August 5, 2022

The Honorable Michael Hsu
Comptroller
Office of the Comptroller of the Currency
Chief Counsel's Office
Attention: Comment Processing
400 7th Street, SW
Suite 3E-218
Washington, DC 20219
RE: Community Reinvestment Act, Notice of Proposed Rulemaking, Docket Number R-1769, RIN 7100-AG29

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
Attention: Ann E. Misback, Secretary
20th Street and Constitution Avenue, NW
Washington, DC 20551
RE: OCC Docket ID OCC–2022–0002

The Honorable Martin Gruenberg
Acting Chair
Deposit Insurance Corporation
Attention: James P. Sheesley, Assistant Executive Secretary
550 17th Street, NW
Washington, DC 20429
Attention: Comments RIN 3064–AF81

*Re: Joint Notice of Proposed Rulemaking Regarding the Community Reinvestment Act Regulations, Docket No. R-1764 and RIN 7100—AG29*

Dear Chairman Powell, Comptroller Hsu and Acting Chair Gruenberg:

As members of The Partners for Rural Transformation (PRT), we appreciate this opportunity to submit comments to the Board of Governors of the Federal Reserve System (Board)-Office of the Comptroller of the Currency (OCC)-Federal Depository Insurance Corporation (FDIC) Joint Notice of Proposed Rulemaking (NPR) regarding the Community Reinvestment Act (CRA). The Board-OCC-FDIC joint NPR is an impressive effort to improve the effectiveness and impact of the CRA.

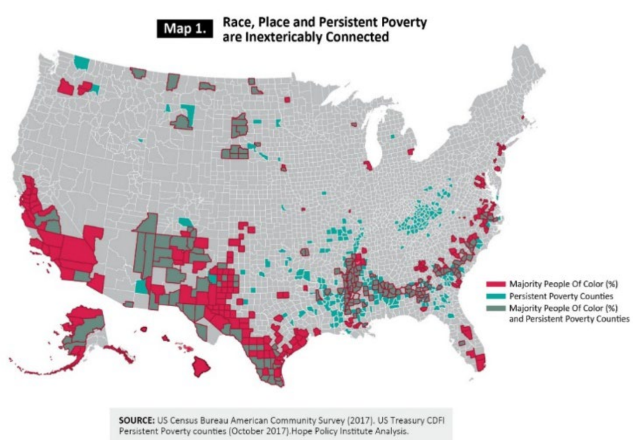
PRT is a national coalition of organizations committed to serving rural communities in persistent poverty. We serve the vast majority of people living in persistently impoverished places, the majority of which are rural, with a significant presence in the Mississippi Delta, Appalachia, Indian Country, the Black Belt, and communities along the U.S. / Mexico Border. Together, we have records of accomplishment spanning decades. In the last ten years alone, we have deployed over $2 billion, reaching millions of people who reside in persistent poverty communities. The Partners for Rural Transformation submits this comment letter in hopes of strengthening the Community Reinvestment Act (CRA).

The Partners for Rural Transformation has identified six critical areas in the proposed rule governing the Community Reinvestment Act that could direct more critical CRA resources to persistently poor communities we serve. These include:

1. Recognition of Racial Equity,
2. Prioritization of CDFI investments in the most underserved areas and to the most underserved borrowers,
3. Treatment of small and intermediate-sized banks,
4. Impact criteria for CRA investments in specially designated geographies,
5. Assessment areas beyond bank branches should be based on a mix of lending and deposit activity, and
6. Investments in designated areas of need must be meaningful and targeted to communities with a low level of lending activity.

Setting the Context for Our Concerns

We submit these comments against the backdrop of the existing underinvestment and economic disparities facing rural America, particularly in persistent poverty areas. The U.S. Treasury CDFI Fund defines persistent poverty as an area with a poverty rate of 20% or higher for 30 years in a row. Of the country's 395 persistent poverty counties, eight out of ten are nonmetro (rural), and the majority (60%) of people living in persistent poverty counties are people of color. See Map 1.




