

WHY LATINOS WILL LOSE UNDER THE OCC AND FDIC'S PROPOSAL TO MODERNIZE THE COMMUNITY REINVESTMENT ACT

Presented at

"The Community Reinvestment Act: Reviewing Who Wins and Who Loses with Comptroller Otting's Proposal"

Submitted to

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INTRODUCTION

Good afternoon. My name is Eric Rodriguez and I am the Senior Vice President of Policy and Advocacy for UnidosUS, formerly the National Council of La Raza, which is the largest Hispanic* civil rights and advocacy organization in the United States. For more than 50 years, we have worked to advance opportunities for low- and moderate-income (LMI) Latino families so that they can achieve economic security and build wealth. In this capacity, UnidosUS, with its network of nearly 300 Affiliates—local, community-based organizations across the U.S. and in Puerto Rico—provides education, health care, housing counseling, workforce development, and financial coaching programs to millions of citizens and immigrants.

For more than two decades, UnidosUS has published reports, provided testimony, and engaged in advocacy for strong fair housing and fair lending laws, increased access to financial services for LMI individuals, and expanded homeownership opportunities in the Latino community. UnidosUS has conducted original research on the experiences of LMI communities of color in using financial services and has authored numerous reports, including *Latino Financial Access and Inclusion in California* (2013); *Banking in Color: New Findings on Financial Access for Low- and Moderate-Income Communities* (2014); *Small Dollars for Big Change* (2017); *The Future of Banking* (2019); and *Latino Homeownership 2007–2017: A Decade of Decline for Latinos* (2019).

In addition, the UnidosUS Wealth and Housing Alliance (UWHA) is the nation’s largest network of community-based organizations working to empower Latino wealth-building through homeownership. Established in 1993 as “Home to Own” in partnership with First Interstate Bank—a bank seeking to improve its Community Reinvestment Act (CRA) rating—the program was created to provide culturally competent, linguistically appropriate, one-to-one counseling to prospective Latino homeowners and was designed to overcome the widespread lack of knowledge in the Hispanic community about the mortgage financing process. Following a positive evaluation by the Morrison Institute for Public Policy at Arizona State University, and subsequently confirmed by a substantial body of independent research, the program expanded to 10 sites in a number of states. Around the same time, we played a major role in creating and supporting appropriations to fund the Department of Housing and Urban Development’s (HUD) Housing Counseling Program. Twenty-seven years later, Home to Own—now UWHA—has grown to a nationally recognized housing counseling intermediary designated by HUD to train and credential other housing counseling networks. It includes 50 independent community-based organizations and supports more than 60,000 families a year in their journey to homeownership and the American Dream.

Furthermore, our subsidiary, the Raza Development Fund (RDF), is the nation’s largest Latino Community Development Financial Institution (CDFI). Since 1999, RDF has provided more than

* The terms “Hispanic” and “Latino” are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

half a billion dollars in financing to locally based development projects throughout the country. This work has substantively increased UnidosUS’s institutional knowledge of how Latinos interact with the mortgage market, their credit and capital needs, and the impact of government regulations on financial services markets.

Due to its requirement for banks to meet the credit needs of their communities and intent to combat redlining, CRA has become one of the most important tools that LMI households and communities of color have to access mainstream banking services, credit, and investments. CRA has helped to revitalize neighborhoods and enable non-traditional borrowers—including many Latinos—to gain access to financial services and benefit directly from investments made by large mainstream banks that may otherwise have left the community underserved. CRA has also been an important tool—albeit indirectly—in mitigating the effects of discrimination and disparate treatment of individuals of color and immigrants within mainstream financial markets.¹ Specifically, CRA has led to \$1.7 trillion in lending to economically distressed areas since its enactment and has partially been responsible for the gains in credit in low and moderate income (LMI) communities and communities of color.² Another 2017 study found that CRA increased credit activity by 9% from 2004 to 2012 and the number of credit visible individuals in the community by 7%.³ Still another study found that between 2010 and 2016, the CRA expanded the number of small business loans in LMI neighborhoods by 38%. Finally, our own research has found that the CRA has bolstered home lending for Latinos and facilitated between 15% and 35% of home loans to Latinos in LMI census tracts. This was about two to three times the share of loans facilitated to Whites in LMI census tracts.⁴

