

February 10, 2021

SUBMITTED VIA REGULATIONS.GOV

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

**Re: Comments in response to the ANPRM on the Community Reinvestment Act
[Docket No. R-1723, RIN 7100-AF94]**

To Whom It May Concern:

On behalf of UnidosUS (formerly the National Council of La Raza), thank you for the opportunity to comment on the Board of Governors of the Federal Reserve System's advanced notice of proposed rulemaking (ANPRM) regarding the Community Reinvestment Act (CRA). We ask that, as the Federal Reserve moves forward with improving and strengthening the CRA, the proposed changes are in line with the original intent of the law and its various civil rights elements. UnidosUS is the nation's largest Hispanic civil rights and advocacy organization. Through its unique combination of expert research, advocacy, programs, and an Affiliate Network of nearly 300 organizations across the United States and Puerto Rico, UnidosUS simultaneously challenges the social, economic, and political barriers at the national and local levels.

To achieve its mission, UnidosUS expands opportunities for Latinos through capacity-building assistance to a national network of multiservice Affiliate organizations rooted in Latino communities; robust and tested program models; applied research, policy analysis, and advocacy; and civic engagement efforts, providing a Latino perspective in five key areas—assets/investments; civil rights/immigration; education; employment and economic status; and health. For almost three decades, UnidosUS has conducted research and analysis on issues related to improving the financial standing of Latinos, including strengthening the CRA and the Home Ownership and Equity Protection Act (HOEPA), supporting strong fair housing and lending laws, and expanding access to affordable credit. In addition, UnidosUS manages a national network of more than 50 community-based, HUD-approved housing counseling agencies.

In short, we have experience as both consumers and lenders. Our subsidiary, Raza Development Fund (RDF), is the nation's largest Latino community development financial institution (CDFI). Since 1999, RDF has provided \$400 million in financing to locally based development projects throughout the country. This work has not only supported the Latino

community through predevelopment loans, organizational assessments, and a range of unconventional lending products, but has substantially increased UnidosUS's institutional knowledge of how Latinos interact with the mortgage and real estate markets, their credit and capital needs, and the impact of government regulation on lenders.

Given the significant impact that CRA has on access to credit and the ability of Latinos to build wealth, we are concerned about efforts to modernize this legislation which do not prioritize the needs of low- and moderate-income (LMI) individuals and communities of color. The Fed's ANPRM is the right first step toward improving the CRA, and a vast improvement on the final rule from the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), which would produce a harmful impact on low-income consumers. Additionally, the CRA has historically played a critical role in spurring wealth-building and investment in Latino communities. We urge the Fed, as well as OCC and FDIC, to consider a joint rulemaking process that will reduce harm, increase the size and impact of investments in LMI communities, and expand access to affordable credit, which is critical for all communities.

The Federal Reserve Board must prioritize the civil rights aspects of the CRA.

The CRA was first passed into law in 1977 in response to racial and ethnic discrimination in the banking and credit systems and as a protection against the pervasive practice of redlining. Over the years, the CRA has helped to revitalize neighborhoods and to encourage banks to be innovative with their investments, so that LMI borrowers, who have been historically underserved by banks, can benefit directly from large bank investments that might otherwise not reach their neighborhoods. The law has also helped to curb the effects of discrimination and unequal treatment that Latinos, immigrants, and other communities of color face when they interact with the financial marketplace.

At the heart of the CRA's original legislation has been the promotion of fair and equal access to banking services in all neighborhoods, regardless of the racial, ethnic, or income composition of the residents. The CRA remains a unique tool to spur community-based investments, as it places an affirmative obligation on financial institutions and banks to meet the credit needs of the communities where they do business. To date, CRA plays a critical role in the growing Latino community's access to credit, financial products, and home loans.

In the past decade, the CRA provided Latino businesses with access to critically needed capital, contributing to a 34% increase in Latino business ownership.¹ The CRA also ensures that

¹ UnidosUS, *Weakening the Community Reinvestment Act Will Make It Harder for Latino Families to Get Ahead* (Washington, DC: UnidosUS, December 2019), http://publications.unidosus.org/bitstream/handle/123456789/2005/unidosus_communityreinvestmentact.pdf?sequence=1&isAllowed=y.

financial services are available in all communities. This is significant for Latinos, 14% of whom remain [locked out of meaningful financial services](#) according to the FDIC.² Latinos currently access these services at lower rates than other consumers. For example, 31.5% of Latino households lack access to mainstream capital, compared to 14.4% of White households. Furthermore, they continue to face barriers to saving, with less than half (48.2%) reporting saving for unexpected emergencies and expenses, compared with the national average of 61.6%. Most importantly, the CRA has helped to combat housing discrimination and promote Latino homeownership, facilitating between 15% and 35% of home loans to Latinos since 2014.