Despite the verifiable success, philanthropic, bank, and federal investment in the community and economic development of persistent poverty regions dramatically lags behind places with significantly more resources, further exacerbating inequity. The Housing Assistance Council reports that three out of four counties that lost at least 10% of their county's branches are in rural areas.[1]

As a result, in persistent poverty places, CDFIs often provide the only access to affordable financial services. Either through branches operated by CDFI depositories or through the provision of mortgages and small business loans, CDFIs expand the continuum of responsible financial services available to local people in places with limited access to branches.

Capital increases access to financial services, establishing pathways to credit and savings. Infrastructure development provides clean drinking water and safe disposal of wastewater. Collectively, these strategies create wealth that stays in communities. Philanthropic investments across the country average $400 per person. In Appalachia and the Delta, philanthropy invests only $40 per person. Despite the well-documented benefits of capital investment, especially when deployed by CDFIs, regions with high concentrations of persistent poverty lag urban areas in resources designed to address unemployment, gaps in affordable housing, connections to financial services, and community infrastructure development. Due to structural deficiencies in the Community Reinvestment Act (CRA) tying qualifying investments to branch locations, bank investment in rural CDFIs lags behind investment in CDFIs serving urban areas. Even here, investment in rural communities' lags: In 2017, only 29 cents of every dollar borrowed by rural CDFIs was from a bank. In contrast, over half the borrowed funds for urban CDFIs came from banks.[2]

The proposed joint rule is a promising opportunity to ensure CRA works for our communities. The framework recognizes important considerations for reaching historically overlooked communities, including persistent poverty areas and communities of color. We appreciate that it does not take the same one-size-fits-all approach and other harmful components of the rule finalized by the Office of the Comptroller of the Currency last summer.[3]

*Recognition of Racial Equity*

We applaud last year's proposed rule from the Federal Reserve that included explicit recognition that racial equity is inextricable from the CRA's history, purpose and the "ongoing systemic inequity in credit access for minority individuals and communities." Race should be included in the specific metrics banks evaluate for CRA purposes.

Even in light of this promising framework, the proposal must be improved in key areas to achieve the CRA's intent and purpose. As an overarching matter, the proposal must be strengthened to enhance banks' current practices. It is not clear how the current CRA proposal will do so. Currently, over 98% of banks have a passing CRA grade, yet, our communities face persistent disinvestment and a lack of access to banking services, including loans. As the agencies move to finalize rulemaking, they must ensure both that banks do more and do better to ensure these investments reach rural communities, particularly communities of color and persistent poverty areas.

The CRA rules should explicitly state and work towards an objective of significantly expanding – as much as threefold – bank lending, services, and investment in low-income communities and communities of color. This element of focus is lacking in the existing CRA. Reformation should be considered dedicated to Minority Depository Institutions (MDIs) and minority-led CDFIs. Not only are these organizations excellent delivery systems for capital and financial resources in underserved communities, but they also provide culturally appropriate marketing and customer service. Most of these organizations' constituencies do not feel served or are directly excluded from service at "mainstream" financial institutions. PRT advocates for increased investment into MDIs and minority-led CDFIs to support and supplement the work already being done in these organizations. The Housing Partnership Network (HPN) expertly described the current situation: "[the] CRA too often has used income as a proxy for race, which is insufficient to target deeply entrenched systems of racial inequity." The racial wealth gap is deep, and the economic and social benefits of closing it are vast. The financial system, particularly banks' lending practices, has been a driving factor in this gap and must play a significant role in closing it.

