



**Board of Directors**

**Jin Sung**  
Board Chair

**Everett Bell**  
Board Vice-Chair

**Regina Grant  
Peterson**  
Board Secretary

**Martha Montoya**  
Board Treasurer

**Rhonda Gregory  
Brent**  
Director

**Charles Dorsey**  
Director

**Pramod Kunju**  
Director

**Jack Miranda**  
Director

**Cora Oriel**  
Director

**Christine Rifkin**  
Director

**Jeff Seabold**  
Director

**Claudia Viek**  
Director

**Gilbert Vasquez**  
Director

**Faith Bautista**  
CEO

**Steven Sugarman**  
General Counsel

## **Written Testimony of Ms. Faith Bautista**

Members of the Committee, Good afternoon.

My name is Faith Bautista. I am the President and CEO of the National Diversity Coalition.

The Community Reinvestment Act is critical to America's future. We must make sure it works for low-income and minority communities. Today's CRA regulation has failed our citizens who need CRA most. Minority communities remain impoverished, community organizations remain underfunded, and over 25% of Americans remain underbanked. Today's situation is something no one should want to defend.

We must do better.

NDC and the National Asian American Coalition, which I also lead, represent millions of constituents across the country and help tens of thousands of underserved and minority people left behind by our current system. Recently, we were proud to have won a legal fight to secure over \$331 million on behalf of California's victims of mortgage foreclosure fraud. I work directly in our communities to provide microlending, HUD-Approved counseling, CDFI lending, mortgage modifications, credit repair, small business training, and critical infrastructure and technology to our most vulnerable. Each year, I am proud to help thousands achieve their American dreams.

For NDC, reducing the number of underbanked is our North Star. We believe CRA has failed for one primary reason: CRA-qualifying lending and investments are not measured. Whether this is by design or by neglect, it is harmful to the communities I have spent my life serving.

As the Federal Reserve regularly reminds the financial markets they seek to remain "data-driven" in their regulatory policy and oversight. But, what does that data tell us about CRA?

It is remarkable and offensive that the current CRA regulations do not track CRA activity at all for any given quarter, year or decade – let alone on a mandatory quarterly basis from all depositories as they do for all other aspects of bank activity. Frankly, it may be the only data that regulators do not think worth collecting and evaluating systematically.

Every three months, each bank, thrift and credit union in the country currently is required to file a Call Report intended to measure banking activity and financial data

across hundreds of data-points in 29 discrete categories. Banks also file Home Mortgage Disclosure Act (“HMDA”) reports on several hundred additional loan fields relating to every home mortgage they make. This data is aggregated and analyzed by the FDIC, Consumer Financial Protection Bureau, FRB and others to show trends in the banking system and to measure the soundness of our financial system across literally hundreds of data-points.

I have had the honor to meet with Federal Reserve Chairs and Governors over my decades of advocacy. At each meeting, I ask them the simple question of whether CRA lending and investments have been increasing or decreasing over the prior five years. The answer, each time, has been that they simply do not know. Conveniently, the current approach to CRA provides no way of measuring the number of loans or the volume of dollars being invested in underserved and minority neighborhoods. That needs to change.

This information is necessary to any serious “data-driven” analysis seeking to understand the real impact of bank CRA activity.

Federal Reserve Governor Lael Brainard recently made a speech were she the fact that “consistent data on CRA-eligible activity [is] not readily available” to the Federal Reserve. Instead, of being able to rely on systematically collected, system-wide data relating to bank CRA activity to evaluate CRA regulations, the Federal Reserve recently required a substantial, one-off, one-time research project just to try to understand how to reform might impact America. This project required the Federal Reserve research staff to “set about creating a database based on over 6,000 written public CRA evaluations from a sample of some 3,700 banks of varying asset sizes, business models, geographic areas, and bank regulators.” Such a resource intensive project is simply impossible for community advocates such as NDC thereby removing transparency and accountability from the financial system.

It is notable that even the Federal Reserve with its unconstrained budget and access to non-public data sources was only able to compile a sample dataset that remains woefully incomplete -- neglecting to include more than half of the country’s banks and other depositories and failing to capture the entire time period of CRA activity for all banks sampled.