Forty-five years after the passage of CRA, despite its progress and success in addressing the most pernicious effects of historical discrimination in the housing and credit markets, further action is needed to remedy the continuing exclusion of Latinos and other communities of color in the banking system, who still face long-standing structural barriers. For example, in 2018, the overall rate of mortgage denials for individuals of color was between 13.5% and 18.4%, while the denial rate was only 8.8% for Whites.³ Access to credit also remains a challenge, with approval rates for individuals of color around 6%.⁴ It is these factors that make any efforts to modernize and update the CRA critical to the future financial success of Latinos and all communities of color.

The Federal Reserve Board must address the needs of the Latino community.

To combat persisting systemic discrimination, the Federal Reserve must work to strengthen the CRA by improving the rigor of CRA exams. To address the credit, capital, and lending needs of the growing Latino community, any updates to CRA must include:

- **Rigorous bank review and ratings based on bank branch presence and deposit products offered in LMI communities.** Retail lending increases in LMI communities as bank availability increases. UnidosUS research shows that Latinos most commonly use savings accounts at a physical bank and that the number of bank branches and ATMs in a neighborhood often signals the availability of credit. Access to financial services and deposit products at full branches, staffed by customer service personnel, should continue to be weighted heavily as part of any CRA assessment.

² Federal Deposit Insurance Corporation, *2017 FDIC National Survey of Unbanked and Underbanked Households, Executive Summary* (Washington, DC: Federal Deposit Insurance Corporation, October 2018), [2017 FDIC National Survey of Unbanked and Underbanked Households - Executive Summary](#) (accessed February 10, 2021).

³ "Large Numbers of Loan Applications Get Denied. But for Blacks, Hispanics and Asians, the Rejection Rate Is Even Higher," *The Washington Post*, May 23, 2018, https://www.washingtonpost.com/realestate/large-numbers-of-loan-applications-get-denied-but-for-blacks-hispanics-and-asians-the-rejection-rate-is-even-higher/2018/05/22/dac19ffc-5d1b-11e8-9ee3-49d6d4814c4c_story.html (accessed January 27, 2021).

⁴ Federal Reserve Banks, *2016 Small Business Credit Survey: Report on Minority-Owned Firms* (Washington, DC: Federal Reserve Banks, November 2017), <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms> (accessed January 27, 2021).

- **Ratings of financial institutions that are based on mortgages, consumer lending, and access to credit offered in the communities where they are located.** To encourage banks to lend in the communities where they are based, they should receive credit for consumer lending only when they can demonstrate that their products are affordable and meet the needs of their community. This will also prevent investing based solely on profit. Any CRA modernization effort must ensure that LMI families are the primary beneficiaries of lending.
- **Review of demographic lending data as part of the CRA exam.** Given advances in technology, collecting and reporting demographic data associated with loans to LMI individuals or communities has become less expensive and time-consuming and, as such, should be included as part of CRA exams. Efforts to update the CRA must call for improvements in data collection and the creation of a database for identifying the communities where CRA activities are taking place and which neighborhoods need more focus, and to better understand if bank lending is reaching LMI individuals and communities of color.
- **A requirement that a bank's fair lending record and the feedback of local communities are considered as part of the CRA exam.** CRA examiners should review and weigh public comments from community organizations as part of the fair lending test. Examiners should also weigh the experiences of Latinos and other underbanked communities to determine if banks are serving the needs of the communities in which they are located. Measuring a bank's CRA activities must be done holistically and in a way that captures not only the quantity of the bank's community involvement, but also the quality.

CRA reform must prioritize increasing investment in LMI neighborhoods and communities of color.

Question 1: Does the Board capture the most important CRA modernization objectives? Are there additional objectives that should be considered?