Ultimately, closing the racial wealth gap can potentially increase the national Gross Domestic Product (GDP) by between $1 and $1.5 trillion by 2028. Closing the capital access gap for people and communities of color is a critical pathway to closing the racial wealth gap. Lenders and communities alike will benefit from the resulting economic activity of a fairer, more robust marketplace. The CRA can be a helpful tool in guiding banks' actions to ensure they repair, rather than repeat, centuries of racial and economic inequality. PRT member HOPE (Hope Credit Union / Hope Enterprise Corporation/Hope Policy Institute) performed a study on CDFI Fund awardees from 2003 to 2017. In this analysis, they found that the median asset size of white-owned CDFI Fund awardees has persistently been at least twice the median asset size of minority-owned CDFI Fund awardees. In some years, it was three times as high. A look at disparities in bank-infused capital into CDFIs shows how the CRA could incentivize banks to help close this gap, thereby increasing the amount of capital flowing to people, businesses, and communities of color. If the bank investment in minority CDFIs had simply been proportionate to their representation – meaning minority CDFIs held roughly 27% of bank-infused capital held by CDFIs – this would mean over $2 billion in bank investments held by these minority CDFIs. Furthermore, white CDFI Fund awardees held, on average, $32 million of bank-infused capital, compared to an average of $9.6 million for minority CDFIs[4] These data from 2017 are more than a mere snapshot in time. Instead, the data reflect, in part, an accumulation of bank capital over time. This gap in support of minority-led CDFIs is parallel to the overall capital access gap for people of color and can undoubtedly be addressed by revisions to the CRA.

While Partners for Rural Transformation is generally supportive of the agency's proposal to allow CRA credit regardless of whether CDFIs' are located in a bank's assessment area, more must be done to ensure these investments reach communities of color and other historically overlooked communities. Further, the number of investments must be meaningful in size and type.

Specifically, the types of investments that must be prioritized are equity, secondary capital, equity equivalents, and others such as donations of bank branches.

*Prioritize CDFI investments in the most underserved areas*

CDFIs in some of the most economically distressed regions of the country have been successfully meeting the needs of local communities and people. In persistent poverty places, CDFIs often provide the only access to affordable financial services. Either through branches operated by CDFI depositories or through the provision of mortgages and small business loans, CDFIs expand the continuum of responsible financial assistance available to local people in places with limited access to branches.

Proposed changes to the Community Reinvestment Act recognize the importance of the work of CDFIs by specifically highlighting bank investments in CDFIs in several places throughout the proposed rule. However, it also offers to remove some evaluation requirements on the types of investments in CDFIs that are counted toward a bank's CRA requirement. While this change may remove some barriers to CDFI investments, PRT requests it should be paired with either scoring or impact evaluation criteria that give greater weight to investments in CDFIs serving the most underserved areas.

CDFIs are required to serve low-income areas, yet this expectation is not enough to guarantee CDFI lending reaches communities of color and rural, persistent poverty areas. The new CRA regulations must create incentives to reward banks that invest in CDFIs facilitating a profound impact in the most underserved neighborhoods. One way to do this would be to distinguish investments in CDFIs who participate in Deep Impact Lending.

Deep Impact Lending is a distinction already used by the U.S. Department of Treasury to recognize the most impactful lending to the most underserved communities and constitutes a subset of the "qualified lending" criteria for lending in low-income, rural areas and lending to targeted populations, including communities of color, as well as other measures. Deep Impact Lending was most recently used to direct the CDFI Fund's $9 billion emergency Capital Investment Program's deployment.

Investments in CDFIs that meet the Deep Impact Lending criteria should be counted for any bank choosing to make such an investment regardless of their assessment area. This is the only path to creating an equitable distribution of CRA investments across urban and rural areas of persistent poverty.

CDFI investments are critical to bringing capital to communities and regions that otherwise suffer from disinvestment, strengthening local economies and entrepreneurs, improving housing and access to safe drinking water, and empowering local people to determine their destiny. The

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CRA final rule must prioritize investment in deep impact lending CDFIs working in the most underserved areas and to underserved borrowers.