This written statement briefly summarizes the history of the Community Reinvestment Act (CRA) and explains how this landmark legislation has been instrumental in expanding access to affordable credit for Latinos and communities of color. The statement also focuses on how the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation’s (FDIC) proposed rule to “modernize” the CRA could significantly harm Latinos living in LMI communities by decreasing their access to financial institutions and credit. Finally, this statement recommends alternative courses of action for the OCC and the FDIC to consider in addressing the need for increased financial institutions’ investments in Latino LMI communities and expanded access to affordable credit.⁵

BACKGROUND

“You realize pretty fast that if there isn’t money flowing into a community, it’ll die.”
—Gail Cincotta, Chairperson of the National People’s Action, a Chicago community organization⁶

Bias in banking and issuance of credit by financial institutions has been persistent in the American financial system since the creation of our nation. After its founding in 1781, the first “modern” bank—the Bank of North America—was criticized in 1784 for favoring city merchants over farmers. This was the first, but certainly not the last, recorded case of bias in lending policies by an American bank.⁷ Nearly 150 years later, the Home Owners Loan Corporation

(HOLC)—formed by the federal government as part of the New Deal to refinance mortgage loans—established a universal “risk” appraisal method that color-coded neighborhoods. The appraisal classified communities by age, type of construction, price range, and state of repair of the housing stock. Most importantly, it assigned risk to neighborhoods based on the occupation, income, race, and ethnicity of the residents.⁸ Green neighborhoods were new, homogenous, and White; blue neighborhoods had “peaked,” but expected to still remain White; yellow neighborhoods were “declining” and were not racially homogenous; and red neighborhoods had “fully declined”—that is, they were neighborhoods where people of color constituted the majority.⁹

The HOLC color-coding appraisal method was adopted by other federal government lenders, the private mortgage market, and the American financial system generally. The Federal Housing Administration’s (FHA) chief economist, Homer Hoyt, sought to “improve” the accuracy of the HOLC model by overlaying it with a pseudoscientific racial and ethnic hierarchy. Hoyt ranked Anglo-Saxons and Northern Europeans as the “most desirable,” followed by Northern Italians, Czechs, Poles, Lithuanians, and Greeks, while “Russian Jews of the lower class,” South Italians, and “Negroes and Mexicans” ranked as the lowest class.¹⁰ Simultaneously, the chief underwriter for FHA—Frederick Babcock—sent letters to field offices warning “against mixing income classes and incompatible racial and social groups” when making home loans.¹¹ The federal government gave its considerable authority to the practice of redlining, withholding credit to neighborhoods based on their racial and ethnic composition.

Redlining was, and remains, a “self-fulfilling prophecy” that destroys neighborhoods. The loss of access to credit reduced property values in non-White neighborhoods and harmed the small businesses that served those communities.¹² Bankers, real estate agents, and mortgage lenders worked to convince prospective buyers that a community with people of color was not desirable, that loans were not available, and that the buyer or businessowner would be better off in an all-White suburb. Upwardly mobile residents found other neighborhoods to live in. Home improvement loans were unavailable to property owners who wanted to make repairs, which led to neighborhood decay.¹³ By the late 1950s, pervasive redlining left many cities trapped in a spiral of “White flight” and ghettoization, a process that was aided and abetted by federal banking regulators.

While many communities throughout the nation pushed back against redlining, Chicago established itself as the center of the movement against redlining and for community reinvestment. In 1969, the West Side Coalition, a community organization in West Town—a Polish neighborhood with a growing Puerto Rican population—began to take direct action against discrimination by local banks. When members of the community found that they had been denied loans despite good credit histories, coalition members visited the bank branch and demanded an immediate processing of the denied loan, a say in where their savings would be used, and a right to review future rejected applications. When the bank refused their demands, the West Side Coalition visited the bank to hand out fliers to current and potential customers explaining that the bank was practicing redlining. Then, coalition members divided into small

groups, entered the bank, and clogged teller lines until the group secured a meeting with the bank's president and the chairperson of their board of directors.