Racial and ethnic inequalities have long been present, and the Board's ANPRM does take into consideration the objectives of CRA in promoting fair and equal access to banking services in all neighborhoods. The Board's efforts to bolster fair lending reviews, assess the outcomes of lending activities, and focus on banks' lending in their communities (including LMI neighborhoods and communities of color) are all a good start at a comprehensive and appropriate approach to modernizing CRA.

The clear language of the CRA states that banks "have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered."⁵ The key word in this language is "local." A single ratio or metric—as proposed by the OCC—derived from a bank's CRA activities divided by its total assets cannot tell an examiner, a bank, or a member of the public how responsive a bank is to its various service areas or different needs in

⁵ 12 U.S.C. §§ 2901(a)(1)-(3) (2006), Community Reinvestment Act of 1977, Congressional Findings and Statement of Purpose, (1977).

a particular assessment area. We appreciate the Board’s recognition that the CRA cannot be reduced to a few performance measures and instead must be updated and improved with a ratings and examinations framework that looks to lending, investments, and service tests to ensure that banks are meeting the objectives of CRA.

Additionally, the Board’s attention to the CRA objective of effectively meeting the needs of LMI communities and addressing inequities in credit access is of critical importance and should be the top measure of CRA success. The Board could go further in explicitly listing increasing lending and investing in LMI neighborhoods and communities of color as an objective of CRA moving forward. All future efforts to modernize and update CRA must be measured against this objective, and the Board, along with other regulatory agencies, should work to quantify the impact of its proposals so that financial institutions, community organizations, and nonprofits can understand the development of proposals and the desired outcomes.

In contrast to the OCC rule, the Board highlights the importance of community engagement and input in CRA exams. However, it does not explain how it will engage the community and ensure that the public can easily comment on CRA exams. The law requires banks to meet the credit needs and serve the convenience and needs of the local communities in which they are chartered to do business. To determine whether banks are meeting this, bank examiners are currently required to consider community comments on local needs and how well banks are responding to them. Relying solely on metrics devalues community input on a bank’s performance. The Board should ensure that there are clear instructions available to the public on how to share feedback and comment on a bank’s CRA performance.

Question 2: In considering how the CRA’s history and purpose relate to the nation’s current challenges, what modifications and approaches would strengthen CRA regulatory implementation in addressing ongoing systemic inequity in credit access for minority individuals and communities?

Bias in bank lending and investment activities has been pervasive in the American financial system since the creation of our nation. After its founding in 1781, the first “modern” bank—the Bank of North America—was criticized in 1784 for favoring city merchants over farmers. This was the first, but certainly not the last, recorded case of bias in lending policies by an American bank.⁶ Nearly 150 years later, the Home Owners’ Loan Corporation (HOLC)—formed by the federal government as part of the New Deal to refinance mortgage loans—established a universal “risk” appraisal method that color-coded neighborhoods, assigning lending risk based on racial demographics and essentially blocking lending to neighborhoods where people of color constituted the majority. The Federal Housing Administration (FHA) played a role in this

⁶ Bray Hammond, “Banks and Politics in America from the Revolution to the Civil War,” in *Community Reinvestment Performance: Making CRA Work for Banks, Communities and Regulators*, ed. Kenneth A. Thomas, Ph.D. (Chicago: Probus Publishing Company, 1994), 316–317.

by building a racial and ethnic hierarchy, which ranked Anglo-Saxons and Northern Europeans as the “most desirable” to lend to, while “Russian Jews of the lower class,” South Italians, and “Negroes and Mexicans” were ranked as the lowest.⁷ FHA then encouraged lenders to avoid mixing income classes and racial groups.⁸

Redlining destroyed neighborhoods. The loss of access to credit reduced property values in non-White neighborhoods and harmed the small businesses that served those communities.⁹ Bankers, real estate agents, and mortgage lenders worked to convince prospective buyers that a community with people of color was not desirable, that loans were not available, and that the buyer or business owner would be better off in an all-White community.

Spurred by community activism, Congress and the executive branch began to investigate community organizations’ claims of redlining. In March 1972, for example, the Federal Home Loan Bank Board released a survey of savings and loan associations in which 30% volunteered that they “disqualif[ied] some neighborhoods from lending because they [were] low-income or minority-group areas.”¹⁰ Two months later, the U.S. Department of Housing and Urban Development (HUD) released a survey in which 1,000 lending institutions, located in 50 cities, admitted that they used the racial and ethnic characteristics of a neighborhood as a factor in evaluating loan applications.¹¹ The problem of lending discrimination proved too pervasive to be resolved by state and local legislation alone.

