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Modernizing and Strengthening CRA Regulations: A Conversation with
Minority Depository Institutions

Remarks by

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to the

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I want to thank Kim Saunders and Kenneth Kelly for inviting me to join members of the National Bankers Association (NBA) for a conversation today.¹

As mission-driven financial institutions with a focus on serving minority households and businesses, you see the significant racial disparities in our economy every day. Going into the crisis, Black and Latinx households had significantly smaller wealth cushions to fall back on than the average American household. For instance, Federal Reserve research based on the Survey of Consumer Finances notes that, in 2019 “the typical White family has eight times the wealth of the typical Black family and five times the wealth as the typical Hispanic family.”²

The COVID-19 crisis has made existing racial disparities even worse. Low-wage and minority workers have experienced disproportionate harm to both their lives and livelihoods as a result of the COVID-19 crisis. As you know from the communities you serve, the crisis has exacerbated pre-existing disparities in the labor market. Black employment, in particular, is recovering at a much slower pace than employment in the overall population, and unemployment for Black and Hispanic/Latinx workers remains higher than for the workforce as a whole. As of last month, the overall unemployment rate had come down to 7.9 percent, which was a marked improvement from 14.7 percent

¹ I am grateful to Amanda Roberts, Carrie Johnson, and Joseph Firschein of the Federal Reserve Board for their assistance in preparing this text. These remarks represent my own views, which do not necessarily represent those of the Federal Reserve Board or the Federal Open Market Committee.

² Neil Bhutta, Andrew C. Chang, Lisa J. Dettling, and Joanne W. Hsu, “Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances” (Washington: Board of Governors, September 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm#fig1>.

in April. However, the September unemployment rate for Black Americans was still 12.1 percent, more than 4 percentage points higher than the overall unemployment rate.³

Research confirms that the COVID-19 pandemic has inflicted substantial harm on small businesses, particularly minority-owned businesses. For example, recent research documented that the number of working Black and Latinx small business owners declined in the early months of the crisis by even more than White small business owners. According to this research, the nation saw a 22 percent decline in small business owners between February and April overall, as compared with an even more precipitous 41 percent decline in Black business owners and 32 percent decline in Latinx business owners.⁴

Contributing to this perfect storm, minority individuals are suffering worse health outcomes as a result of COVID-19. The Centers for Disease Control and Prevention (CDC) report significant disparities in the infection rate of COVID-19 by race and ethnicity, with Black, Latinx, and Native American individuals contracting COVID-19 at over two and a half times the rate of White, non-Hispanic individuals. For those who do contract COVID-19, African Americans are suffering twice the mortality rate of White, non-Hispanic individuals.⁵

The disparities in COVID-19 health risk reflect in part differences in the ability to work remotely, with minority individuals more likely to work in front line jobs that put

³ U.S. Bureau of Labor Statistics, “Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age, seasonally adjusted,” Current Population Survey (Washington: U.S. Bureau of Labor Statistics, October 2020), <https://www.bls.gov/web/empsit/cpseea04.htm>.

⁴ Robert W. Fairlie, “The Impact Of Covid-19 On Small Business Owners: Evidence Of Early-Stage Losses From The April 2020 Current Population Survey ” (Cambridge: National Bureau of Economic Research, June 2020), <https://www.nber.org/papers/w27309.pdf>.

⁵ “ COVID-19 Hospitalization and Death by Race/Ethnicity,” Centers for Disease Control and Prevention, last modified August 18, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

their health at risk. Black and Latinx workers are overrepresented in the fields of work that entail high contact and pose greater risks of exposure to infection. For example, Black and Latinx workers are overrepresented in most essential positions, including nursing home staff, grocery store workers, bus drivers, postal workers, and warehouse workers.⁶

Against that challenging backdrop, the national conversation we are having right now about racial justice and racial equity ignited by the tragic death of George Floyd could not be more urgent.⁷ And the NBA's "mission of creating an inclusive financial services industry and a vibrant business environment for minority business institutions, their customers and the communities they serve" could not be more important.⁸ Minority depository institutions (MDIs) are important actors in serving the financial needs of minority customers and small businesses, as well as providing community development resources to invest in minority communities. The COVID-19 pandemic only heightens the importance of the role you are playing.

