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August 5, 2022

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations, docket (R-1769) and RIN (7100-AG29)

To Whom It May Concern:

Please find below the comments of the Hope Enterprise Corporation / Hope Credit Union / Hope Policy Institute (HOPE) in response to the Notice of Proposed Rulemaking, Community Reinvestment Act Regulations, Docket No. R-1769 and RIN 7100-AG29.

HOPE (Hope Credit Union / Hope Enterprise Corporation/Hope Policy Institute) is a Black- and women owned Community Development Financial Institution (CDFI) credit union, a CDFI loan fund, and a policy and advocacy organization. HOPE serves Alabama, Arkansas, Louisiana, Mississippi and Tennessee – a region that is home to over a third of the nation's persistent poverty counties, most of which are rural. HOPE was established to ensure that all people regardless of where they live, their gender, race or place of birth have the opportunity to support their families and realize the American Dream. Since 1994, HOPE has generated over $3.6 billion in financing and related services for the unbanked and underbanked, homeowners, entrepreneurs and small business owners, nonprofit organizations, health care providers and other community and economic development purposes. Collectively, these projects have benefited more than 2 million individuals throughout the Deep South.

Sixty-nine percent (69%) of HOPE members have household incomes below $45,000 and eight out of 10 members are people of color. Our branches are located in areas often left behind from other types of investment, with 86% in counties where the majority of the residents are Black. One-third of our branches are located in counties that have been in deep poverty for more than three decades, and three branches are in small Delta towns with no other depository institution.

The Community Reinvestment Act (CRA) has been a critical, though imperfect, tool for HOPE to leverage the resources it needs to serve low-income communities, rural communities, and communities of color in the Deep South. Rooted in our experiences in serving communities that are frequently underserved by banks and our experience in leveraging the CRA to advance this work, HOPE seeks to strengthen the CRA and its ability to significantly increase banks' lending, services, and investments in our region.

The CRA rules should explicitly state and work towards an objective of **significantly expanding – as much as three fold – bank lending, services and investment in low-income communities and communities of color**. In addition to increasing the amount of bank activity, a reformed

CRA must also ensure these investments actually reach people and communities that have both been historically underserved and divested of their resources.

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 has the potential to increase the national Gross Domestic Product (GDP) between $1 and $1.5 trillion by 2028**.[1] Closing the gap in access to capital 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 from 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.

While the joint proposal is promising, it is not certain that it provides enough incentive to move bank activities in the direction they need to go. Currently, more than 98% of banks pass their CRA exam, despite the glaring racial and economic inequities in the banking system. It is unclear how the proposed evaluation mechanisms will change this status quo.

One key failure of the proposed joint rule is the overt omission of race in the examination process. Race 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 by which banks are evaluated for CRA purposes. Specific recommendations of how to do this are incorporated throughout the comment, with details provided in their respective area.

These comments provide HOPE's recommendations to move the CRA to its full potential for Deep South communities. It focuses on the following priority areas:

1. Assessment Areas
2. Bank Size Thresholds
3. Impact Review Measures
   a. Geographic Impact Measures
   b. Increasing Investments of MDIs
   c. Increasing Investments in CDFIs
4. Other Considerations for Rural Areas
5. Fair Lending Evaluations
6. Incorporating Race into CRA evaluations

1. Assessment Areas

HOPE strongly supports the creation of assessment areas in addition to those where banks are physically located. This is particularly important for regions in the Deep South which are largely banking deserts. The proposed retail lending assessment areas that will supplement the current facility based assessment areas is a step in the right direction recognizing the decline in branches in much of the areas we serve, and expanding the ways that those areas can be included in assessment areas and attract much needed CRA investment.

Basing the new retail lending assessment areas on loan numbers could leave out some of the most underserved communities, however, the inclusion of non-metro areas in a single non-metro assessment area seems to address this concern. HOPE encourages the agencies to evaluate the impact of the new retail lending assessment areas on non-metropolitan areas after they are implemented.

While the proposed expansion of assessment areas beyond areas with branch locations will likely mean more CRA investment in banking deserts from large banks, the exclusion of small and intermediate banks limits the potential reach in the most underserved areas where large, national banks are less likely to operate.

Under the proposed rule, small and intermediate banks would be able to "carve out" a portion of the counties in which they have branches from their assessment areas. HOPE opposes allowing small banks to carve out from their assessment areas parts of a county in which they are located, even if there is de minimis lending and/or competition. For places in the Deep South, for example in the rural Mississippi Delta and Alabama Black Belt, it may mean that a bank located in a town/city area of a rural county may exclude communities of color, and by extension people of color who live in the communities, from a bank's lending, investment and services (Question 39).

2. Bank Size Thresholds

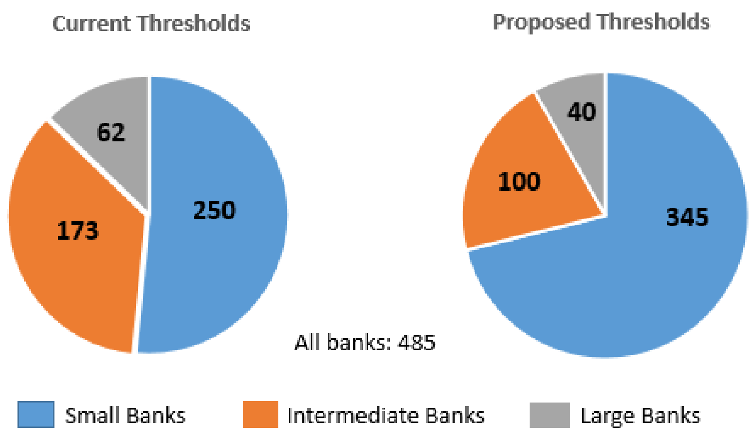
Many of the positive changes in the rule, like the new non-facility based assessment areas, would only apply to large banks. The areas in the Deep South that HOPE serves, including many rural areas and communities of color, do not have many large banks (see Figure 1). The proposed changes to the threshold sizes would reduce the number of large banks in our area. Additionally, other elements of the proposed rule, including many of the data collection requirements, would only be applicable to the largest banks, those with $10 billion in assets and above. Those provisions would apply to less than 3% of the banks headquartered in the five-state footprint served by HOPE.[2]

With the proposed new thresholds, not only would the number of large banks be reduced, but the number of banks considered small banks in our area would increase significantly. Given that small banks are exempt from the community development services and financing tests, this increased threshold and the exemptions that flow from it will significantly reduce small banks' obligations to serve the very areas in which they are located. Deep South and rural communities have a dearth of national banks, and the threshold changes will weaken small banks accountability to underserved communities.

