NMSDC
National Minority Supplier
Development Council

August 5, 2022

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

Ms. Debra Duie Decker
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, DC 20219

Re: Economic Development Provisions of the Community Reinvestment Act Regulations Docket (R-1769) and RIN (7100-AG29)

For the last 50 years, the **National Minority Supplier Development Council (NMSDC) has advocated access to the American dream for minority business enterprises (MBEs**). Our success is historic and unmatched: over 15,000 MBEs connected to more than 1,500 corporations, resulting in nearly $400 billion in economic output annually, generating $130 billion in tax revenue, and sustaining 1.75 million jobs.

We are the nation's largest, most impactful, and successful nonprofit advocacy organization for MBEs and serve as a business growth engine for the broadest group of systematically excluded communities of color (Asian-Indian, Asian-Pacific, Black, Hispanic, and Native American). Our work is about correcting the unequal access to wealth-building opportunities. It goes far beyond the supply chain because it's about upward mobility for the emerging majority of Americans and an equal shot at participating in the American experiment of free-market capitalism and entrepreneurship.

We appreciate this opportunity to comment on the Interagency Proposed Rulemaking issued in May 2022 (Proposed Rule) by the OCC, FDIC, and Federal Reserve Board (collectively, the Regulators).

Our organization believes the CRA has played and continues to play, an important role in supporting minority-owned businesses and helping them access critical capital as they establish themselves and navigate not only survival but also growth. Many of our certified organizations, both minority-owned businesses, and financial intermediaries, are significantly impacted by the CRA and will have to grapple with the ramifications and negative effects of the Proposed Rule in its current form.

Due to the importance of the CRA to the minority businesses and financial intermediaries we support, we feel moved to respond to Questions 11 and 13 by recommending the Regulators to consider:

- **Avoid moving lending to small businesses supporting economic development to the retail lending test;**
- **Refrain from narrowing the definition of small businesses to $5 million of Gross Annual Revenue, thus restricting access to capital;**
- **Retain job creation, retention, and improvement aspects (for low-to-moderate income (LMI) individuals, LMI areas, and redevelopment areas) as currently established by the existing purpose test; and**
- **Adjust the second item of the proposed definition of economic development to clearly establish that "support for financial intermediaries" <u>also</u> includes support for (and investments in) non-SBIC financial intermediaries (especially minority-owned and led intermediaries) that lend to, invest in, or provide technical assistance to minority-owned businesses above $5 million in Gross Annual Revenue (GAR).**

Continuing CRA eligibility for direct equity investments in and loans to MBEs **<u>and</u>** financial intermediaries who loan and invest in MBEs who promote job creation, improvement, and retention for LMI people and in LMI areas is ***crucial*** to the continued correction of unequal access to wealth-building opportunities, especially within systematically excluded communities of color.

The reality that diverse funds and managers are more likely to invest in and allocate capital to minority-owned businesses has been shown by research.[1] However, not only do small minority-owned businesses face additional challenges in accessing capital, but minority-led fund managers also face substantial challenges and reduced access to funding. The Proposed Rule would exacerbate these difficulties by eliminating CRA credit that banks can receive for providing capital (both equity and loans) to many minority-owned businesses and non-SBIC investment funds, as there would be no avenue or ability for the banks to provide capital without receiving CRA credit.

In the Proposed Rule, the Regulators give SBIC funds presumed CRA eligibility and qualification. While we appreciate this clarification, we urge the Regulators to also establish the same assurances to other financial intermediaries led by minorities investing in and/or lending to companies within the size eligibility standards of the SBIC and SBDC programs or the standards of the size and purpose tests of the existing regulation at the time of initial investment**.** It is important to not increase barriers by reducing the size standards for any industry, especially given that it has been over 60 years since the SBA established its initial small business size standards. While we recognize there have been recent efforts by the SBA to modernize the small business size standards, the NAICS codes most relevant to a majority of MBEs, SBEs, and SDBs did not have any substantial increases. Therefore, we would recommend that the government partner with outside academic institutions to study the methodology used to determine the sizing standard and evaluate the economic impact on the businesses in systemically excluded communities of color.

MBEs have faced historical disenfranchisement and institutional barriers in government contracting which have continuously hindered economic growth for minority businesses and expanded the racial wealth gap in our country. With the historic passing of the Bipartisan Infrastructure Law, the SBA's revised rules will help bring economic equity to the federal contracting process during the implementation of the law.

