In the ANPR, the Board specifically acknowledged "the importance of MDIs in providing equitable financial access to LMI and minority consumers and communities." The ANPR further noted that majority-owned institutions may receive CRA credit for investment, loan and other support provided in cooperation with MDIs.[17]

To this end, the Board has proposed four potential avenues to increase the resources available to MDIs, including (i) counting majority-owned bank activities in support of MDIs at the banking institution level when they are outside of the bank's assessment area or eligible states and regions; (ii) taking into account activities with MDI's is a factor in achieving an "outstanding" CRA rating; (iii) providing CRA credit for MDIs investing in or partnering with other MDIs on eligible mission-oriented activities; and (iv) giving CRA credit for MDIs that invest in activities to improve their own banks.

Similarly, the ANPR recognizes the important role played by CDFIs, which by their very nature are community development mission-focused, in serving LMI communities and people who lack access to financing, and proposes granting automatic CRA community development consideration for community development activities with Treasury Department-certified CDFIs.

GHCC fully supports all of these initiatives. The importance of MDIs in servicing the communities in which they do business, and providing access to credit and other banking services to LMI individuals and businesses, and other underserved areas, is plain, and the Board's proposed initiatives to support these activities would, in our view, be a constructive and productive step forward in providing stronger incentives for majority-owned institutions and MDIs alike to serve CRA-targeted communities and demographics. Similarly, the mission-focused activities of CDFIs play an important role in supporting community development where it is needed, and providing credit for CDFI-related community development activities should have the beneficial result of increasing the incentives for banking institutions across the board to partner more closely with CDFIs with respect to their activities.

To further this objective, we encourage the Board to confer in express terms on banking organizations doing business with CDFIs the same substantive benefits that are proposed to be afforded to majority-owned banks that support MDIs, including credit for activities outside of the bank's assessment area, taking into account CDFI-related as a factor in awarding an "Outstanding" rating, and supporting the activities of minority-managed CDFIs. We also believe that it would be beneficial and productive for any proposed rules in this realm to specify clear criteria as to those activities that would qualify for favorable CRA consideration, but at the same time preserve some flexibility to allow for banking institution innovation at the community level.

6. The Three Banking Regulatory Agencies – the OCC, FDIC, and the Board Should Work Together to Build a Consensus CRA Final Rule.

[17] The Board's comments also were directed at women-owned institutions and low-income credit union. GHCC does not dispute in any respect the importance of these other classes of mission-focused institutions in providing needed credit and other banking support to communities in need, but consistent with its mission and constituency, is focusing its comments on MDIs.

While mindful of the separate CRA rule issued last year by the Office of the Comptroller of the Currency ("OCC"), we strongly urge the Board to reach consensus with the OCC and the Federal Deposit Insurance Corporation ("FDIC") to establish a single final rule, so that any conflict and inefficiencies – which also create undue disproportionate costs for small institutions – can be mitigated or avoided. There appears to be significant interagency agreement on the objectives of CRA reform and many of the ideas in the Board's ANPR reflect interagency discussions and regulatory proposals. In addition, the absence of a single uniform federal CRA policy will create an uneven CRA playing field. With the onset of the new administration, we are hopeful that the Board's efforts will provide a foundation for the banking agencies to converge on a consistent regulatory approach that has broad support among the various stakeholders, and we express our strong support for the agencies to work together to modernize the CRA.

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The GHCC reiterates its appreciation for the opportunity to submit these comments. With the Board's continued leadership, engagement, and careful review of all comments received during this rulemaking process, we are confident that we can come together on a stronger, transparent, and tailored approach to the CRA that will benefit LMI communities across the country for years to come.

Respectfully submitted,

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