To understand the potential impact of this provision on our five-state footprint, HOPE analyzed the asset sizes of banks headquartered in the Deep South states of Alabama, Arkansas, Louisiana, Mississippi, and Tennessee. See Figure 1. The current threshold defining small banks as less than $330 million in assets already reaches more than half (52%) of banks headquartered in HOPE's five state footprint[3]. Under the proposed thresholds, the percent of small banks headquartered in the Deep South would increase to 71%. **The number of large banks in**

HOPE's footprint would be reduced from 62 banks to 40 banks, resulting in only 8% of area banks subject to many of the key updates in the proposed rule.

Figure 1
Banks Headquartered in the Deep South by Asset Size
Under Current and Proposed Thresholds



Source: Hope Policy Institute Analysis of data from the Federal Deposit Insurance Corporation Institution Directory

Small and Intermediate banks under the proposal would also not subject to the retail services test which is critical to ensure branches for depository institutions are present in low-income communities and communities of color. For large banks, HOPE appreciates the attention of retail services in the proposal, and suggests it could be improved by also adding an evaluation of branch location distribution in communities of color. However, a bank should not be able to rely solely on retail services to move its ranking from satisfactory or outstanding if it is failing to sufficiently meet its obligations in the Retail Lending Test.

However, for the majority of banks headquartered in HOPE's five-state footprint, the locations and of closings of branches would not be considered. This will likely compound the effects noted in a Federal Reserve report on the importance of bank branches in rural communities [4] which found that "rural counties deeply affected by branch closures had higher poverty rates, lower median incomes, a higher share of their population with less than a high school degree, *and a higher share of their population who were African American relative to all rural counties (emphasis added).*"[5]

The study also notes that online lending is not an adequate substitute for a branch's presence in a local community, stating that "…branches continue to be an important banking channel for consumers, especially for deposit and withdrawal transactions and for resolving problems."[6] HOPE's experiences during the COVID-19 pandemic echoes this finding. To comply with public health safety measures, HOPE like many other financial institutions, had to close its branch lobbies (though drive windows remained open). In September 2020, HOPE surveyed its members about various impacts of COVID-19. The results of the survey show that the reduced access to branch services affirms the importance of them: 46% said that had less access to financial services, 42% said about the same, and only 11% said more access.

Additionally, as part of its survey of PPP borrowers, HOPE asked about experiences with online lenders. We found that 18% of people who applied at HOPE also applied with an online lender, and the significant majority of which said the experience was better with HOPE. In the words of one borrower, "Hope was easier because I was actually speaking with someone in person and [the other] was online and I actually didn't get to speak with somebody."

Bank branches are a critically important asset in the Deep South, where already much of the region is already in a banking desert and includes areas with some of the highest percentages of persons who are unbanked in the United States. Mississippi (12.8%) and Louisiana (11.4%) have the highest percentage of unbanked residents among all states. As shown in Table 1, the rate of unbanked Black households is even higher at 24.1% in Mississippi and 21% in Louisiana. Data for unbanked Latino households is not available for these five Deep South states.

Table 1
Deep South Unbanked Households Deep South by State and Race[7]

	% Unbanked Total	% Unbanked Black
Alabama	7.6%	10.8%
Arkansas	7.1%	No Data
Louisiana	11.4%	21%
Mississippi	12.8%	24.1%
Tennessee	8.1%	No Data
United States	5.4%	13.8%

Source: 2019 FDIC How America Banks: Household Use of Banking and Financial Services available at https://www.fdic.gov/analysis/household-survey/

Due to a partnership with Regions bank, incentivized by the CRA, HOPE is now the only depository institution in three small towns in the Mississippi Delta, such as Shaw, MS. Through this experience, HOPE heard first-hand about the how bank closures effect a community and the importance of having physical branch presence:

> *R. L. Barrett remembers when Shaw, Mississippi, was a bustling center of activity, its streets lined with grocery stores, clothing shops, a movie theater, and blues clubs showcasing the Delta's original music….When the doors of the town's only bank closed, Shaw residents had no place where they could save for the future, cash a check or even get change. It appeared the final blow had fallen upon the once vibrant, now fast-fading community. Then, Hope Credit Union opened in Shaw.*
>
> *"Hope Credit Union saved us, "Barrett says. "It's really helped the town better than anything we have had here in the last 10 or 15 years…"*

The sum total of the various parts of the proposal's provisions related to small banks along with increasing the small bank threshold size will result in a reduction of accountability to the very communities in which banks are located. Rural communities, particularly, in the Deep South, are diverse, yet bank lending practices do not always match this landscape. Against the backdrop of historic extraction of resources and lack of investment, leaders in rural communities demonstrate their capability to do more with less, to create and innovate to meet the needs of their communities when other policies and practices do not. Rural communities, particularly communities of color, just like other communities need the resources to carry out their vision for their communities. The CRA can do this by moving to strengthen, not weaken or exempt, banks' meaningful investments in rural communities of color and others experiencing persistent poverty.

