



February 4, 2021

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave. NW
Washington DC, 20551
Via Email: regs.comments@federalreserve.gov

**RE: Docket No. R-1723; RIN 7100-AF94
CRA Proposed Rule Making**

To Whom It May Concern:

The National Coalition for Asian Pacific American Community Development (“National CAPACD”) is a national, nonprofit coalition of about 100 local organizations in 22 states and the Pacific Islands that advocates for the housing, economic, and community empowerment needs of low-income Asian American, Native Hawaiian, and Pacific Islander (“AAPI”) communities. As a nonprofit concerned with the economic well-being of low- and moderate-income (“LMI”) communities and communities of color, we are writing to comment on the Federal Reserve System’s (“Board”) advance notice of proposed rulemaking (“ANPR”) regarding the Community Reinvestment Act (“CRA”). While we are heartened by the Board’s interest and intent to modernize and strengthen the CRA, we believe that the CRA needs to be strengthened even further in order to address historic and present day racial discrimination and economic inequity. That is, the proposed CRA reform needs:

- Better incorporation of *Fair Lending* and *Racial Justice* goals across the entirety of the implementation and enforcement of the CRA,
- Stronger and more rigorous *Ratings and Performance Measures*,
- Better *Data Collection* (including data on race, disaggregated by ethnicity and language spoken).

Preserving the Legacy of the CRA

As the Board states in the ANPR, “Congress enacted the CRA... primarily to address economic challenges in predominantly minority urban neighborhoods that had suffered from decades of

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disinvestment and other inequities.” The CRA was a landmark piece of legislation, passed due to community advocacy in response to financial institutions’ systematic disinvestment – most notably the practice of redlining – 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.

In recent years, there have been attempts to undermine the CRA’s legacy and continued efficacy. Most notably, Office of the Comptroller of Currency (“OCC”) and the Federal Deposit Insurance Company (“FDIC”) – two federal regulatory agencies with responsibilities of enforcing the CRA – proposed rule changes that would have watered down the landmark act. Unlike the OCC and FDIC’s proposed rulemaking, we are encouraged that the Board’s proposals represent sincere efforts to modernize the CRA in a way that is consistent with the history and purpose of the Act.

However, we believe that the Board does not go far enough. Therefore, as a coalition of community-based nonprofit organizations who are concerned about preserving the legacy of the CRA, we urge the Board to amend its proposed rulemaking per the following.

Better Incorporation of Race and Fair Lending

Consistent with the Board’s objective to “recognize that CRA and fair lending responsibilities are mutually reinforcing,” the Board should establish, as an objective of CRA modernization, that financial institutions should increase bank lending, investing, and services in communities of color. As an intended remedy to practices of redlining and systemic racial discrimination, the CRA needs to better and more explicitly orient towards redressing the ongoing legacy of racist divestment in communities of color. Therefore, affirmatively increasing investments in and services to communities of color should be seen as a coequal, overlapping objective to increasing investment in LMI communities. All aspects of CRA compliance and, by extension, the Board’s proposals for CRA modernization, should be processed through this lens. This means that, in data collection and in evaluation of CRA compliance, race must be a more central factor.

Stronger Performance Measures

In the years since the CRA has passed, the racial wealth gap – along with other indicators of racialized economic inequity – have gotten worse¹. There is a growing body of evidence that financial institutions continue to underserve communities of color². And yet, despite these disappointing trends, 98% of banks pass their CRA exams. That is, substantially everybody passes

¹ See for e.g., <https://www.washingtonpost.com/business/2020/06/04/economic-divide-black-households/>

² See for e.g., <https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-case-for-accelerating-financial-inclusion-in-black-communities>

even as the CRA's bigger picture goals are receding into the distance. These are the hallmarks of an inadequate evaluative system, where incentives and performance criteria are not aligned with the desired impact.

We do not pretend to know all the ways in which CRA evaluation can and should be made more rigorous. Therefore, instead of a comprehensive, detailed list of recommendations, we offer a set of principles which should be applied across the board:

- *Account for Race:* Racial impact needs to be a central metric in evaluating CRA performance. Race should be incorporated into all aspects (i.e., retail lending, community development, etc.) of every exam, test, and subtest. And, the impact of all loans, investments, and services must be quantified and evaluated by race.
- *Don't Forget about Place:* While elevating race, place still matters. We support the Board's proposals to improve data collection regarding tracking community development financing and deposits by geography. With this data supplementing other economic and demographic analysis (e.g., race, poverty, and unemployment), the Board and other CRA regulators should identify underserved census tracts³. When these tracts are within a financial institution's assessment area, the institution should be evaluated on the basis of what resources they provide to these places.
- *Incentivize Improvement:* Financial institutions should not be complacent with merely passing marks and should be encouraged towards a philosophy of continual improvement. For example, we do not agree with the Board's proposal to blend the ratings of "High Satisfactory" and "Low Satisfactory" to a single category of "Satisfactory." Identifying gradations of performance provides lagging banks more information about the areas in which they need to improve.
- *Do Not Accept Substantial Noncompliance:* We should never be satisfied with failure. Any bank receiving a mark of "Substantial Noncompliance" on a subtest should not receive a "Satisfactory" grade within the larger test assessment area. As a more specific example, referring to Table 7—Community Development Test Assessment Area Conclusions of the ANPR, a bank that receives a "Substantial Noncompliance" score on the Community Development Financing Subtest should at best receive an overall score of "Needs Improvement" even if it scores an "Outstanding" on the Community Development Services Subtest.

Better Data Collection

In order to better evaluate CRA compliance and to advance the racial justice goals of the Act, banks need to collect and report better data. There need to be more consistent and comprehensive

³ See for e.g., <https://ncrc.org/ncrc-proposal-for-underserved-tracts-would-increase-lending-in-communities-of-color-by-billions-of-dollars/#:~:text=Executive%20Summary,these%20tracts%20are%20predominantly%20minority.>

standards for all data collected. For these reasons, we support the Board's proposal to collect retail lending metrics for consumer loan data and home mortgage data for non-HMDA reporters. In addition to the metrics proposed to be collected, we urge that these data also include race. That is, all lending data should, at the minimum, comply with HMDA guidance and be disaggregated by borrower race and major ethnic subgroups. For Community Development Financing and Services data, place and race data need to be better tracked and reported. Community Development loans and qualified investments need to be reported at the most detailed level possible, (preferably census tracts; if tract data not available, then zip code; if zip code data not available, then county). In addition, some assessment of service to communities of color should be able to be made based upon data about neighborhood benefited (e.g., based upon neighborhood demographics if tract or zip code data is available) or some qualitative data about the community development borrower or beneficiary (for e.g., a community development borrowing entity could be assessed about its mission, leadership, or track record).

In conclusion, we are encouraged that the Board's ANPR represents a sincere attempt to modernize the CRA while staying true to its legacy and purpose. However, while we endorse many of the Board's proposals, we strongly urge the Board to better account for race, to make evaluation more rigorous, and to incorporate more extensive data collection practices.

Sincerely,

A handwritten signature in black ink, appearing to read 'Seema Agnani', written in a cursive style.

Seema Agnani
Executive Director
National CAPACD