CDFIs contribute to the overall financial health of the communities they serve, and CDFI credit unions do the same. In a recent study done by PRT member HOPE (Hope Credit Union / Hope Enterprise Corporation/Hope Policy Institute), in the Deep South states AL, AR, LA, MS, and TN, "there were 80 MDI banks and credit unions, the vast majority of which (75) were small credit unions". The CRA can play a role in further increasing investments in banks, especially credit unions, and amplifying their ability to serve underserved communities nationwide. We at PRT call for the inclusion of these organizations, as their impact is more than credible and proven.

*Create greater accountability for small and intermediate banks, particularly those serving rural areas*

As the agencies move to strengthen the CRA, local banks with a rural presence should not be able to bypass accountability. Increasing carve-outs will make it harder to close gaps in these regions, mainly for communities of color in rural areas.

Many of the proposed updates to the CRA providing greater accountability in rural areas only apply to the large and, in some cases, intermediate banks. Further, the proposal would increase the threshold for large, intermediate, and small banks, lowering the number of banks subject to those measures. However, underserved rural areas are more likely to be served by more minor and intermediate-size banks not impacted by these new accountability measures. The proposed rule would increase the small bank threshold from $330 million to $600 million in assets, increasing the number of banks considered small by 779 banks nationally. Banks from $600 million to $2 billion would be regarded as intermediate banks resulting in 217 fewer large banks.

This means more banks would not be required to evaluate their community development financing or be subject to the new retail services and products test. There will be less accountability for and less capital flow to rural regions, communities of color, and persistent poverty areas (PPAs). The agency's rule must strengthen, not exempt, small banks' community development investments in rural communities, particularly in communities of color and persistent poverty communities.

*Develop impact criteria for CRA investments in specially designated geographies.*

While prioritizing the impact of investments in some geographic regions, examiners should consider multiple factors, including communities with a low lending activity and capital investment.

Under the proposed rule, in addition to evaluating banks on the dollar value of community development financing, examiners will consider several factors to identify particularly impactful projects. PRT supports the proposed inclusion of elements identifying geographic areas that are particularly in need of community development investment, including persistent poverty areas, areas with a low level of community development financing, and Native communities.

The need to include these geographic factors is evident by looking at the New Markets Tax Credit program. Between 2003 and 2017, 65% of NMTC allocations in persistent poverty were concentrated in six urban communities. By contrast, just 5% of NMTC allocations were invested in rural, persistent poverty counties during this time.

Finally, CRA credit for investments in certain designated geographic areas like persistent poverty areas and census tracts must be given enough weight within the CRA evaluation to incentivize substantial investments.

The banking sector is a critical community development investor. The CRA is a crucial driver for bank partnerships with CDFIs. It serves as an impetus for funding CDFIs to expand access to capital to people and places beyond the boundaries of a bank's business model. In the absence of bank investment, particularly in CDFIs, people's ability to start a small business, purchase a home, or build one's credit is even more limited. For these reasons, Partners for Rural Transformation push for a strengthened CRA that moves banks to do more and do better to promote prosperity in rural communities throughout the country.

There is also an unfair element within the scoring regiment for banks under the current CRA guidelines. Banks can receive a satisfactory score (or higher) even if they underperform in 40% of their assessment area. There is a viable concern that this 40% will be comprised of mostly rural, persistently impoverished, and/or BIPOC communities. We at PRT recommend more coherent and inclusive scoring not to allow the most vulnerable of us to again fall through the cracks. Following this update, the subsequent lending, services, and investments in underserved markets have ample room to increase. Our member Fahe proposed the following in the result of updated metrics: "'satisfactory' and 'excellent' ratings should be calibrated with the approaches outlined in our other recommendations to encourage that triple the overall resources be deployed."