3. Impact Review Measures

Under the proposed joint rule, many of HOPE's priority CRA concerns, including persistent poverty areas and partnerships with Minority Depository Institutions and Community Development Finance Institutions, are addressed as impact measures. These impact review measures would supplement the standard metric tests for the Community Development Financing and Community Development Services tests. The impact review is designed to evaluate the impact and responsiveness of a bank's community development activities.

While designed to be considered in a qualitative review, HOPE recommends that the **impact measures be meaningfully scored with weighting for the most impactful investments, like investments in Minority Depository Institutions** or investments in designated geographic areas. Below, HOPE outlines three of these impact measures that are critical for deploying CRA resources where they are needed most.

a. Geographic impact measures

Overall, HOPE is generally supportive of the proposal to consider the impact of investments made in certain geographic areas, including Persistent Poverty areas, high poverty census tracts, and areas with low levels of community development, as long as the final rule is targeted enough to ensure these investments reach economically distressed communities and communities of color.

The geographic impact measures proposed is a good step in the right direction, but to improve it, the following must be addressed:

1. The geographic areas should sufficiently defined to target the communities most in need of investment.
2. CRA credit for investments in these areas must be given enough weight and clarity in the banks' CRA evaluation to incent investments to them.
3. CRA-qualifying investments to these areas must address both **people and place**, to ensure the investments reach low-income people and people of color and low-income communities and communities of color.
4. Investments in CDFIs must be meaningful with an evaluation of the type and amount of investment. Priority should be given to equity, subordinate debt in community development credit unions, and equity equivalents. Relatedly, equity must not be diluted or deprioritized in the CRA evaluation, and must be reported separately, even if combined into a single test (Question 35).

To be most effective, these geographic designations should work together in identifying the most impactful investments (Question 34). On their own, looking at one measure like Persistent Poverty areas without more attention to capital flows, may also be insufficient to draw investments to the most underserved communities. The New Market Tax Credit (NMTC) is an illustrative example. According to an analysis by Hope Policy Institute, between 2003 and 2017, only five percent of all NMTC-supported investments, industrywide, went to projects in rural, persistently poor areas. For HOPE, by contrast, nearly one-third (29%) of its NMTC supported investments went to projects in these persistently poor rural areas, all in the Deep South.[8]

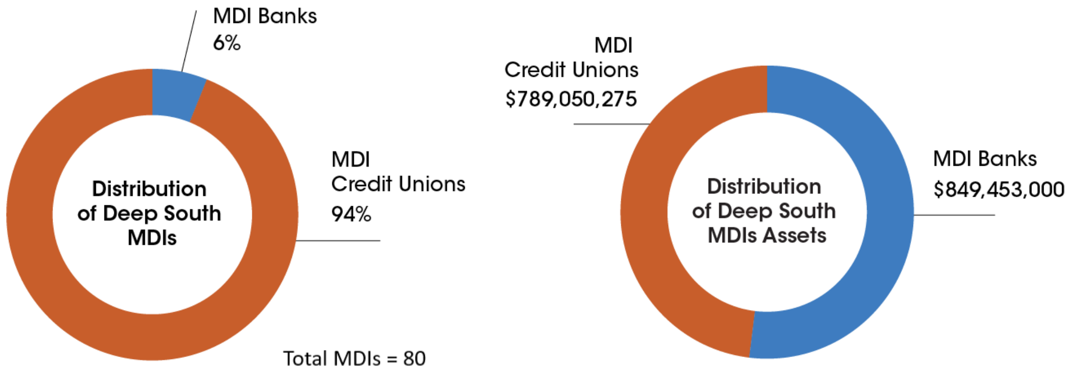
HOPE supports investments in these designated geographies, both inside and outside of banks' assessment areas. Additionally, the rule should include geographies that are majority people of color as an impact measure to be considered in conjunction with the proposed assessment areas.

b. Increasing Investments in Minority Depository Institutions

HOPE is pleased to see the proposal give particular attention to how the CRA could help increase investments into Minority Depository Institutions (MDIs), particularly given their key role in expanding economic mobility for communities of color in the Deep South. Nationally, MDIs have a well-documented track record of serving people and communities of color. For example, a 2019 FDIC study on MDI's impact found that MDIs are a proven way to advance economic mobility in Black communities. An estimated six out of 10 people living in the service area of Black-owned banks are Black, in contrast to six out of 100 for banks that are not Black-led. According to the study, "MDIs originate a greater share of mortgages than non-MDIs to borrowers in low- and moderate-income census tracts and in census tracts with larger shares of minority populations. The same is true for MDI origination of guaranteed Small Business Administration 7(a) loans."[9]

As highlighted in a recent HOPE analysis, MDIs are particularly critical for economic mobility in the Deep South, particularly Black borrowers and communities: "As of 2018, in the Deep South states of AL, AR, LA, MS and TN, there were 80 MDI banks and credit unions, the vast majority of which (75) were small credit unions. At the same time, while MDI credit unions far outnumbered MDI banks in the five state region, over half of the assets held by MDIs were held by five MDI banks."[10] See Figure 2. Since then, the number of MDI has declined to 75 (see Table 2). **MDI Credit Unions should be included in the rule's definition of MDI's** (Question 25).

Figure 2
Deep South Minority Depository Institution (MDI) Characteristics[11]



Source: FDIC Minority Depository Institution List Historical Data Year-by-Year 2001-2019
NCUA Minority Depository Institutions Annual Report to Congress 2018
Hope Policy Institute Analysis

The support of bank-infused capital into MDIs will be critical in the aftermath and recovery from the COVID-19 crisis; the health and economic consequences of which are disproportionately harming communities of color. Lessons from previous crises should inform this one. One of the most important lessons of the pandemic through the lens of financial service access is that MDIs, located in the hardest hit communities are also be at risk. Increased capital investments are necessary to ensure these vital institutions remain able to continue serving their communities. A look at the fall out of the 2008 Great Recession underscores the urgency of this situation. HOPE analysis found that, "[f]rom 2013 to 2021, the number of Deep South MDIs shrank from 121 institutions to 75 institutions. By number, 40 MDI credit unions, most of which were small as measured by asset size, and one bank were merged with other institutions or liquidated." See Table 2.