In 1971, the Center for Community Change and the National Urban League built on the activism of the West Side Coalition and examined the problems of lending discrimination and neighborhood disinvestment in New York City, St. Louis, Cleveland, and Chicago. Their study found that redlining was present in all the cities they examined.¹⁴ In 1974, the Federal Home Loan Bank Board surveyed 189 of its federally insured associations in Cook County, Illinois by the amount of savings deposits and the number of home loans by ZIP Code. The survey showed that inner-city neighborhoods were redlined; neighborhood bank branches invested as little as one penny's worth of loans into their local community for every dollar deposited by residents.¹⁵

These two studies led to the Chicago City Council legally prohibiting redlining by financial institutions that did business in the city. To support this prohibition, Chicago mandated that the city's banks disclose, by Census tract, all of their residential, commercial, and consumer loans, as well as savings and checking accounts.¹⁶ In 1975, following continuing pressure from the community groups, the Illinois State Legislature passed two laws, identical to the Chicago City Council's.¹⁷

Spurred by community activism, Congress and the executive branch began to investigate the community organizations' claims of redlining. In March 1972, for example, the Federal Home Loan Bank Board released a survey of savings and loan associations in which 30% volunteered that they "disqualif[ied] some neighborhoods from lending because they [were] low-income or minority-group areas."¹⁸ Two months later, HUD released a survey in which 1,000 lending institutions, located in 50 cities, admitted that they used the racial and ethnic characteristics of a neighborhood as a factor in evaluating loan applications—just as Homer Hoyt had intended.¹⁹

The problem of lending discrimination was too pervasive to be resolved by state and local legislation alone. In 1975, Senator William Proxmire (D-WI) introduced S. 1281, the Home Mortgage Disclosure Act (HMDA). He held a series of hearings on community reinvestment, and community groups from all over the country presented information on discriminatory lending patterns and the lack of loans for local needs. Gail Cincotta, the Chairperson of the People's Action Committee from Chicago, testified that:

In one week, Chicago newspapers reported about a Harris Bank of Chicago office in Beirut, Lebanon; a \$25 million loan by Continental Bank in Chicago for building a road in Spain; a \$30 million loan by First National Bank to South Korea to buy Boeing 747s. But we can't get a \$3,000 loan to rehabilitate our homes. We are not asking for handouts. All we are asking for is a fair return on our savings into communities.

The bill passed the Senate 45–37 and in the House 177–147, and President Gerald Ford signed it into law on December 31, 1975.²⁰ HMDA became the source for community groups to confirm lending patterns in their neighborhoods, fueling calls for a piece of legislation that would require

banks to reinvest in their communities. It was premised on the idea that since banks were chartered, regulated, and insured by the federal government to serve the public's interests, they also had an "affirmative obligation" to serve local credit needs.²¹

Following extensive meetings with community groups, including a two-and-a-half-day meeting held by HUD in Philadelphia with 58 witnesses, in 1977 Senator Proxmire introduced the Community Reinvestment Act (CRA) as a complement to HMDA, to "encourage financial institutions to help meet the credit needs of the communities in which they are chartered." In his floor remarks introducing the bill, the Senator plainly stated that:

[D]epository institutions—including commercial banks, mutual savings banks[,] and savings and loan associations—play a strategic role in allocating the public's savings. Their collective decisions help to shape the communities we live in, our economic well-being, and have a profound impact on our daily lives . . . The bank regulatory agencies have considerable influence over financial institutions, with the authority to approve or deny applications for deposit facilities . . . Successful applicants pay nothing for the right to operate a new deposit facility[,] even though they convey a substantial economic benefit . . . In return for these benefits financial institutions are required by law and regulatory policy to serve the convenience and needs of their communities, including the credit needs of their communities . . . In practice the regulators have tended to ignore credit needs and [have instead] focused on deposit needs. [Currently] the regulators do not require any analysis of the community's needs for credit and how the applicant proposed to meet that need.²²

CRA'S IMPACT NATIONWIDE AND ON LATINOS

Today, CRA promotes the goal of fair and equal distribution of banking services in all neighborhoods, regardless of the racial, ethnic, or income composition of their residents. Since its passage in 1977, CRA has emerged as a critical tool to promote investment and affordable lending in underserved communities. Fair housing and equal credit laws prohibit discrimination against individuals and families, but CRA is unique in that it places an affirmative obligation on private financial institutions to meet the credit needs of the communities where they do business.

In its four decades of existence, CRA has served as the catalyst for encouraging regulated banks to lend to LMI communities of color. Specifically, CRA has helped to revitalize neighborhoods, increased mortgage and small business lending to LMI communities of color, and enabled nontraditional borrowers—including many Latinos—to access mainstream financial products and receive credit.