Your firsthand experiences of working with minority borrowers and your knowledge of local communities make you essential partners in better targeting our tools to assist low-income and minority small businesses and communities. You have provided valuable input on Federal Reserve programs, from the Paycheck Protection

⁶ Steven Brown, "How COVID-19 is Affecting Black and Latino Families' Employment and Financial Well-Being," The Urban Institute, last modified May 6, 2020, <https://www.urban.org/urban-wire/how-covid-19-affecting-black-and-latino-families-employment-and-financial-well-being>.

⁷ See Raphael Bostic, "A Moral and Economic Imperative to End Racism," Federal Reserve Bank of Atlanta (website), last modified on June 12, 2020, <https://www.frbatlanta.org/about/feature/2020/06/12/bostic-a-moral-and-economic-imperative-to-end-racism>, and "Series on Racism and the Economy," Federal Reserve Banks of Atlanta, Boston, and Minneapolis, last modified on October 7, 2020, <https://www.minneapolisfed.org/events/2020/racism-and-the-economy-series-kickoff-event>.

⁸ <https://www.nationalbankers.org/>

Program Liquidity Facility (PPPLF) to the Main Street Lending Program, to Community Reinvestment Act reform.

Over the last month alone, the Federal Reserve Board has held three sessions with representatives of MDIs, community development financial institutions (CDFIs), and vulnerable groups to discuss the challenges faced by underserved communities. We have heard about the extraordinary measures MDIs have taken to keep their banks accessible, modify loans, and extend Paycheck Protection Program (PPP) loans to new and existing customers, predominantly small, minority-owned businesses. Preliminary data from an Independent Community Bankers of America report indicate that your work, and the work of other community banks, has been a critical source of lending to minority-owned small businesses, accounting for 73 percent of all PPP loans made to minority-owned small businesses.⁹ In addition, some mission-focused institutions have participated in the Main Street New Loan Facility, and we continue to welcome your feedback on how to support institutions reaching the businesses and communities most in need.

In addition, we are hearing of greater commitments to promote MDIs and CDFIs on the part of large institutions. A number of Black-owned banks, including NBA member banks, are involved in new partnerships to address racial disparities in access to credit and provide wealth-building opportunities.¹⁰ These recent developments are only

⁹ Independent Community Bankers of America, "Data Show Community Banks Lead Economic Recovery," news release, August 19, 2020, <https://www.icba.org/newsroom/news-and-articles/2020/08/19/data-show-community-banks-lead-economic-recovery>.

¹⁰ Broadway Financial Corporation and CFBanc Corporation, "Broadway Financial Corporation and CFBanc Corporation to Combine to Create the Largest Black-Led Minority Depository Institution in the U.S.," news release, August 26, 2020, https://www.cityfirstbank.com/sites/default/files/FINAL_Press%20Release_Merger%20Announcement_08.25.2020_GN_9PM.pdf.

the latest chapter in how your sector continues to grow and lean into the challenges this nation faces.

The Community Reinvestment Act (CRA) is one of the most powerful tools we have for addressing systemic inequities in credit access for minority individuals and communities. Last month, the Federal Reserve Board unanimously voted to approve an Advance Notice of Proposed Rulemaking (ANPR) on the CRA. The ANPR is built on ideas advanced by a broad set of stakeholders, including the NBA and MDIs. It has been 25 years since we last reformed CRA, so it is important that we get it done right.

The CRA is a critical law, enacted along with other complementary federal civil rights laws during the late 1960s and 1970s, to address redlining and systemic inequities in access to credit and other financial services for minority communities that contributed to dramatic differences in economic access and overall financial well-being. Even with these critical laws, the legacy of discriminatory lending and systemic inequity in credit access remains in evidence today.

A foundational goal for the ANPR is to advance the core purpose of the CRA statute. Right at the outset, the ANPR asks for open-ended feedback on a foundational question: how should CRA's regulatory implementation be modified or changed to address systemic inequity in credit access to minority individuals and communities? As leaders in this field, we welcome your feedback on how to strengthen CRA implementation to further the statute's core purpose.

Advancing the CRA's core purpose includes strengthening the regulations to ensure that a wide range of low-income and minority banking needs are being met. As part of this objective, CRA modernization provides a unique opportunity to carefully

examine the MDI provisions in the CRA statute to ensure proposed changes to the regulation maximize the benefit and impact for MDI banks and the customers and communities they serve. In the ANPR, we placed a priority on strengthening the special consideration for MDIs, women-owned financial institutions, and low-income credit unions in the current regulation, as well as adding new proposals based on your feedback.