Table 2
The Number of Deep South MDIs Declined from 2013-2021[12]

Year	Number of Deep South MDI Banks and Credit Unions	Assets Held by Deep South MDI Bank and Credit Unions
2013	121	$2,985,262,857
2021	75	$2,778,011,003

Source: FDIC Minority Depository Institution List, Historical Data 2001-2019, and NCUA Minority Depository Institutions Annual Report to Congress, 2018

In the midst of the COVID-19 pandemic, the importance of MDIs serving communities hardest hit by this crisis is clear. As just one example, HOPE's experience as an MDI and Black-led CDFI engaged in the Small Business Administration Paycheck Protection Program (PPP) underscores the importance of MDIs in service to businesses owned by people of color. On numerous occasions, Black-owned businesses approached mainstream financial institutions offering PPP loans only to learn that they would not be served:

- A Black dentist was not funded by a large bank, and the bank never called to check on the application. The dentist applied with HOPE, and we approved her $12,000 loan request.
- HOPE approved a woman-owned staffing company in Memphis, coming to us after having received no response from her regional banks.
- HOPE approved a $7,200 loan for a Black-owned, 27-year old barbershop in New Orleans after the owner received no help from the bank, one of the largest in the country and with major CRA obligations, he had asked to assist him.

These stories were a constant narrative during our PPP lending process, an extension of a banking system that has historically failed to serve communities of color and low-income communities with the same attention as others. This failure was echoed by a recent working paper from the National Bureau of Economic Research on PPP which found that black owned businesses were least likely to get a PPP loan from small community banks where only 3.3% of PPP loans went to black owned businesses[13]. In contrast, 10.6% of PPP loans by CDFIs went to black-owned businesses.

In a December 2020 survey of HOPE's PPP borrowers, **more than 1 in 3 borrowers (36%) decided to take a PPP loan with HOPE because they lacked another option or were declined by another bank**. Here are a few examples of what this experience was like in their own words:

- At one bank, "I got the run around and told me I had to reapply. They "blew me off."
- "Tried to go to our bank but it was unsuccessful because the bank we went to they were only serving rich people."
- "I'm a member [of a bank] and initially they weren't gonna do it and then my account management app said they gave me PPP then they changed their mind. Hope was the only community institution that really embraced PPP. I attempted but [the bank] is the 4th largest bank in the world so that didn't' fit their corporate mission."
- "We did as many as we could just to see if we qualified but no one touched base with us. I think we applied with six different ones, I'm in a PPP group and people would give out names of institutions where applications were available. We tried to get it through other avenues and other banks but they didn't give us the time of day. Hope was the only one to assist us with the matter. I didn't even know how to fill it out, they just had an online form and I uploaded the tax form and then we just winged it but Hope called after and fixed it. Hope was great if it wasn't for Hope we wouldn't have PPP."

As of September 15, 2020, HOPE funded 2,587 PPP loans totaling $81 million, supporting more than 10,200 jobs in the Deep South. The majority of HOPE's PPP borrowers are businesses owned or led by people of color and women, and the majority are located in communities of color. **The PPP served as a lifeline for many of HOPE's PPP borrowers with 50% saying they would have 'closed down' without assistance, and another 13% saying they would have had to lay off employees**. The severity of minority-owned businesses being unserved by the banking system cannot be overstated. One borrower predicted what might have happened if he had not received a PPP loan: "Probably would be put out of business, would not have been able to catch up with rent. I would probably be homeless as well."

Investments into MDIs should be meaningful in both size and type. They must also be given sufficient consideration with the CRA evaluation to actually incent investments, and priority should be given to MDIs with a strong track record of not just lending in low-income communities / communities of color but also directly to people of color.

Specifically, HOPE recommends the following:

1. The 2% solution: HOPE and other leaders have called corporations to make substantial investments in minority-led financial institutions and minority businesses in support of closing the racial wealth gap. Banks are included in this call to action as well. As HOPE stated in a recent piece published with the Aspen Institute, "The 2% Solution offers a guide for moving forward: Make substantial, sustained and targeted investments that equip Black communities to thrive." [14] Business leader Robert Smith, "argues that an investment equal to 2% of net income over the next decade would be a small step toward restoring equity and mobility in America." He estimates that, "the net income of the ten largest U.S. banks over the last ten years was $968 billion. He figured just 2% of that would amount to $19.4 billion, which could be used to fund the core Tier 1 capital of community development banks and minority depository institutions that primarily service Black communities."[15]

2. Incentivize investments to MDIs with strong track records: The evaluation for the weight of MDI investments towards their CRA rating should also take into account MDIs' track record for serving borrowers and communities of color. Even though MDIs as a whole outperform non-MDI banks in serving communities of color, the CRA can incentivize more investments flowing to MDIs with particularly strong records. The mechanism by which to do this would be for the CRA to incorporate the "minority lending institution," included in the Consolidated Appropriations Act of 2021. In addition to being an MDI, "minority lending institutions are ones where "a majority of both the number and dollar volume of arm's-length, on-balance sheet financial products…are directed at minorities or majority minority census tracts or equivalents."[16]

3. Additional recommendations:
    a. The rule should incorporate MDI investments to be considered as part of the quantitative community development financing metric that contributes to a banks' presumptive rating. It is not enough for MDIs investments to simply be included in the qualitative assessment that would move a bank from satisfactory to outstanding.
    b. The CRA must prioritize capital investments such as equity and secondary capital.
    c. HOPE supports the proposals to allow MDIs to receive CRA credit for investing in other MDIs in communities of color, even if outside of their assessment area.

d. HOPE supports the proposal to allow MDIs to receive CRA credit for "activities that demonstrate meaningful investment in the business," e.g. staff training, new staff, new branch in minority community.

c. Increasing Investments in CDFIs

HOPE is generally supportive of the proposal's emphasis on investments in CDFIs. . However, more must be done to ensure these investments reach communities of color and historically overlooked communities. Specifically, as recommended in detail in this section, the CRA should prioritize investments into CDFIs designated as "minority lending institutions," meaning those led by and with a demonstrated track-record of serving communities of color.

