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**Re: Joint Proposal to Strengthen and Modernize Community Reinvestment Act Regulations
{Docket ID OCC-2022-0002; Regulation BB; Docket No. R-1769}**

Prosperity Now, along with the undersigned organizations, is pleased to submit comments on the joint Notice of Proposed Rulemaking (NPR) on an approach to strengthen and modernize regulations that implement the Community Reinvestment Act (CRA). We appreciate the opportunity to share what we like about the proposal and how we think it could improve.

Prosperity Now is a national, nonpartisan nonprofit organization based in Washington, DC that works to build an economy that is just, fair, and free from structural racism, one where every person, family, and community has the power to build sustainable wealth and prosperity. A significant part of our work focuses on access to credit and homeownership, which continues to be a critical way for individuals and families to build wealth in the United States.

Enacted in 1977, the CRA requires federal banking regulators to assess the extent to which financial institutions are meeting the credit needs of the “entire community”—including low- and moderate-income (LMI) neighborhoods—while operating in a safe and sound manner.

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The CRA was a part of a series of government interventions—including the Fair Housing Act and the Equal Credit Opportunity Act—designed to respond to our country’s history of redlining, the federally endorsed practice under which lenders refused to lend, especially for home mortgages, to Black, Indigenous, People of Color (BIPOC).

Despite the efforts of the CRA, the racial wealth gap has not only persisted but is expanding. Data from the 2019 Survey of Consumer Finances shows that the typical White family has eight times the wealth of the typical Black family and five times the wealth of the typical Latinx family.ⁱ Furthermore, we know that the COVID-19 pandemic has only exacerbated these inequities. The homeownership gap between Black and White households in 2020 was worse than at any point in the 20th century, as discriminatory and predatory lending practices have continued to exist despite the CRA.ⁱⁱ Recent analysis of Home Mortgage Disclosure Act (HMDA) data found that Black applicants were denied a mortgage at an 84 percent higher rate than White applicants in 2020.ⁱⁱⁱ Further, rising housing costs and outside investors threaten the financial and housing stability of low-income, BIPOC communities and will likely further this housing crisis.

While entrepreneurship has the potential to help close the racial wealth gap, BIPOC entrepreneurs continue to face barriers caused by little support from the government and mainstream lenders, lack of access to capital, and lending discrimination. Despite opening businesses at faster rates, BIPOC entrepreneurs are more likely to be rejected from formal financial bank loans. Even when controlling for factors such as “firm characteristics and performance,” Black-owned businesses are still 20 percent less likely than White-owned businesses to obtain a loan from a large bank.^{iv} Moreover, data from the 2018 Small Business Credit Survey (SBCS) showed that firms with Black or Latinx owners were more likely to be classified as “at risk” or “distressed” based on their profitability, credit risk, and business funding compared to larger, older firms with White owners.^v

Despite these ongoing disparities in lending by race, 98% of financial institutions received a ‘satisfactory’ or ‘outstanding’ grade in their CRA report, calling for the need for more rigorous examinations and stronger standards and accountability.^{vi} It has been more than a quarter century since the CRA regulatory framework was updated; therefore, it is important that the regulators get it right.

The NPR is a good start and promises to make parts of CRA exams more rigorous, but we urge the agencies to extend the rigor of the large bank lending test to the other tests. Moreover, given the rise of mobile and online banking, the proposed updates are critical to ensure we adapt to changes in the banking field, but we must go further in developing specific standards to regulate digital banking to avoid discriminatory or predatory practices. We also support the proposal to update outdated definitions of affordable housing, economic development, climate resiliency, and remediation to target investments more effectively. Lastly, we applaud the coordinated interagency approach to CRA modernization.