In 1975, Senator William Proxmire (D-WI) introduced S. 1281, the Home Mortgage Disclosure Act (HMDA). He held a series of hearings on community reinvestment, and community groups from all over the country presented information on discriminatory lending patterns and the lack of loans for local needs. The bill passed the Senate 45–37 and in the House 177–147, and President Gerald Ford signed it into law on December 31, 1975.¹² HMDA became the source for community groups to confirm lending patterns in their neighborhoods, fueling calls for a piece of legislation that would require banks to reinvest in their communities. It was premised on the idea that since banks were chartered, regulated, and insured by the federal government to

⁷ National Commission on Neighborhoods, *People, Building Neighborhoods: Final Report to the President and the Congress of the United States* 31 (Washington, DC: National Commission on Neighborhoods, 1979) 69.

⁸ Arthur D. Naporstek and Chester D. Haskell, *Civil Rights Issues of Euro-Ethnic Americans in the United States: Opportunities and Challenges*, a consultation sponsored by the United States Commission on Civil Rights, Chicago, December 3, 1979 (Washington, DC: U.S. Commission on Civil Rights, 1980) 140.

⁹ Jane Jacobs, *The Death and Life of Great American Cities* (New York: Random House, 1992).

¹⁰ *Home Mortgage Disclosure Act of 1975: To Improve Public Understanding of the Role of Depository Institutions in Home Financing*, report prepared by William L. Taylor for the Center for National Policy Review, Catholic University School of Law, 94th Cong., 1st sess., May 6, 1975: 532–533.

¹¹ National Commission on Neighborhoods, *People, Building Neighborhoods*, 81.

¹² *Home Mortgage Disclosure Act of 1975*, Public Law 94-200, 94th Cong., 2nd sess. (December 31, 1975).

serve the public's interests, they also had an "affirmative obligation" to serve local credit needs.¹³

Because of this, considerations of race and inequality in lending are critical. With redlining and disenfranchisement as a systemic aspect of financial institutions, for CRA to effectively meet its objectives of combating these issues, race must be prevalent in every test and subtest of the CRA exams.

Among the most effective ways that CRA regulatory updates can address racial and ethnic disenfranchisement is by ensuring that CRA exams explicitly examine lending and community development activities in LMI neighborhoods and communities of color. While CRA has come a long way in increasing bank lending in these areas, it is not perfect. Currently, 98% of banks pass their CRA exams, but we know that many families and communities of color remain locked out of meaningful financial services.¹⁴

Going further to measure access to credit and capital that banks offer and adding performance measures as part of CRA tests and subtests that assess not only lending and investment, but community input on the availability of financial services, will go a long way in ensuring that racial barriers are being broken down. In addition to tests that look at the number and amount of community development loans and the geographic locations of banking branches, CRA exams must also look at banks' racial and ethnic demographic data and should use these data when rating banks and consider feedback of local communities.

Bank activities must be aimed at best serving the investment and capital needs of LMI people and communities directly.

Question 38: Should the Board provide CRA credit only for non-securitized home mortgage loans purchased directly from an originating lender (or affiliate) in CRA examinations? Alternatively, should the Board continue to value home mortgage loan purchases on par with loan originations but impose an additional level of review to discourage loan churning?

From the beginning, CRA was meant to encourage banks to invest in their local communities principally through direct loans, not through other kinds of investments. Under current CRA examination guidelines, a bank's loan originations qualify for more credit on the lending test than its loan purchases, which currently receive consideration as a qualifying activity on the

¹³ *Community Reinvestment Act: If Federally or Insured Lenders Have Fulfilled Their Affirmative Obligations to Make Loans in Their Communities*, report prepared by Calvin Bradford for the Hubert Humphrey Institute of Public Affairs, University of Minnesota, 100th Cong., 2nd sess., March 22, 1988: 99.