In this section, we demonstrate racial disparities in mortgage lending among CDFIs banks, racial disparities in capitalization among CDFIs, and racial disparities in bank capital held by CDFIs. If banks had invested in minority-led CDFIs to the same extent as white-led CDFIs, this would result in more than double – perhaps triple – the amount of bank-infused capital held by minority-led CDFIs.

As CDFIs and MDIs position themselves to deploy exponentially more capital, they must be steadfast in prioritizing a commitment to community development, over the countervailing forces of maximizing efficiencies and profit that characterize traditional banks. Similarly, CRA examinations should prioritize the most impactful CDFI and MDI investments. Because, just as the billions of dollars in capital flowing into this sector have the potential to dramatically close opportunity gaps, the reverse is also true. An examination of Home Mortgage Disclosure Data (HMDA) in the Deep South underscores concern about potential disparities in track records among CDFIs and MDIs. Stark examples are evident in Mississippi, where so much of the state qualifies geographically as low-income, and nearly 40% of Mississippi's population is Black.

- Among the 27 CDFI banks headquartered and engaged in mortgage lending in Mississippi from 2018-2020, 68% of mortgage loans went to white borrowers while only 13% went to Black borrowers. This is lower than the statewide rate of all HMDA reported mortgage originations from 2018-2020 to Black borrowers at 17%.
- Among the three CDFI credit unions headquartered and engaged in mortgage lending in Mississippi from 2018-2020, 59% of mortgage loans went to Black borrowers and 39% went to white borrowers. When HOPE's loans are removed from the analysis, it drops to 33% of loans to Black borrowers.
- By contrast, from 2018-2020, Hope Credit Union, an MDI and CDFI, made 81% of its mortgage loans to Black borrowers.

Similar patterns persist in Louisiana as well, where 32.8% of the population is Black. Using 2018-2020 HMDA mortgage lending data, statewide, among all lenders engaged in mortgage lending in the state, 14% of mortgage loans went to Black borrowers and 73% to white borrowers, with data missing for 13% of loans. Among 16 CDFI credit unions headquartered and engaged in mortgage lending in Louisiana, from 2018-2020, 19% of mortgage loans went to Black borrowers and 70% went to white borrowers. For CDFI banks in 2019 in Louisiana, of the 14 CDFI banks reporting HMDA information, 15% of mortgage loans went to Black borrowers.

However, when Liberty Bank, an MDI CDFI bank that made 76% of its mortgage loans to Black borrowers, is excluded from the analysis, the percentage of mortgage loans to Black borrowers by CDFI Banks in Louisiana dropped to 9% in 2019.

<u>Racial disparities in CDFI capitalization</u>

Despite minority-led and minority-serving CDFIs deeper reach into communities of color, they are historically undercapitalized compared to their white counter parts. To understand the asset gap between white-led and minority-led CDFIs, HOPE analyzed data from CDFI Fund awardees between from 2003 to 2017.[17] In that analysis, HOPE found during that 15-year span, 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**.at [18] 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, and thereby increasing the amount of capital flowing to people, businesses, and communities of color. Examining the data from CDFI Fund awardees for FY 2017, [19] HOPE analyzed trends of capital held by CDFIs' that came from banks.[20] The analysis show that the banks know how to make investments into CDFIs, but yet the benefit of this capital is not evenly or equitably shared. In FY 2017, there were 315 CDFI Fund awardees. Even though minority-owned CDFIs accounted for 27% of these CDFIs, they held only 11% of the total $34 billion in bank-infused capital. White-led CDFIs, accounted for 66% of CDFI Fund awardees, and held 89% of the bank-infused capital. See Table 3.

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.

Table 3
Amount of Bank-Infused Capital Held by FY 2017 CDFI Fund Awardees, by Race

CDFI by Ownership Type	Number of CDFI Fund Awardees	% of CDFI Fund Awardees	Bank Capital Held	% of Total Bank Capital Held	Average
White	207	66%	$ 6,707,892,512	89%	$ 32,405,278
Minority	84	27%	$ 810,261,573	11%	$ 9,645,971
Unknown	24	8%	$ -	-	$ -
Total CDFI Fund Awardees	315	100%	$ 7,518,154,085	100%	$ 23,867,156

Source: Hope Policy Institute analysis of data from the CDFI Fund Institution Level Reports 2003-2017

These data from 2017 are more than a mere snapshot in time. Rather, the data reflect, in part, an accumulation of bank capital over time. For CDFIs, capital begets capital - having equity enhances a CDFI's ability to attract additional capital. Additionally, CDFIs typically keep bank capital on their books for several years. Consequently, CDFIs that enjoyed longer and greater access to bank capital have leveraged this advantage over time, substantially growing the balance sheets in the process.

A glimpse of this trend is evident in this data, both in the aggregate and in an anecdotal example. In FY 2003, the earliest year of data available, 207 white CDFI Fund awardees held over $1 billion of bank-infused capital, while 73 minority CDFI Fund awardees held just about $67 million in bank-infused capital. By 2017, these numbers were over $6 billion and $810 million, respectively. In an anecdotal example, one white CDFI fund awardee reported to the CDFI Fund every year from 2003 to 2017, each year showing the amount of bank-infused capital on its books at time of reporting. In 2003, this amount was $750,000, and by 2017, it was $35 million.