Below, we outline the strengths of the proposal to modernize the CRA as well as the opportunities to make the proposal more effective:

The CRA must explicitly evaluate based on race

Despite the clear purpose to redress redlining and other racist policies in housing and banking systems, the regulations originally implementing the CRA focused on LMI communities only, without specific requirements to target BIPOC borrowers. This race-neutral approach, however, is not working. Research from the Urban Institute shows that not only is LMI an ineffective proxy for race but also that racial discrimination persists in LMI-targeted lending.^{vii}

The CRA must, therefore, require banks to gather and report disaggregated racial and demographic data as part of the CRA exams. While the CRA statute does not mention race, it requires banks to serve all communities, which provides room for the federal banking regulators to incorporate race in CRA exams. Persistent racial disparities in lending should compel the agencies to incorporate race and ethnicity in CRA exams. Recent national level analysis from the National Community Reinvestment Coalition (NCRC) showed continuing disparities in loan denials by race and that when people of color receive home loans, their equity accumulation was less.^{viii}

While the agencies have proposed to use the HMDA data to produce exam tables describing lending by race, these results currently will not influence a bank's rating. Changes to the CRA would comply with legal standards if the CRA examined lending by race and ethnicity in geographical areas experiencing ongoing discrimination or exhibiting significant racial disparities in lending.^{ix} We also support the proposal from NCRC to include analyses of lending in underserved neighborhoods with low levels of lending, which are disproportionately communities of color.^x

While we believe the agencies can examine banks' record of lending by race, the agencies should at least bolster fair lending reviews accompanying CRA exams for banks that perform poorly in the HMDA data analysis of lending by race. In addition, the agencies proposed using Section 1071 data on small business lending by race and gender of the business owner, and this data should be used as a screen for fair lending reviews.

Fair Lending Continues to be Important

We are pleased to see that the proposal continues to take fair lending violations seriously by indicating that such conduct could lead to a ratings downgrade. While accountability for discrimination will increase under this proposal, the agencies need to bolster their reviews concerning the quality of lending. Reviews of lending should include affordability analyses and

impose penalties when banks offer on their own or in partnerships with non-banks abusive, high-cost loans that exceed state usury caps and that exceed borrowers' abilities to repay.

More Clearly Define What Constitutes Eligible Community Development Activities

To create more transparency and greater certainty for banks about what lending and investment activities meet their CRA obligations, we applaud the efforts to create a non-exhaustive list of what community development activities would count on a CRA examination. However, it would be prudent to put this list together thoughtfully. Depending on the context, some activities are more impactful than others, and finding a way to assist banks with prioritizing projects as well as making the list not too burdensome would be useful. As far as specific activities, having financial literacy counseling count for all income levels is not the right approach; instead, these limited resources should be preserved for low-income households with the greatest needs for these services. However, we must note that financial literacy alone cannot solve for inequities in access to lending and other financial services.

Codify that targeted, responsible small-dollar mortgages and loans are CRA activities

In May 2020, as part of the response to the worsening pandemic, the regulators released their "Interagency Lending Principles for Offering Responsible Small-Dollar Loans."^{xi} This guidance is a start but not a substitute for developing metrics to consider targeted small-dollar loans as CRA-eligible activities. These loans, when responsibly made and serviced, can advance homeownership, entrepreneurship, and financial stability, especially in rural areas and in communities of color.

Codify public input mechanisms

Since the CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments regarding the extent to which banks meet local needs. The agencies proposed to continue the current practice of sending any comments on the CRA performance to banks and are also considering publishing comments received on agency websites.

Posting comments on agency websites will establish accountability on the part of examiners to consider them. In addition, the agencies should establish a public registry that community organizations can use to sign up if they want to be contacted about community needs and bank CRA performance. Furthermore, we request that the agencies start to publish which organizations they consult with to understand local community needs, commit to collecting input from a diverse range of organizations that includes organizations led by people of color and women, follow up on needs identified, and detail how community input was factored into the results of CRA performance evaluations.

Conclusion

We appreciate the opportunity to provide feedback on the joint Notice of Proposed Rulemaking on an approach to strengthen and modernize regulations that implement the CRA. As it stands, the proposal has several strong points, and we believe the recommendations presented above will further strengthen it. We hope the agencies take them under consideration to ensure that the final rule truly meets the intentions of the Community Reinvestment Act to better serve all communities.