The Board believes that any provisions to assist MDIs should be clearly defined and applied in CRA performance assessments. We consistently heard from MDIs and larger banks that there is a lack of awareness of the existing MDI provisions in the CRA regulations or a lack of understanding of how collaboration with MDIs ultimately “count” in a CRA examination. In response, the Board plans to highlight all MDI special provisions and make the credit they receive more prominent and clear in revised regulation, examination guidance, and other public documentation.

In addition, in the ANPR, we proposed four specific new MDI provisions. First, the ANPR proposes giving banks credit for activities with MDIs, women-owned financial institutions, and low-income credit unions located outside their assessment areas at either the state or institution level, which would ensure that there is a clear “place” for such activities to be counted. Though majority-owned institutions currently can get CRA consideration for activities with MDIs outside of the majority-owned institution’s assessment areas(s), we have heard feedback that there can be a lack of clarity about where and how these activities will count in their CRA rating. As a result, stakeholders like NBA have indicated that such activities are not common.

The second proposal would explicitly designate activities in MDIs, women-owned financial institutions, and low-income credit unions as a potential pathway to achieving

an “outstanding” CRA rating. The purpose of this provision would be to elevate the profile of and create more incentives for activities with these mission-oriented institutions.

The third proposal would provide credit for MDIs and women-owned financial institutions investing in other MDIs, women-owned financial institutions, and low-income credit unions. Currently, only majority-owned institutions can receive CRA consideration for investing in MDIs. We know that MDIs vary greatly in size, and we have heard from MDIs that there could be mutually beneficial partnerships between MDIs.

Finally, the ANPR proposes providing credit for MDIs and women-owned financial institutions investing in limited activities to improve their own banks. Eligibility could be limited to activities that demonstrate meaningful investment in the business, such as staff training, hiring new staff, opening new branches in minority neighborhoods, or expanding products and services.

In addition to activities specific to MDIs, the ANPR seeks to strengthen CRA’s core purpose in other ways. This includes proposals to promote greater financial inclusion, such as allowing banks to get credit for community development activities outside of assessment areas but in designated areas with persistent unmet needs. An example mentioned in the ANPR is activities in Indian Country. Native American MDIs have been working diligently to serve Indian Country for years with limited resources; we hope that our proposals will bring additional capital into Indian Country to complement the work of Native American MDIs.

Our second major goal for the ANPR is to provide greater certainty, tailor regulations based on bank size and business model, and minimize burden. There are a number of proposals to advance these objectives. Most MDIs are small banks, so let me say a bit more about the proposals in the ANPR that are tailored to small banks. Under the ANPR proposals, small retail banks would continue to have their retail lending activities evaluated under the current CRA framework unless they elect to be evaluated under the proposed Retail Lending Subtest using a metrics-based approach. Small banks that opt for the metrics-based approach would also have the option to submit retail services and community development activities for consideration, and we are interested in feedback on how to do this. Additionally, the ANPR proposes ways to minimize data collection and reporting burden by relying on existing data as much as possible, as well as exempting small banks from deposit and certain other data collection requirements.

Our third major goal for the ANPR is to provide a foundation for the agencies to converge on a consistent approach that has broad support among stakeholders. Stakeholders like NBA have expressed strong support for the agencies to work together to modernize CRA. By reflecting stakeholder views and providing an appropriately long period for public comment, the ANPR advances the goal of building a foundation for the banking agencies to converge on a consistent approach that has the broad support of stakeholders. All three regulators have benefitted from the stakeholder comments provided through comment letters, roundtables, and meetings. There is significant interagency agreement on the objectives of CRA reform and many of the ideas in the ANPR reflect interagency discussions and regulatory proposals.

In closing, we look forward to modernizing the CRA in a way that strengthens the regulations to advance the core purpose of the statute, while providing greater certainty, tailoring regulations, and minimizing burden. We have appreciated the NBA's strong engagement throughout this process, and we look forward to your continued engagement as we seek to converge on a consistent approach that has broad stakeholder support. Our Partnership for Progress Program seeks ways to preserve and promote MDIs through engagement, technical assistance, and research in recognition of your institutions' continued innovation and flexibility in adapting to the ever-changing financial needs of your communities. We see CRA modernization as a significant opportunity to strengthen further the ability of MDIs to serve their communities, and we hope that you will provide us with feedback on how to modernize the CRA regulations in a way that supports MDIs and the communities you serve. Thank you.