CRA is credited with fueling growth in the CDFI industry after 1995 changes to incentivize CRA investments in CDFIs.[21] Bank investments motivated by a race-neutral CRA created the foundation of disparities present today. CRA played a role in the origins of these disparities, and can and should play a role in addressing them.

<u>Increasing investments in minority CDFIs can close this gap</u>

Given these persistent disparities in the CDFI asset gaps, disparities in bank-infused capital into CDFIs, and the track record of minority-led CDFI in serving communities of color, it is imperative the joint rule should incorporate and incentivize investments into CDFIs that are "minority lending institutions," as defined by the Consolidated Appropriations Act of 2021.

> A "minority lending institution" is a CDFI where a majority of both the number and dollar volume of arm's-length, on-balance sheet financial products of the CDFI are directed at minorities or majority minority census tracts or equivalents; and is (1) an MDI as defined by FDIC or NCUA or (2) meets other standards of accountability to minority populations as determined by the Fund.[22]

Similar to the recommendations for MDIs, investments into CDFIs must be meaningful and ensure they reach historically overlooked communities. The types of investments that must be prioritized include equity, secondary capital, and equity equivalents.

Among the strengths of CDFIs and MDIs is the ability to develop and deploy products tailored to the markets and communities in which they are located. This is particularly important for serving communities of color and persistent poverty regions, where a one-size-fits all approach does not work to address the fractured landscape caused by centuries of discrimination, divestment, and extraction.

4. Other Considerations for Rural Areas

In addition to the discussion of rural areas in the previous Assessment Areas and Impact Review sections, HOPE has identified a few other areas of concern for maximizing CRA investment in rural areas.

First, in scoring banks, the proposed rule would require banks to score low satisfactory or above in only 60% of their assessment areas to score satisfactory overall. This could allow banks to ignore areas that are seen as harder to serve, like rural areas, and still perform well on their exam. HOPE recommends that the threshold be increased to at least 75% or that assessment areas are grouped by type with a minimum required score for metropolitan and non-metropolitan areas that must be met.

Second, banks should only receive credit for volunteer activities directly related to the provision of financial services or that have a community development purpose (Question 127). Community development services should be related to financial services or the regulatory definition of community development. Banks, particularly small banks in rural areas, should not be allowed to count general volunteering in place of meaningful lending activities or even volunteer activities related to the provision of financial services. It is critical that CRA activities have a nexus with the provision of financial services, given the CRA's history of rectifying banks' denial of lending in communities in which they are taking deposits. Bank employees' volunteer time for a park clean-up day, while welcome, does not build wealth in the same way that providing access to mortgage loans and small business loans would do. There are many motivations for banks to engage in the former, but the CRA is the only unique tool intended to leverage the latter.

5. Fair Lending Evaluations

The CRA should be further strengthened to address discriminatory lending practices by banks. . HOPE urges that fair lending examinations should be more robust than current reviews and include a quantitative analysis of lending to people and communities of color. Any evidence of illegal and abusive lending must be penalized via lower ratings. The review of fair lending examinations should be across a bank's portfolio, including retail and community development lending, as well include access to services as well as lending.

Strengthening fair lending is a critical concern for our region of the country. Mississippi is one of a only a few states in the country that does not have any state-level fair housing or fair lending enforcement. Further, in Mississippi, between 2008 and 2017, 18% – nearly one in five – Black Mississippians earning over $150,000 who applied for a mortgage loan, were denied, in contrast to only seven percent of white Mississippians who applied for a mortgage at the same level of income. The disparities were even worse at lower levels of income, where 43% of Black Mississippians earning less than $30,000 a year were denied, compared with 28% of whites in this same income group. Finally, the 18% denial rate for Black residents earning over $150,000 is higher than the denial rate of whites earning between $30,000 and $50,000 – which stands at 15% over the 10-year period.[23] By 2019, the trends are still troubling: More than one-third of Black applicants earning over $150,000 were denied, compared to 12% of white applicants. See Table 4.

Table 4
2019 Mortgage Loan Denials in Mississippi, by Race and Income[24]

	$30,000 or below	**$31,000-$50,000**	**$51,000-$75,000**	**$76,000-$100,000**	**$101,000-$150,000**	**Above $150,000**
Black	67%	46%	39%	33%	32%	34%
White	48%	28%	21%	17%	14%	12%

Source: Hope Policy Institute analysis of 2019 Home Mortgage Disclosure Act

The proposed disclosure of HMDA data showing mortgage lending by race for large banks may bring greater attention to lending disparities, however, it should not end there. A bank's HMDA mortgage lending by race as well as data on small business lending, once available, should be considered as part of the bank's CRA examination (Question 173).

6. Incorporating Race into CRA Evaluation

Throughout the above comments, HOPE has included specific recommendations that incorporate race in the CRA framework, and underscored the importance of doing so. As shown by HOPE's HMDA analysis of mortgage lending by CDFI banks in Mississippi and Louisiana, where more than 30% of the population is Black, having a mission to serve low-income communities does not mean that a CDFI will serve borrowers of color.

