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Via the following means:

- FDIC: RIN 3064-AF81 - www.fdic.gov/regulatiosn/laws/federal/propose
- Federal Reserve: www.federalreserve.gov/consumerscommunities/community-reinvestment-act-proposed-rulemaking
- OCC: Docket ID OCC-2022-0002 - https://regulations.gov

To the Federal Deposit Insurance Corporation, Federal Reserve Board of Governors, and Office of Comptroller for the Currency:

Thank you for this opportunity to comment on proposed amendments to implementing regulations for the Community Reinvestment Act (CRA) of 1977.

Our thoughts on CRA reform are informed, in large part, by the goals of the *Illinois* CRA, which we passed last year.[1] The Illinois CRA was part of the Illinois Legislative Black Caucus's (ILBC) 2020-21 legislative agenda. The "Black Caucus Agenda" was developed in the wake of high-profile instances of police violence against Black people and the unrest that ensued, as well as the COVID pandemic's disproportionate impacts on Black and Brown communities. Also inspiring the Black Caucus Agenda, and the Illinois CRA in particular, was a study by NPR affiliate WBEZ and City Bureau showing that, in Chicago, lenders have invested more in a single White neighborhood than all the Black neighborhoods combined. *See* Linda Lutton, Andrew Fan, and Alden Loury, *Where Banks Don't Lend* (June 3, 2020).

Against this backdrop, we expect the rules to implement the Illinois CRA to be race conscious and to establish a regulatory framework that explicitly and intentionally aims to reverse the profoundly negative consequences of redlining. Just as redlining was and is race conscious, addressing its impacts in a meaningful way must also be race conscious. At the core of the federal and state CRA is the concept of community. Nothing in either law instructs regulators to pretend communities of color do not exist. There are ZIP codes in Chicago that are more than 95% Black.[2] These ZIP codes are also among the most disinvested ZIP codes in Illinois. Addressing the needs of these communities requires reinvestment activities that are directly responsive to local needs.

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[1] 205 ILCS 735

[2] U.S. Census Data (2019)

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We also offer a recommendation with respect to consumer lending. Recent research by Woodstock Institute found "statistical significance on steroids" with respect to predatory consumer lending and Black neighborhoods in Chicago. *See* Stephanie Zimmerman, "High-interest loans in Chicago target Black neighborhoods," *Chicago Sun-Times* (Nov. 26, 2021). Further, in a 2019 report by the Center for Responsible Lending, Illinois ranked fourth in the nation in terms of the amount of fees paid by consumers for payday and auto title loans. *See* Center for Responsible Lending, *Payday and Car-Title Lenders Drain Nearly $8 Billion in Fees Every Year* (Updated Aug. 2019). Consumers in Illinois paid over $500 million annually.

The implication of this data from a CRA perspective is that a realistic assessment of community disinvestment in communities of color is impossible without considering consumer lending. Given the profound impact of predatory consumer lending on Black communities, the ILBC's 2020-21 legislative agenda also included a 36% interest rate cap, which is named the Predatory Loan Prevention Act (PLPA).[3] The PLPA has saved consumers hundreds of millions of dollars. *See* Woodstock Institute, *The PLPA's 36% rate cap is working – and the data proves it* (Jan. 11, 2022).

Of course, consumers' need for emergency cash didn't end when payday and auto title lenders left the state. Fully incorporating consumer lending into the CRA will provide banks with an incentive to offer safe and affordable products to underserved consumers. As it stands now, certain banks are using a "rent-a-bank" model to evade state rate caps. Such banks should receive negative consideration under the CRA. At the same time, there are banks offering safe and affordable products. *See* WePropser, *Resource Guide: Affordable Alternatives to Predatory Loans*, at 10 (updated July 20, 2022). We would like to see more banks making affordable, small-dollar loans available to people who have previously been caught in the payday or title loan debt trap.

Finally, we would like to formally endorse the recommendations of the IL CRA Coalition. In particular, we echo the following recommendations:

- Under no circumstances should any CRA reform proposal create a scenario resulting in less reinvestment activity.
- All data used to assess the performance of covered financial institutions should be made publicly available to enable consumers and nonprofits to conduct their own analysis.
- No bank should receive a passing grade under the CRA if they fail in *any* of the communities they are chartered to serve.

[3] 815 ILCS 123.

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- In addition to facility-based and retail lending assessment areas, evaluate banks based on deposit-based assessment areas.
- The new rules should require all banks, regardless of size, to comply with the modernized CRA examination framework. A reasonable transition period could be established.
- Examiners should evaluate small business loans as to whether they have predatory characteristics such as exorbitant interest rates and/or prepayment penalties.
- Banks should receive credit for mortgage products for Black, Brown, and underserved communities that address existing barriers to homeownership, such as appraisal bias and lack of down payment assistance.
- The existing community engagement apparatus is Byzantine at best. We recommend the new CRA rules overhaul and expand it. In addition to the IL CRA Coalition's recommendations, we suggest that a component of community engagement be providing notice to local policymakers when banks in their districts are scheduled for an exam.

We look forward to the release of the final CRA rules. Thank you for your attention.

Very truly yours,

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