With no data, transparency and measurement, comes no accountability or responsibility for the high number of underbanked and underserved. Clearly, CRA and analyzing its impact has not been a high priority for the past several decades, and only now are our bank regulators even seeking to collect basic data to understand the plague that has been impacting communities of color and the issues of the underbanked over the past several decades. As Peter Drucker famously observed, “what gets measured, gets managed.” The current approach turns a blind eye to low-income and minority communities.

For instance, instead of using metrics to evaluate the impact of merger approvals on underbanked communities, banks simply make unregulated promises to increase

CRA investments in a future that often never comes. For instance, City National Bank was recently acquired by the Royal Bank of Canada. As part of its merger process it made specific promises to the National Diversity Coalition and other community groups. Following receipt of regulatory approval, the bank has violated its promises to the community with little consequence. City National is not alone and without timely reporting it is difficult to hold banks to account.

Today's hearing is to determine who the winners and losers would be from CRA reform, but the current regulations do not collect the data necessary to measure who is currently winning or losing.

Working every day in communities of color, I can tell you. Today, the CRA losers are America's low-income communities and minorities. They are the people served by NDC, NAAC and our members. The stories of abuse and neglect faced by America's immigrants, minorities, and others we serve would break your heart. The impact and abuse is everywhere, not just in far off parts of our country, and it continues to have a disparate impact on minority communities. For instance, in Compton, California there are only 5 bank branches available to serve the needs of a population of 100,000 residents. Meanwhile, just a few miles away in Santa Monica, CA there are 36 bank branches serving the city's similar sized population. According to the FDIC, one third of African Americans and Latinos do not have access to any Mainstream Credit products including a credit card, a personal loan, an auto loan, a student loan, or a home loan. This compares to only 14% of whites and 4% of those making over \$75,000.

It is no wonder the Wall Street Journal recently reported that African American home ownership rates fell during this past decade while all other racial and ethnic groups saw rising rates of homeowners. Virtually no one here today would be able to afford a home without access to a bank or mainstream credit products.

While Federal Reserve Governor Brainard recently recommended a slower pace and increased analysis prior to adopting any new CRA reform expressing concern about unintended consequences.

If the past is any guide, major updates to the CRA regulations happen once every few decades. So, it is much more important to get reform right than to do it quickly. If we only have one opportunity for a few decades, I want to make sure CRA reform is based on the best analysis and ideas and the broadest input available. It is critical to analyze carefully the likely effects of any proposed changes on credit access and community development in LMI communities, as well as any additional reporting and procedural burdens for banks.

NDC believes reform is urgently needed, and that communities of color should not be subjected to another day, let alone another decade of discriminatory practices, resulting in lives without adequate access to banking products and services. The failures of today's CRA regulations are not something to protect, they are something to remedy as quickly as possible. Unfortunately, the fact that data necessary to

understand the pain afflicting America's most vulnerable communities does not exist is not a cause to slow reform, but a rationale to expedite systematic changes that include timely, transparency data-collection and reporting.

The Federal Reserve has not joined the joint OCC, FDIC proposal stating that "We are proud of our work in familiarizing banks with the CRA's provisions, introducing banks to potential partners in their communities, and convening conferences to disseminate research and best practices." NDC believes that the purpose of CRA is to reduce the number of unbanked and underbanked and expand access to capital for credit worthy Americans. We need strong CRA enforcement and increased CRA eligible loans and investments, not additional outreach events. It is far past time to ensure banks cease discrimination, end red-lining, and reduce the number of unbanked and underbanked. Respectfully, we cannot delay reform while over 25% of all our fellow American's remain left behind by our banks.

NDC would welcome the Federal Reserve submitting their own CRA reform proposal for public comment or finding a path to join a combined proposal with the OCC and FDIC. As our states can be laboratories for testing democratic ideas, so to can our regulatory mosaic. If the Federal Reserve elects to propose its own rulemaking based on its own best ideas for how to implement the CRA based on the unique needs of the banks it regulates, we would welcome their thoughtful proposal – we might even support it with equal passion as we do the current proposal. NDC does not believe there to be a single "correct" solution to the problems afflicting the underbanked. However, to sit on the sidelines and criticize progress in favor of a failed regime may be politically savvy but is not good for America's underbanked.

