

Congress of the United States
Washington, DC 20515

November 17, 2021

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

The Honorable Jerome Powell
Chair
Board of Governors of the Federal Reserve System
20 Street and Constitution Avenue, NW
Washington, DC 20551

Mr. Michael Hsu
Acting Comptroller
Office of the Comptroller of the Currency
400 7th Street NW
Washington, DC 20219

Dear Chairman McWilliams, Chair Powell, and Acting Comptroller Hsu:

We write in full support of the interagency statement on Community Reinvestment Act (CRA) joint agency action, and applaud the announced commitment of your agencies to work together to strengthen regulations in implementing the CRA.¹ It is unquestionable that joint agency action is the best path toward a consistent and modernized CRA framework, and we are optimistic at the potential of this interagency effort to produce positive outcomes for low- and moderate-income (LMI) communities across our nation.

Strengthening CRA examinations can ensure that the law is an even more potent tool in addressing the nation's affordable housing shortage. The OCC has estimated CRA lending and investing overall at roughly \$480 billion per year. In addition to receiving CRA consideration for small business lending and financial services, the nation's banks receive credit for billions of dollars of single family and multifamily mortgage lending and related investments to low- and moderate-income borrowers or communities.

Testimony before the committee has raised a number of pressing housing and community development credit needs facing low- and moderate-income families and communities. We are interested in the role your agencies see CRA modernization playing in mitigating some of these challenges, including: affordable housing in high-cost markets and gentrifying neighborhoods, gap financing needed to facilitate rehabilitation and renovation of existing affordable housing, small dollar mortgage loans, the treatment of naturally occurring unsubsidized affordable housing, to name a few.

¹ Board of Governors of the Federal Reserve System, [Joint Press Release - Interagency statement on Community Reinvestment Act joint agency action](#), (July 20, 2021).

We are pleased that the OCC will rescind the June 2020 rule. The rule's definitions and qualifying activities are currently in effect and reflected in the agency's [CRA Illustrative List of Qualifying Activities](#). The list signals more credit for large infrastructure projects and activities that only "partially" benefit low- and moderate income people and areas and is a definition that differs from the "primary purpose" of community development definition applied by the two other agencies. The higher dollar asset threshold for small and large banks adopted under the rule could also exempt more banks from exams of their community development lending and how they provide financial services and locate bank branches.

The committee is particularly focused on addressing issues of racial equity in the nation's financial system. The Federal Reserve asked and [received important feedback](#) to its proposal on how the CRA regulatory framework can better address systemic inequities²

When the CRA was passed in 1977, Congress sought to incentivize banks to invest in the communities where their branches were located, and reverse the impact of redlining. A high CRA rating was intended to provide that incentive. Yet, even as Americans' residential migration patterns and banking industry business models have changed dramatically since 1977, the lack of equitable access to credit by communities of color has been alarmingly consistent. Non-White households' access to affordable home mortgage loans today falls far short of what CRA's champions originally envisioned.

Overall, Black homeownership plummeted during the Great Recession, falling from 49.7% in Q2 2004 to 40.6% in Q2 2019, when it was lower than it was when the Fair Housing Act was passed in 1968.³ Yet, CRA's implementing rules have addressed race only peripherally, insofar as evidence of racial discrimination can lower a bank's CRA rating. For generations, racial discrimination was rewarded in assessments that directly determined mortgage availability.

Quantitative and qualitative evaluation of efforts to increase racial equity should, therefore, be a part of CRA assessments as well. The CRA framework should better consider race and can do so within existing statutory authority and constitutional parameters. We are interested in how your agencies will work collectively to ensure that the nation's financial institutions are examined on how they address these critical issues.

We also encourage your agencies to collectively build upon proposals put forward in its 2020 Board Advanced Notice of Proposed Rulemaking. Sections of the Board ANPR particularly relevant to affordable housing include consideration of action to:

1. Apply two separate tests for evaluating the CRA performance of large retail banks and small retail banks that opt into the new framework: (1) a Retail Lending Subtest and a (2) Community Development Test – which includes a Community Development Financing Subtest and a Community Development Services Subtest.
2. Evaluate a bank's retail lending in its major product lines, via the use of metrics that measure the number of loans a bank makes, not the dollar-value of these loans.

² National Community Reinvestment Coalition, [Civil Rights, Fair Lending and Consumer Rights Organizations Urge a More Race-Conscious CRA](#), (February 16, 2021).

³ U.S. Census Bureau, [Current Population Survey/Housing Vacancy Survey](#), (July 27, 2021).

3. Combine consideration of community development loans and qualified investments, including originations and purchases, into a new Community Development Financing Subtest.
4. Review and redefine affordable housing in the CRA regulations and how to strengthen CRA-motivated capital as a source of funding for affordable rental and single-family housing for LMI populations. For instance, in response to stakeholders' suggestions, the proposed rule suggests the new regulatory language would specify that a housing unit would be considered affordable if it is purchased, developed, rehabilitated, or preserved in conjunction with a federal, state, local, or tribal government affordable housing program or subsidy.
5. Solicit feedback on the appropriate CRA treatment of mortgage-backed securities (MBS) that are backed by loans that finance subsidized multifamily rental housing loans of mixed-income housing that includes affordable housing for LMI families, or loans to LMI borrowers.

While I expect committee oversight will be on-going, there is a high-level of interest among members on CRA modernization. I would like to request that we meet at a leadership or staff level quarterly to discuss interagency progress, topical issues and concerns, and any areas where Congressional input is needed.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Emanuel Cleaver, II', with a stylized flourish at the end.

Emanuel Cleaver, II
Chairman, Subcommittee on Housing,
Community Development and Insurance

A handwritten signature in blue ink, appearing to read 'Ed Perlmutter', with a stylized flourish at the end.

Ed Perlmutter
Chairman, Subcommittee on Consumer
Protection and Financial Institutions