*Assessment areas beyond bank branches should be based on a mix of lending and deposit activity*

The current structure of the CRA is laden with overly-specific and exclusive language and boundaries that result in "cherry-picking" in assessment areas. Our members urge a non-facility-based assessment focusing on the county instead of the census tract. This creates the opportunity for increased community development activities in rural areas. Banks of all sizes should be required to delineate whole counties as facility-based assessment areas, ensuring that elimination and oversights are avoided. This would also give proper focus to smaller banks, which are more often fiscal servants of rural, poor neighborhoods of color. The CRA's impact could be widened and deepened in underserved regions by including rural communities. Though, at this point, the census defines rural as everything besides urban, the simple inclusion of rural as a factor of thought will make the CRA a more informed and generous Act. As our national partner, the Opportunity Finance Network (OFN), stated, "[this reformation] would provide banks with consideration for activities outside their deposit-based areas to align examinations and accountability more closely with financial institutions' actual markets and lending". In addition, this proposed revision of assessment areas that will supplement the current facility-based assessment areas is a step in the right direction recognizing the decline in branches in many of the areas we serve and expanding the ways that those areas can be included in assessment areas and attract much needed CRA investment.

While Partners for Rural Transformation is generally supportive of the joint rule's proposal to allow CRA credit regardless of whether CDFIs' are located in a bank's assessment area, more must be done to ensure these investments reach communities of color and other historically overlooked communities. Further, the number of investments must be meaningful in size and type. Specifically, the types of investments that must be prioritized are equity, secondary capital, equity equivalents, and others such as donations of bank branches.

*Investments in designated areas of need must be meaningful and targeted to communities with a low level of lending activity*

It should be noted that the CRA NPR's definition of rural points to the OMB definition, which is simply non-metro. As our member Rural Community Assistance Corporation has reported, this definition "leave[s] out large portions of our western counties…the classification is not a good proxy for rural territory and population generally". In addition to this skewed definition, the CRA focuses on larger banks, opting to centralize the largest of these banking institutions. Many positive changes in the rule, like the new non-facility-based assessment areas, would only apply to large banks. Many rural areas and communities of color do not have many prominent banks. The proposed changes to the threshold sizes would mean even fewer banks considered to be large banks in our area. Additionally, some elements of the proposed rule, including many data collection requirements, would only apply to the largest banks with $10 billion in assets and above. With the proposed new thresholds, not only would the number of banks considered large banks be reduced, but the number of banks considered small banks in our area would increase significantly. The reality is that the number of these large banks is decreasing. Comparatively, the number of smaller banks is *rising*; though they are widely ignored in the CRA's focus. This results in fewer banks who are not required to get scored on the CD test. Public sector resources and capacity are often very constrained in rural communities. CRA should provide credit to banks that support purely private housing stock that can be expected to maintain affordable rents due to the type of owner-operator or voluntary affordability commitment for a reasonable period.

Weight of the CD Financial Test: as currently imagined, the CD Financing Test could be a disincentive for banks to make equity investments in proven community development programs such as Low Income Housing Tax Credits (LIHTC) and New Markets Tax Credits (NMTC). Cutting across the various proposed assessment areas, tests, and benchmarks lie the source of data chosen to evaluate bank performance and how that performance compares across banks and geographies. To ensure the CRA's success in reaching rural, historically disinvested places, the investment must be kept at the forefront when determining performance weights and other comparative data. If it is not, rural areas will continue to be unreached by CRA-driven investment; under- and dis-invested rural places as far apart as the Southwest and Appalachia have much in common regarding the economic challenges faced but may vary in average incomes, poverty rates, housing burdens or homeownership levels, family size, and other factors. Even within a region, counties vary widely, with neighbors affected differently by historical disinvestment. This is why local nonmetropolitan benchmarks must be given priority over national nonmetropolitan local benchmarks. The choice between local and national benchmarks could be used to inflate a rating. Using data that is as local as possible mitigates this risk. Unlike the current investment test, the CD Financing Test would consider these equity investments in the same category as loans. The Housing Partnership Network (HPN) also voiced its concern, stating that "this combined evaluation of community development loans, investments, and services would cause a shift in banks' CRA activities away from more complex, time-consuming but impactful activities like making equity investments." To protect against this, the Partners suggest that the agencies require a minimum amount of CD Financing activities to be in the form of an equity investment for a bank to receive a passing rating.