¹⁴ Federal Deposit Insurance Corporation, *2017 FDIC National Survey of Unbanked and Underbanked Households* (Washington, DC: FDIC, October 2018), <https://www.fdic.gov/householdsurvey/2017/2017execsumm.pdf> (accessed February 2, 2021).

investment test.¹⁵ A bank's loan originations and loan purchases should not receive equal consideration when evaluating a bank's lending performance. Purchasing a loan does not have the same effect as directly issuing a loan. Only loan origination requires the proactive and affirmative outreach activities to underserved members of a bank's community as envisioned by the drafters of CRA. Therefore, any proposal to give equal consideration for loan purchases would, we believe, violate the original intent of the law.

Additionally, giving equal consideration to a bank's loan purchases runs the risk of further exacerbating disparities in home lending to LMI borrowers. According to 2017 HMDA data, Latinos received less than 9% of all home purchase loans, while 65% of loans were issued to Whites.¹⁶ Furthermore, Latinos were about twice as likely as Whites to be denied mortgage credit.¹⁷ Since the financial crisis of 2007, the largest bank lenders have decreased home lending to LMI borrowers.¹⁸ Scaling back of LMI lending has a disparate impact on Latinos, who are more likely than Whites to be LMI borrowers.¹⁹

While we do not believe that loan purchases should be equally considered, a covered bank's loan purchases from small banks and CDFIs that are responsive to local communities' needs could be viewed more favorably than loans purchased from institutions that do not focus on the needs of the communities in which they are located. Current CRA exams do not look at where banks purchase loans from, so a separate and rigorous examination of purchasing activity could help address the needs of communities while ensuring that the original intent of CRA is maintained.

Purchasing loan-backed securities should not receive CRA credit. Purchasing a loan-backed security is a financial transaction that does not itself provide or facilitate financing to an LMI borrower since the very existence of the security demonstrates that the loan already was originated by another entity. Through a loan origination, the bank is issuing credit to an LMI borrower and, therefore, internalizing its affirmative obligation to lend to LMI borrowers. This activity disavows the bank's obligation to lend to LMI borrowers, gives the bank credit for an

¹⁵ Darryl E. Getter, *The Effectiveness of the Community Reinvestment Act* (New York: Federal Reserve Bank of New York, January 7, 2015), <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/cra/reports/CRS-The-Effectiveness-of-the-Community-Reinvestment-Act.pdf> (accessed January 27, 2021).

¹⁶ Consumer Financial Protection Bureau, "Data Point: 2017 Mortgage Market Activity and Trends," May 2018, <https://www.consumerfinance.gov/data-research/research-reports/cfpb-data-point-mortgage-market-activity-and-trends/> (accessed January 20, 2021).

¹⁷ Ibid.

¹⁸ Neil Bhutta, Steven Laufer, and Daniel R. Ringo, "The Decline in Lending to Lower-Income Borrowers by the Biggest Banks," *FEDS Notes* (Washington, DC: Board of Governors of the Federal Reserve System, September 28, 2017), <https://www.federalreserve.gov/econres/notes/feds-notes/the-decline-in-lending-to-lower-income-borrowers-by-the-biggest-banks-20170928.htm> (accessed February 1, 2021).

¹⁹ Drew DeSilver and Kristen Bialik, "Blacks and Hispanics Face Extra Challenges in Getting Home Loans," *Fact Tank* (Washington, DC: Pew Research Center, January 10, 2017), <https://www.pewresearch.org/fact-tank/2017/01/10/blacks-and-hispanics-face-extra-challenges-in-getting-home-loans/> (accessed January 27, 2021).

activity that it participates in for its own profit and convenience, and may result in disparate and discriminatory impacts on persons of color.²⁰

Community development activities must be targeted, effective, and focused on LMI communities.

Question 47: Should the Board use impact scores for qualitative considerations in the Community Development Financing Subtest? What supplementary metrics would help examiners evaluate the impact and responsiveness of community development financing activities?

We support the Board’s efforts to create transparency and understanding, and to ensure that community development activities are measured for their impact on local communities. The CRA is focused on the outcome of banks’ activities—namely, meeting the credit needs of their communities. While quantitative and qualitative measures are important, it is necessary to understand and assess the actual impact of bank activities on the communities they serve. For example, sole reliance on average rates and dollar amounts of activities would allow some banks to measure the success of their investment strategies by the amount of money that was provided to a community, rather than actual outcomes of the dollars in a community.

The impact and responsiveness of any particular community development activity can vary considerably from community to community. The priority of any CRA measurement must be lending and generating greater impact in LMI communities. Metrics that look at the entire scope of community development across banks do not accurately or adequately capture this. Impact scores would be a standard measure of expressing how many LMI individuals were assisted—and to what degree—by community development services, investments, or grants, rather than how much money was spent on facilitating these services.