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[1] Kauffman Fellows/MaC Venture Capital, "Deconstructing the Pipeline Myth and the Case for More Diverse Fund Managers," February 4, 2020.

Again, funds and financial intermediaries led by minorities face significant barriers to entry and capitalization, largely due to bias among capital allocators, which include banks.[2] When considering that funds led by minorities might face the most challenges and barriers to advancement ***after they have an established track record of strong performance***, we must recognize the barriers to entry inherent in the SBIC licensing program.

The SBIC licensing process requires intermediaries to have a significant track record and can be resource intensive (especially so for emerging fund managers). Acknowledging that funds led by people of color do not just face barriers as first and second-time emerging managers but continue to face barriers even when they have strong performance track records, helps to explain the poor representation of minority capital allocators within the SBIC program, a point acknowledged by the SBA for more than a decade. The Small Business Investor Alliance notes that the SBA's SBIC licensing process "has done an abysmal job at attracting and licensing funds led by women and minorities,"[3] and reports show just 10% of SBIC funds have at least one ethnic or racial minority on their investment team.[4]

The Regulators should continue to provide CRA consideration for non-SBIC financial intermediaries that contribute to economic development in meaningful ways, particularly by supporting minority businesses.

Our Feedback Related to Question 11:

Our response to Question 11 is "no." We do not believe that moving all small business loans to the Retail Lending Test would give them sufficient recognition or adequate attention. Eligibility for CRA credit should be presumed for loans made to minority-owned small businesses that promote economic development. NMSDC recognizes that loans considered under economic development are important to banks. We urge the Regulators to keep these loans within economic development as promoting job creation, retention, and improvement for low-to-moderate income individuals and/or areas, rather than moving all small business loans to the Retail Lending Test.

Our Feedback Related to Question 13:

Our response to the beginning of Question 13 is "yes." We ask that the Regulators include additional provisions relating to financial intermediaries, and we urge the Regulators to continue to allow CRA credit to be given to banks for activities that promote job creation, retention, and improvement related to both the direct or indirect financing of small businesses that meet the size and eligibility standards of the SBIC programs.

We appreciate the renewed intent of the CRA to support racial equity, but we feel it is imperative that we not only allow for CRA credit to be invested in financial intermediaries and minority-owned businesses supporting economic development but that we also allow such entities to support businesses with revenues greater than $5 million at the time of initial investment that still meet the size eligibility requirement of the SBDC and SBIA programs.

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[2] Stanford SPARQ, Stanford University, "Race influences professional investors' financial judgements" May 9, 2019.
[3] Congressional Research Service. "SBA Small Business Investment Company Program. Updated April 7, 2022.
[4] Library of Congress. "Measuring the Representation of Women and Minorities in the SBIC Program". Federal Research Division. October 2016.

Small businesses are a force for economic development. We applaud the Regulators for recognizing vast economic contributions made by businesses with annual revenues of $5 million or less. We feel strongly that the Regulators must continue to emphasize quality job creation, retention, and improvement for LMI people, LMI geographies, and redevelopment areas within the economic development definitions. Further, we would like to call attention to the fact that many LMI jobs created by small businesses are not simply "low-wage" jobs as implied by the proposed rule. Many jobs created by small businesses that meet the current CRA economic development definitions for LMI are high quality and offer opportunities that wouldn't otherwise be available for these historically marginalized individuals and communities, particularly communities of color. **We should recognize that small businesses are strong job creators with varying levels of salary, not just "low wage", all of which offer economic opportunities.**

Further, we must also recognize that jobs are not just created, retained, and improved by the smallest companies. Non-SBIC venture-capital and private equity-backed businesses have proven to have a profound impact on economic development, particularly through job creation, retention, improvement, development, and innovation. We ask the Regulators to provide diverse fund managers the opportunity to support diverse-owned ***and highly scalable*** businesses, which contribute vast positive economic impact. In addition to expanding support for small businesses with revenues less than $5 million in annual revenues, we must also continue to support businesses with gross annual revenues of more than $5 million that are consistent with the size eligibility standards of the SBDC and SBIC programs to support growth in minority-owned businesses that would likely be overlooked despite having revenues over $5 million. **We believe it's critical to provide a pathway for small businesses to scale through to mid or large businesses for even greater job creation.**

We thank the Regulators for their efforts and consideration of our feedback. We welcome any related questions they may have.

Sincerely,

Ying McGuire
CEO and President
National Minority Supplier Development Council