This concern expands beyond analysis of lending in HOPE's region. A recent report by the Urban Institute underscores this point that low-to-moderate income neighborhoods do not always overlap with communities or borrowers of color, and that capital access for Black mortgage loan borrowers in low-to moderate income neighborhoods lags behind their proportional share. Urban's study concludes, that

> "lending to LMI borrowers and LMI neighborhoods is not the same as lending to minority borrowers or minority neighborhoods. Moreover, LMI neighborhoods do not highly overlap with minority neighborhoods."[25]

One way to include race among the many factors considered in lending tests and impact reviews would be to utilize the "other targeted population" framework already provided for in the Riegle Community Development and Regulatory Improvement Act of 1994. The Act's definition of "targeted populations," can either be individuals who are low-income or others who "lack adequate access to Financial Products or Financial Services in the entity's Target Market." This latter category is codified as "Other Targeted Population" in the CDFI Fund Certification Guidance. It is defined as "African-American, Hispanic, Native American, Native Alaskan residing in Alaska, Native Hawaiian residing in Hawaii, Other Pacific Islander residing in Other Pacific Islands, People with Disabilities and Certified CDFIs.[26]" The Fund allows other populations to be considered in this category only if "approved by the CDFI Fund before they can be included as part of an entity's Target Market for CDFI Certification purposes.[27]"

A bank should not be able to even reach a presumption of satisfactory without demonstrated accountability of lending to people and communities of color in its assessment areas. This is a necessary addition to significantly improve access to small business and mortgage lending for communities of color. A primary reason why this is necessary, is because for places like the Deep South, neither geography nor income are always sufficient proxies for race. And, data show that even with CRA requirements in place, significantly racial disparities in mortgage lending still persist. See Table 5.

Table 5
Deep South HMDA Mortgage Originations by State, Race, Ethnicity 2019[28]

	Black		White		Hispanic/Latino		Not Available
	Loan Originations	Population	Loan Originations	Population	Loan Originations	Population	Loan Originations
Alabama	12%	27%	75%	69%	2%	5%	10%
Arkansas	6%	16%	77%	79%	5%	8%	13%
Louisiana	14%	33%	69%	63%	3%	5%	13%
Mississippi	17%	38%	69%	59%	2%	3%	11%
Tennessee	7%	17%	78%	78%	3%	6%	12%

Source: Hope Policy Institute analysis of 2019 Home Mortgage Disclosure Act Data

Across HOPE's five Deep South states, there is a 26.3% gap between Black and white homeownership, a number that has grown since the Great Recession. This gap is not due to lack of people applying for it, but rather due to structural barriers and discrimination in the banking system. In addition to mortgage lending, lending to businesses of color should also be included in the quantitative retail lending financing subtest. Increasing investments to MDIs and CDFIs is also connected to this goal. Sustained and targeted investment in CDFIs and MDIs with demonstrated a commitment to serving people of color is a proven solution for setting the nation on a path toward inclusive economic prosperity.

<u>Drawing on Other Federal Programs to Measure Investment in Underserved Communities</u>

To the extent to which an examination of CRA investments, lending and services are bound to geography, i.e. census tracts, HOPE recommends modifying the measurement from one solely focused on categories of median family income to a more comprehensive measure of economic distress designed to capture the unmet capital needs of people of color. One such program from which to draw direction includes the CDFI Fund Equitable Recovery Program (ERP). One of the primary purposes of the ERP is "to expand lending, grant making and investment activity in Low- or Moderate-Income borrowers, including minorities that have significant unmet capital or financial service needs and were disproportionately impacted by the COVID-19 pandemic."[29] In the Notice of Funding Availability, the CDFI Fund makes clear that it will prioritize funding for applications that "commit to use their CDFI ERP Awards in ERP-Eligible geographies."

Eligible ERP geographies must be Native Areas or census tracts that:

1. "Demonstrate 'severe impact' of the COVID-19 pandemic[30]
2. Have a median family income of 120% of the Area Median Income; and
3. Are CDFI Investment Areas
    a. Investment Areas are Census Tracts with:
        i. A poverty rate of 20 percent or higher; or
        ii. An unemployment rate of 1.5 times the national average
        iii. Median Family Income below 80% of the Area Median income
        iv. An Empowerment Zone or Enterprise Community designation
        v. A population loss of 10% (for metro areas) between the most recent census periods or 5% over the last five years for Non-Metro areas[31]

Such a solution is administratively underway. The CDFI Fund has created the data set of census tracts that could be used to evaluate bank investments, loans and services provided in ERP eligible geographies. Out of a total of approximately 73,000 census tracts within the 50 states, 29,255 are ERP eligible. Of the 29,255, 16,463 are comprised of a population where the majority of people living in the census tract are people of color.[32]

Conclusion

The Deep South is home to more than 126 counties which have been locked in persistent poverty for more than half a century, due to a wide range of extractive, exploitative, and exclusionary policies. Over 40% of these persistent poverty counties have a population where the majority of people are people of color. The CRA, while imperfect, has been an important tool for catalyzing investment in these communities, often existing beyond the reach of traditional bank business models. Lenders and communities alike will benefit from the resulting economic activity from 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.

Thank you for the opportunity to provide feedback on the proposal.

Sincerely,

William J. Bynum
Chief Executive Officer

Sara Miller
Senior Policy Analyst

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[1] McKinsey and Company, "The economic impact of closing the racial wealth gap," Aug. 13, 2019, https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap

[2] Hope Policy Institute Analysis of data from the Federal Deposit Insurance Corporation Institution Directory

[3] Hope Policy Institute analysis of data from the FDIC Institution Directory as of July 14, 2022 available at https://www7.fdic.gov/idasp/advSearchLanding.asp

[4] Board of Governors of the Federal Reserve System, "Perspectives from Main Street: Bank Branch Access in Rural Communities," November 2019 https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf

[5] Id. at 4.

[6] Id. at 1.

[7] 2019 FDIC How America Banks: Household Use of Banking and Financial Services available at https://www.fdic.gov/analysis/household-survey/

[8] Sara Miller, Hope Policy Institute, Analysis of data from the CDFI Fund FY 2019 NMTC Public Data Release: 2003-2017 Data File accessed December 18, 2019 https://www.cdfifund.gov/Documents/2019%20NMTC%20Public%20Data%20Release_FY_17.xlsx

[9] FDIC, "Minority Depository Institutions: Structure, Performance, and Social Impact," 2019, https://www.fdic.gov/news/press-releases/2019/pr19054.html

[10] Ed Sivak, "Minority Depository Institutions in the Deep South," July 15, 2020, Hope Policy Institute, http://hopepolicy.org/blog/minority-depository-institutions-in-the-deep-south/

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[11] Id., analyzing FDIC Minority Depository Institution List, Historical Data 2001-2019, and NCUA Minority Depository Institutions Annual Report to Congress, 2018.