*Conclusion*

The banking sector is a critical community development investor. In a November 2019 report, Transforming Persistent Poverty in America, Partners for Rural Transformation provided solutions to increase bank investment in rural communities, particularly those in persistent poverty. The banking sector is a critical community development investor. The CRA is a crucial driver for bank partnerships with CDFIs. It serves as an impetus for funding CDFIs to expand access to capital to people and places beyond the boundaries of a bank's business model. In the absence of bank investment, particularly in CDFIs, people's ability to start a small business, purchase a home, or build one's credit is limited. For these reasons, Partners for Rural Transformation push for a strengthened CRA that moves banks to do more and do better to promote prosperity in rural communities throughout the country.

Race is inextricable from the CRA's history, purpose, and the "ongoing systemic inequity in credit access for minority individuals and communities.[5]" Race should be included in the specific metrics banks evaluate for CRA purposes. Specific recommendations for doing this are incorporated throughout the comment, with details in their respective areas. The bank's ratings would not reflect any fair lending finding or violation on its own. A focus on race is well within the statutory confines of CRA. There are explicit references to race in the legislation, including allowing investments with Minority Depository Institutions (MDIs), women-owned financial institutions, or low-income credit unions in minority communities to count for CRA credit. The law also requires reporting to Congress comparing depository institutions' lending in "minority neighborhoods" and other distressed areas. However, CRA too often has used income as a proxy for race, which is insufficient to target deeply entrenched systems of racial inequity. By ignoring race during the CRA exam, this proposal falls far short of the agencies' objective to "strengthen the achievement of the core purpose of the statute."

The CRA was passed to combat systemic inequity; therefore, it is critical that the NPR focus on increasing lending and investment in communities of color. As our National Partner, the Housing Assistance Council (HAC), stated clearly, "[rectifying] tragic legacy of "redlining"—and persistent racial disparities in lending [can be undone] by incorporating race explicitly". Furthermore, PRT member come dream. come build. (cdcb) explain that these changes will cause the CRA to "identify and address persistent racial disparities that directly impact quality of life and health outcomes". In the absence of bank investment, particularly in CDFIs, people's ability to start a small business, purchase a home or build one's credit is limited.

For these reasons, the Partners for Rural Transformation are thankful for the agencies' steps towards the modernization of this vital tool. We hope these suggestions will strengthen the CRA to move banks to do more and do better to promote prosperity in rural communities throughout the country.

Respectfully submitted on behalf of Partners for Rural Transformation,

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[2] Bank Investment Falls Short in Rural Areas. Opportunity Finance Network. February 2019. https://ofn.org/sites/default/files/resources/PDFs/Policy%20Docs/2019/OPP_054%20-%20One%20Pager%20Handout%20CRA_FINAL%20Feb%202019.pdf (Accessed Feb. 12, 2020)

[3] Partners for Rural Transformation, "Comments on OCC Notice of Proposed Rulemaking, Community Reinvestment Act Regulations, Docket ID OCC-2018-0008," https://www.ruraltransformation.org/wp-content/uploads/2020/04/PRT_FINAL_OCC_LETTER_4.7.2020.pdf

[4] Kiyadh Burt, Hope Policy Institute, "Analyzing the CDFI Asset Gap: Analyzing the CDFI Asset Gap: Examining Racial Disparities in CDFI Fund Awardees from 2003 to 2017," Nov. 5, 2020, http://hopepolicy.org/manage/wp-content/uploads/CDFI-Fund-Time-Series-Analysis-brief-edited.pdf

[5] Board of Governors of the Federal Reserve System "Advance Notice of Proposed Rulemaking; request for comment 85 FR 66410" October 2020