Sincerely,

Prosperity Now

National

Americans for Financial Reform Education Fund
CDFI Friendly America
Center for Community Progress
Central American Resource Center
Economic Policy Institute
Education Leaders of Color
Equal Rights Advocates
Habitat for Humanity International
Housing Association of Nonprofit Developers
National Coalition for Asian Pacific American Community Development
National NeighborWorks Association
National Urban League
National Women's Law Center
Nueva Esperanza, Inc
PolicyLink
Public Advocacy for Kids
Rural Community Assistance Corporation
SaverLife
Slipstream
TheCaseMade
UpTogether
Welcoming America

Alabama

NAACP Alabama State Conference,
Economic Programs
United Way of Southwest Alabama

Arkansas

United Way of the Ouachitas

California

Abrazar
Family Violence Appellate Project
Pacific Community Ventures
Urban Ed Academy
Women's Economic Venture

Florida

Community Reinvestment Alliance of Florida
Florida Alliance for Community Solutions

Georgia

Georgia Watch
Step Up Savannah

Illinois

Center for Changing Lives
Shifting Hearts & Minds

Indiana

CDFI Friendly South Bend

Kansas

Interfaith Housing and Community Services

Louisiana

Desire Community Housing Corporation
Family Resources of New Orleans

Maryland

CASH Campaign of Maryland

Michigan

United Way of Washtenaw County

Minnesota

Prepare + Prosper

Mississippi

Higher Purpose Co.

Missouri

LifeWise StL

Nebraska

Credit Advisors Foundation

New Jersey

La Casa de Don Pedro
New Jersey Institute for Social Justice
Winning Credit Solutions

New York

Bedford Stuyvesant Restoration Corporation
Belmont Housing Resources for WNY
Bridgehampton Child Care and Recreational Center

North Carolina

Brick Capital Community Development Corporation
Financial Pathways of the Piedmont

Oregon

Casa of Oregon

Pennsylvania

Ceiba
Clarifi
Neighborhood Allies
Pennsylvania Council of Churches
The One Less Foundation

Texas

CFE Industries
United Way of Metropolitan Dallas

Virginia

Maggie Walker Community Land Trust

Washington

BIPOC ED Coalition of Washington State
Housing in the Public Interest
United Way of King County
Women of Wisdom Tri-Cities

ⁱ "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," Federal Reserve, Sept. 2020, <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm>

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- ii “NCRC 2020 Home Mortgage Report: Examining Shifts During COVID-19,” National Community Reinvestment Coalition, January 2022, <https://www.ncrc.org/ncrc-2020-home-mortgage-report-examining-shifts-during-covid/>
 - iii “Black Mortgage Applicants Denied 84% More Often than White Borrowers,” Zillow, January 2022, <https://www.zillow.com/research/black-denial-rate-hmda-2020-30510/>
 - iv “Black-owned businesses face an unequal path to recovery,” McKinsey & Company, June 2021, <https://www.mckinsey.com/featured-insights/sustainable-inclusive-growth/future-of-america/black-owned-businesses-face-an-unequal-path-to-recovery>
 - v “Can Small Firms Weather the Economic Effects of COVID-19?”, Federal Reserve Bank of New York, April 2020, <https://www.fedsmallbusiness.org/medialibrary/FedSmallBusiness/files/2020/covid-brief>
 - vi “Do CRA Ratings Reflect Differences In Performance: An Examination Using Federal Reserve Data,” National Community Reinvestment Coalition, May 2020, <https://ncrc.org/do-cra-ratings-reflect-differences-in-performance-an-examination-using-federal-reserve-data/>
 - vii “Should the Community Reinvestment Act Consider Race?,” Urban Institute, January 2022, https://www.urban.org/sites/default/files/publication/105283/should-the-community-reinvestment-act-consider-race_1.pdf
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 - ix “Adding Robust Consideration Of Race To Community Reinvestment Act Regulations: An Essential And Constitutional Proposal,” National Community Reinvestment Coalition, September 2021, <https://www.ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/>
 - x “Adding Underserved Census Tracts As Criterion On CRA Exams,” National Community Reinvestment Coalition, January 2020, <https://ncrc.org/adding-underserved-census-tracts-as-criterion-on-cra-exams/>
 - xi Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and the Office of the Comptroller of the Currency, “Interagency Lending Principles for Offering Responsible Small-Dollar Loans,” May 2020, <https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-65a.pdf>