Underserved communities will win only when there is real transparency brought to bank CRA activities that measure each bank's CRA activity objectively, discloses CRA activity timely and publicly, and allows comparison against peers and regulatory targets. Data and accountability must replace excuses and stories.

Today, the question should not be if the joint FDIC, OCC proposal is perfect. It is not. Instead we must ask if it improves upon the current approach to CRA and provides a new paradigm able to break the cycle of poverty and neglect faced America's minority and low-income communities.

The definitive answer is Yes.

The OCC and FDIC proposal would improve the current system in several ways.

First, it will clarify what qualifies for CRA credit. No more guessing. That helps community planners and advocates like me focus our efforts and make the most of available resources.

Second, it updates where a bank can receive credit for CRA work. It recognizes the advent of the internet and enables banks to receive credit in the communities where

the bank collects its deposits, not solely where it has physical branches. No more loopholes for internet and wholesale banks.

Third, it will enable community groups, bankers, and politicians to measure CRA-related activities using standard metrics that count the number, distribution, amount, and size of loans made to low-income communities. Finally, we will be able to measure the dollars actually flowing into our neighborhoods to our constituents. Make no mistake, our communities need more capital and dollars.

Fourth, the proposal will make reporting more useful, timely, and transparent. This allows all of us here today to hold banks and bankers accountable when they ignore community needs or attempt to game the system.

Additionally, the new reform proposal recognizes that regulations should not be “one size fits all” for every bank. Minority Depository Institutions and community banks should not be subject to the same requirements and reporting standards as the largest national banks. The proposed reform provides a sensible approach by ensuring banks engage with their specific local community and includes tailored performance standards for each financial institution.

NDC believes the proposal set out by the OCC and FDIC will increase CRA activity by over \$100 billion. This is important as banks will inevitably test the limits to find ways to opportunistically expand the CRA box, however a 20% increase in total CRA activity will appropriate protect against such risks. Should that not occur in the first three years, regulators should commit to raising the bar for obtaining Satisfactory and Outstanding CRA ratings to ensure that CRA investments increase as promised and continue to grow over time.

Meanwhile, the proposal closes loopholes that currently allow bankers to trade loans back and forth between banks to claim multiple CRA credits without adding one new dollar of new lending to the community. It will also shut the door on CRA credit currently awarded for loans that result in gentrification and displacement when banks finance wealthy people who purchase homes in poor neighborhoods.

It is true that the joint OCC, FDIC proposal can benefit from thoughtful recommendations during the comment period. For instance, loans guaranteed by the Federal government should be exempt from CRA credit. Double dipping on federal subsidies does not increase the amount of capital reaching underbanked communities. Additionally, we believe that brokered CRA loans and investments acquired by a bank instead of originated through a bank’s own connections with the community should be subject to a 20% haircut in CRA credit to reflect the increased expense and transaction costs of loan purchases and broker fees.

We are grateful that the OCC, FDIC proposal moves CRA forward in the right direction and look forward to submitting our comments to make it even stronger.

At the same time, NDC wishes to alert this Committee that the FHFA is currently engaged in regulatory rulemaking relating to CDFI membership and members in the

FHLB system that is incredibly damaging to low income and minority communities. Unfortunately, the FHFA is not complying with the Administrative Procedures Act and is not engaging in a public rulemaking process to implement their material changes to policies relating to CDFIs. This could set back progress in minority and low-income mortgage lending in terms of both price and access. NDC calls on this Committee to hold hearing related to the FHFA's regressive, inappropriate actions – the negatively impact of which could set back homeownership for communities of color by a generation.

We pray that the Federal Reserve awakens to the urgent need for change to our current CRA regulations – whether by joining the current proposal or making their own proposal to reform CRA. Today's status quo continues to fail over 30 million American households who are disproportionately minorities. Fear of unintended consequences is not a good reason to stick with a failed system that for four decades has resulted in generational poverty and disparate impact on our communities of color.

We are confident that banks regulated under this new, more transparent system will better address the needs of the underbanked and this proposal will, at long last, begin the process of lowering the unacceptably high number of underbanked in America.

Thank you.