Overall, CRA has made significant nationwide improvements in access to credit. The law has led to an estimated \$1.7 trillion in lending to economically distressed areas since its enactment and

strengthened gains in access to credit and financial services in LMI communities of color.²³ The Philadelphia Federal Reserve (Philly Fed) reported in two different papers that the CRA has increased mortgage lending and the extension of credit to small businesses.²⁴ In a 2017 paper, the Philly Fed found that the loss of CRA-eligibility status in a neighborhood leads to a decrease of between 10% and 20% in the volume of mortgage purchase originations by CRA-regulated lenders. The paper also found that the CRA has made mortgage credit more accessible for households in LMI communities.²⁵ Specifically it states that:

The CRA effects are more pronounced among minority borrowers . . . Without the incentive of CRA, it seems depository institutions are less likely to keep up or expand their supply of mortgage credit in [LMI] neighborhoods; instead they tend to scale back their lending from these neighborhoods by reducing the supply of mortgage credit to minority borrowers . . .

The Federal Reserve Bank of Boston reported in a 2013 paper that CRA expanded access to credit in LMI neighborhoods by 9% and that this expanded access to credit did not result in worse credit outcomes after the financial crisis.²⁶

CRA has been an important tool in mitigating the effects of discrimination and disparate treatment of Latinos within mainstream financial markets, especially in terms of mortgage lending. UnidosUS, in its statistical brief analyzing National Survey of Mortgage Origination Data from 2014 to 2018 (Attachment A), found that the CRA has bolstered home lending for Latinos and facilitated between 15% and 35% of home loans to Latinos in LMI census tracts. This was about two to three times the share of loans facilitated to Whites in LMI census tracts.²⁷ Notably, Latinos represent 18% of the population; as the Latino community grows, especially in rural America where the Hispanic population has doubled since 1990, CRA remains a critical tool for ensuring that the financial system serves our communities in a fair and inclusive manner.²⁸

Leveraging private investment toward the public goal of ensuring that minority and LMI communities have equal access to bank services has produced benefits for communities of color, the banks themselves, and all Americans. Without the CRA, Latinos and other LMI communities nationwide would face widespread barriers accessing mainstream financial products. This would inhibit their progress toward financial security and the empowerment that comes from owning homes and businesses.

HOW THE PROPOSED RULEMAKING COULD HURT LATINOS

The OCC and FDIC's proposal reiterates concerns that the current CRA framework has not kept pace with the dramatic changes that have occurred in the banking industry since 2005, when the CRA regulations were last revised. As such, the proposal would establish a new framework for measuring insured banks' CRA performance. It focuses on redefining assessment areas, expanding the type of activities eligible for CRA credit, addressing digital banking challenges, and

encouraging lending to LMI borrowers in underserved communities, such as communities located in rural areas and on tribal lands.

As thoroughly addressed in our November 2018 response to the OCC's Advanced Notice of Proposed Rulemaking (ANPRM) (Attachment B), we urged the OCC and its fellow prudential regulators, including the FDIC, to consider a rulemaking process to modernize CRA which would: 1) do no harm; 2) increase the size and impact of investment in Latino LMI communities; and 3) expand access to affordable credit for Latino LMI communities. After meeting with the OCC and the FDIC, along with other civil rights and economic justice organizations to reiterate our concerns, we note that the issues we raised have not been fully addressed by the OCC and FDIC's Notice of Proposed Rulemaking (NPRM) issued in January 2020.

Even though we and other civil rights organizations have a number of issues with the OCC and FDIC's NPRM, this statement will address only three of those concerns: 1) how the proposal will diminish the importance of branch banking; 2) how the current list of credit-receiving activities under the proposal will have little-to-no-impact on the communities in which banks are located; and 3) the absence of a clear mechanism for essential community input in CRA examinations.