Question 51: Should financial literacy and housing counseling activities without regard to income levels be eligible for CRA credit?

We are bothered by the fact that the Board is seeking to include financial education and housing counseling for CRA credit. Financial literacy programs, especially in low-income populations—the target communities of the CRA—are not best served by financial education. As summarized by Hastings, Madrian, and Skimmyhorn in their 2013 article, there is mixed evidence about the efficacy of financial education, especially for low-income populations.²¹

²⁰ Center for Community Development Investments, Federal Reserve Bank of San Francisco, *CRA Investment Handbook* (San Francisco: Federal Reserve Bank of San Francisco, March 2010), <https://www.frbsf.org/community-development/files/CRAHandbook.pdf> (accessed January 27, 2021).

²¹ Justine Hastings, Brigitte Madrian, and William Skimmyhorn, *Financial Literacy, Financial Education and Economic Outcomes* (Cambridge, MA: National Bureau of Economic Research, 2012), <https://pdfs.semanticscholar.org/f74d/47265b64ac646d50047791cbf1a214ab89f8.pdf> (accessed January 27, 2021); and Angela Lyons, Yunhee Chang, and Erik Scherpf, *Translating Financial Education into Behavior Change for Low-Income Populations*,

Rather, as demonstrated in the Urban Institute's 2015 seminal study comparing financial education with financial coaching, a well-structured financial coaching program can increase savings amounts and the number of deposits, paying bills on time, credit scores and familiarity with a credit report, and the likelihood of having a budget, while at the same time reducing debts, the likelihood of borrowing money from family and friends, the use of payday loans, and financial stress levels.²²

While an increase in financial education is welcome, this approach would have too few controls, and there would be inadequate oversight of the activities to ensure the achievement of the CRA goals. Furthermore, bank-designed curricula are often aligned with a bank's business goals, rather than consumer needs, and deploying these throughout the communities that CRA aims to serve would function as a new marketing stream for businesses rather than fulfilling the law's intent, as shown in these comments, of ensuring equal access to banking services.

Additionally, any efforts to broaden eligibility for financial literacy and housing counseling programs that count for CRA credit to individuals at all income levels will undoubtedly limit LMI communities' access and will change the target of those programs, which will impact the type of programs and curricula offered, making them less beneficial to LMI people and communities of color.

Question 71: Would an illustrative, but non-exhaustive, list of CRA eligible activities provide greater clarity on activities that count for CRA purposes? How should such a list be developed and published, and how frequently should it be amended?

We oppose the suggestion of a list categorizing certain community and economic development loans or investments by banks under the CRA. Community and economic development activities, as well as revitalization and stabilization activities, are clearly defined in current agency guidance documents.²³ Implementing a definition or a categorization of loans and investments could create an overly prescriptive framework that discourages banks from responding to local consumer needs. This designation could also result in many banks ignoring the unique needs of LMI communities or communities of color if they fall outside of the predesignated categories. Similarly, limiting activities to those that are predefined by the government would prevent local community groups from prioritizing their own needs, preclude their ability to articulate concerns to local banks, and discourage innovation.

Volume 17, Issue 2 (Westerville, OH: Association for Financial Counseling and Planning Education, 2006), <https://files.eric.ed.gov/fulltext/EJ1104369.pdf> (accessed January 28, 2021).

²² Brett Theodos et al., *An Evaluation of the Impacts and Implementation Approaches of Financial Coaching Programs* (Washington, DC: Urban Institute, October 2015), <https://www.fdic.gov/news/conferences/consumersymposium/2015/presentations/theodos.pdf> (accessed January 28, 2021); and Haidee Cabusora et al., *A Random Control Trial of Financial Coaching* (Brooklyn, NY: The Financial Clinic and Branches, October 6, 2015), [Clinic and Branches Practitioner Summary-2.pdf \(change-machine.org\)](https://www.change-machine.org/clinic-and-branches-practitioner-summary-2.pdf) (accessed January 28, 2021).

²³ Office of the Comptroller of the Currency, *CRA: Community Development Loans, Investments, and Services* (Washington, DC: OCC, January 2019), [CRA: Community Development Loans, Investments, and Services \(occ.gov\)](https://www.occ.gov/cra-community-development-loans-investments-and-services) (accessed January 28, 2021).