[12] Id., analyzing FDIC Minority Depository Institution List, Historical Data 2001-2019, and NCUA Minority Depository Institutions Annual Report to Congress, 2018

[13] Sabrina T. Howell, Theresa Kuchler, David Snitkof, Johannes Stroebel, and Jun Wong, "Automation and Racial Disparities in Business Lending: Evidence from the Paycheck Protection Program. NBER Working Paper 29364, October 2021, revised May 2022

[14] Bill Bynum, "The 2-cent Solution: A Call for U.S. Companies to Invest in Black Communities," published in The Aspen Institute's Next Move blog series, Jan. 29, 2021, https://www.aspeninstitute.org/blog-posts/the-next-move-how-business-can-close-racial-economic-gaps-in-2021/

[15] Jeff Kauflin and Janet Noval, "Five Big Ideas to Close the Racial Wealth Gap," June 25, 2020, https://www.forbes.com/sites/jeffkauflin/2020/06/25/five-big-ideas-to-narrow-the-racial-wealth-gap/

[16] Sec. 523(c)(4) of the Consolidated Appropriations Act of 2021. Even though the definition in the Act is specific to CDFIs for the purposes of allocating CDFI Fund awards, it can additionally apply to MDIs in the CRA context.

[17] 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

[18] Id at 2., for definition of "white-owned" or "minority-owned" as defined by the CDFI Fund ("Minority-ownership is determined by a CDFI's self-reporting to the CDFI Fund on its ILR. The ILR instructs reporting CDFIs to, 'select whether the Organization was minority owned or controlled at the reporting period end OR select Don't Know. A non-profit is considered to be minority owned or controlled if more than 50 percent of its Board members are minorities, or the Chief Executive Officer, Executive Director, General Partner, or Managing Member is a minority.' For-profit institutions define minority-ownership and control according to their own definition.")

[19] Id. at 2, for an explanation of this data source. ("The CDFI Fund collects this data in two databases, institutional level reports and transactional level reports. Institutional level reports collect data on the organization, financial position, financing, and minority ownership dating back to 2003. The transactional level reports collect data on the lending activities of each organization for the most recent fiscal year. This analysis uses the institutional level report (ILR) to explore the number of CDFI Program awardees, minority-ownership, assets held, and capital held from the CDFI Fund from 2003 to 2017. This dataset includes awardees that received a financial award, technical assistance, or received assistance through the Native American CDFI Assistance Program (NACA). Data is available on the CDFI Fund website.")

[20] Capital held, as required to be reported to the CDFI Fund for CDFI Fund awardees, represents the amount of investment capital received from the CDFI Fund at reporting end. Investment capital includes idle capital that is available to lend and invest, deployed capital, and capital only reflected on the organization's balance sheet. CDFIs are required to designate the capital investments by source, and in this analysis, we use "cap_Bank" designation, which is capital "received by banks or other regulated financial institution." Community Development Financial Institutions Fund. "CDFI Institution Level Report Instructions CIIS 15.0". Pgs.9-11. https://www.cdfifund.gov/Documents/FY%202017%20Data,%20Documentation,%20Instructions.zip

[21] Opportunity Finance Network, "CDFI Futures: An Industry at a Crossroads.", March 2016, https://ofn.org/sites/default/files/resources/PDFs/Publications/NowakPaper_FINAL.pdf (The investor support from depositories is driven by CRA. While bank investments are private, they are shaped by a public mandate. For two decades, CRA-motivated capital has been a near perfect systems match between a rapidly consolidating banking industry and the emergence of a CDFI industry interested in markets that overlap with banks' trade areas, but within which banks are less likely to make certain types of loans.")

[22] Sec. 523(c)(4) of the Consolidated Appropriations Act of 2021

[23] HOPE's Comment to HUD, Implementation of the Fair Housing Act's Disparate Impact Standard Docked ID: 2019-17542, October 18, 2019

[24] Hope Policy Institute analysis of Home Mortgage Disclosure Act 2019 denial and origination data accessed at https://ffiec.cfpb.gov/data-browser/data/2019?category=states

[25]Urban Institute, Should the Community Reinvestment Act Consider Race?, Jan. 2022, https://www.urban.org/sites/default/files/publication/105283/should-the-community-reinvestment-act-consider-race_1.pdf

[26] 12 CFR § 1805.201(b)(3)(iii)(a).

[27] CDFI Fund, CDFI Certification Application (For Public Comment Only), May 2020, https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi-certification-application-for-comment-may-2020.pdf. Page 56.

[28] Hope Policy Institute analysis of 2019 Home Mortgage Disclosure Act Data accessed at https://ffiec.cfpb.gov/data-browser/

[29] Department of the Treasury Community Development Financial Institutions Fund Funding Opportunity: Community Development Financial Institutions Equitable Recovery Program https://www.cdfifund.gov/sites/cdfi/files/2022-06/CDFI_ERP_NOFA_Final.pdf

[30] For more information on how the CDFI Fund defines "Severe Impact of the COVID-19 Pandemic" see page 4 of the Notice of Funding Availability https://www.cdfifund.gov/sites/cdfi/files/2022-06/CDFI_ERP_NOFA_Final.pdf

[31] Frequently Asked Questions CDFI Investment Area Transition to the American Community Survey 2011-2015 Data (October 1, 2018). https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi-investment-areas-potential-faqs-final-100118.pdf

[32] FY 2022 Equitable Recovery Program List of Eligible Geographies: https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.cdfifund.gov%2Fsites%2Fcdfi%2Ffiles%2F2022-06%2FFY_2022_CDFI_ERP-Eligible_Geographies_Final.xlsb&wdOrigin=BROWSELINK