Additionally, these activities could have a disparate impact on communities of color. If the Board and fellow regulators would like to expand the current definition of community and economic development activities, they should consider the following lending activities, services, and investments:

- **Investments in community-based organizations, such as CDFIs.** A bank can better target its investment in LMI individuals and neighborhoods through community-based organizations located within its assessment areas which are trusted by and currently serve LMI borrowers. CDFIs often offer economically disadvantaged individuals and communities experiencing historical disinvestment a range of financial services and credit products, including student loans, small business loans, personal loans, home loans, or other innovative products.
- **Foreclosure prevention programs.** A bank has a variety of tools that it can use to help a homeowner struggling to make their mortgage payments, including modifying mortgage payments, reducing interest rates, and reducing the principal mortgage amount to allow homeowners to sustain homeownership.
- **FinTech (financial technology) investments for LMI consumers.** LMI households and communities of color have long been precluded from formal banking institutions. FinTech could be used by banks to better assist these communities and provide access to financial services to all Americans.

In sum, we believe that instead of attempting to presumptively assume that certain kinds of loans or investments effectively further the purposes of CRA—an exercise that seems both unnecessary and dangerous—regulators should assess the actual impact of financial institutions' community development efforts on the people and neighborhoods they serve.

Recordkeeping and Reporting Must be a Key Component of the CRA.

Question 97: Is the burden associated with data collection and reporting justified to gain consistency in evaluations and provide greater certainty for banks in how their community development financing activity will be evaluated?

The intent of CRA was not to minimize the recordkeeping burden on banks, nor have we seen convincing evidence that CRA compliance is inherently burdensome. In fact, to the extent that some banks complain about excessive paperwork, our impression is that such paperwork is often generated as an attempt to substitute for actual lending to LMI communities. The economic impact of CRA-related data collection, recordkeeping, and reporting should not guide CRA regulations or modernizations efforts, and in any event current evaluation policies are accommodating to CRA-regulated banks by accounting for their size and scope. Such accommodations include reporting timelines based on banks' size as measured by assets, tailored start dates per institution, and the ability to request short-term delayed start dates. Moreover, given advances in technology, we believe that tracking the demographic and other

characteristics associated with loans to LMI individuals or communities is far less expensive than at any time in the history of the Act.

Efforts to undermine reporting requirements are thus unnecessary and would weaken examiners' and advocates' ability to ensure that banks are meeting local needs. Examiners should instead consider reviewing banks more frequently, allowing for yearly examinations, for all large institutions regardless of their previous score so that examiners can evaluate and respond adequately. Otherwise, examiners are assessing outdated activities that already may have been addressed by banks.

Conclusion

In the forty-five years since CRA was initially passed, this critical legislation has opened doors for LMI people and communities of color, helping them to access financial services, secure home loans, build businesses, and access the credit and capital necessary to build wealth. The CRA has, in many ways, effectively combatted the pervasive redlining and exclusion that have plagued these communities. However, as our world and economy change, CRA must also be updated to meet the needs of LMI communities today and to be even more effective at addressing the discrimination that still exists. Today, despite gains, rates of lending to LMI individuals and communities of color remain significantly lower than for other wealthier individuals, and minorities specifically face loan denial rates that are invariably higher than those of their White counterparts. A modernized CRA that responds to our recommendations would better ensure that underserved communities have access to affordable financial services and credit, key components to building wealth in our current economy.

Given the significant role of CRA in facilitating access to credit for historically underserved communities, we are pleased to see that the Board's approach to modernizing the CRA is consistent with the law's original intent of promoting fair and equal access to banking services in all neighborhoods, regardless of the racial, ethnic, or income composition of the residents. We urge the Board and its fellow regulators (FDIC and OCC) to consider a joint rulemaking process that will: 1) do no harm to existing protections of LMI communities; 2) increase the size and impact of the investments made in LMI communities; and 3) continue to expand access to affordable credit for these communities.

Thank you for your consideration. Please contact UnidosUS if you should have any questions.

With regards,

A handwritten signature in black ink, appearing to read 'Eric Rodriguez', written over a white background.

Eric Rodriguez, Senior Vice President of Policy & Advocacy
UnidosUS