Limited Consideration of Bank Branches

The underlying theory of the CRA is that banks have public duties because they are essentially public institutions. In passing the CRA in 1977, Senator William Proxmire, alluded to the dependent nature of the bank-state relationship. He stated that the CRA was based on a "widely shared assumption" that "a [bank's] public charter conveys numerous economic benefits and in return it is legitimate for public policy and regulatory practice to require some public purpose . . ." The Senator claimed that banks are "a franchise to serve local convenience and needs" and therefore "it is fair for the public to ask something in return." Senator Proxmire explained "financial institutions are required by law and regulatory policy to serve the 'convenience and needs' of their communities. The 'needs' of a community clearly include the need for credit services as well as deposit services The proposed legislation directs the bank regulatory agencies to use their influence to award applications for deposit facilities in a way that will benefit local communities as well as bankers."²⁹

In order to enforce the CRA, regulators currently look at a bank's "assessment areas," defined in the regulations regarding where a bank has its branches or some other physical presence, to gauge whether the bank is in fact meeting the credit needs of the community in which it does business. The current CRA regulations explicitly recognize the importance of bank branches and financial services as part of the "service" test of the CRA examination, which primarily examines the geographic distributions of banks' branches, as well as how many banks have opened and closed—particularly those that serve LMI communities.

With the advent of internet banking and the proliferation of smart devices, the current approach for delineating assessment areas should be expanded, but not at the expense of physical bank branches. Yet, the OCC and FDIC proposed revising the service test to devalue bank branches.

Specifically, the NPRM proposes that “the number of the bank’s branches located in LMI census tracts . . . during the same annual period used to calculate the qualifying activities value would be divided by the bank’s total number of branches in that annual period and multiplied by 0.01.” This proposal would greatly diminish the importance of bank branches in meeting the test for CRA compliance, which could lead to significant branch closures in LMI communities. This would lead to a corresponding decrease in lending in these communities’ and reduced access to mainstream financial products.

Branch banking is extremely important in providing access to financial services and credit to LMI communities and communities of color. As discussed in our 2019 Future of Banking report coauthored by PolicyLink (Attachment C), physical presence still has an impact on whether residents of LMI communities of color are banked, including in their decision on whether or where to open an account and resolving issues with a bank. Research also shows that there is a direct correlation between the number of bank branches and ATMs located in a neighborhood and the credit opportunities available to the surrounding community.³⁰

The Federal Reserve Bank of Philadelphia found in a 2019 paper that CRA has “motivated banks to keep their branches open in LMI communities in the aftermath of the Great Recession.” More importantly, it states that “[a]s banks increasingly seek ways to reduce costs, it is likely that more of them will substitute technology such as ATMs or online and mobile banking for in-bank interactions. Understanding ‘what matters’ about a branch could help identify alternative approaches to ensuring that technological shifts do not leave lower-income communities and borrowers behind.”³¹

Creditworthy Activities Should Benefit the Communities in which Banks Are Located

Congress enacted the CRA with the belief that financial institutions have a responsibility to meet the credit needs of the entire community that they serve, including meeting the needs of low- and moderate income (LMI) neighborhoods, as well as inner city, older, and predominantly minority neighborhoods.³² This is clear from the remarks of Senator William Proxmire, on the Senate floor clarifying the intent of the law. He articulated:

The committee included title IV to reaffirm that [banks] are indeed chartered to serve the convenience and needs of their community, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans. . . . Mr. President[,] the solution to housing and economic development needs is not simply a Federal program, a Federal charge What it takes is the kind of resources that the local financial institutions have, and they have plenty. . . . The private sector has the capital, the know-how, and the efficiency to do the job. And the banking industry must be encouraged to reinvest in local needs We need to encourage bankers to get out of the office and walk around the block and find loan opportunities here at home.³³

The OCC and FDIC's NPRM would allow for community development activities that are outside of the original intent of the CRA. These activities neither assist in meeting the credit needs of the communities in which they are chartered, nor serve the convenience and needs of their communities.

The OCC and FDIC's NPRM proposes a number of new activities that can earn CRA credit. Even though the most egregious of these activities is the well-publicized ability for banks to earn credit for financing upgrades to sports stadiums,³⁴ we still are bothered by a list of financial literacy programs that receive credit, among other activities. We are bothered by the fact that the OCC and FDIC sought to include financial education or literacy curricula at local community centers, "train the trainer" programs designed to train teachers to provide financial literacy education to their students, and bank employees providing financial education in connection with a school savings program, over financial coaching programs or a combination of the two.

Financial literacy programs, especially in low-income populations—the target communities of the CRA—are not best served by financial education. As summarized by Hastings, Madrian and Skinnyhorn in their 2013 article, there is mixed evidence about the efficacy of financial education,³⁵ especially for low-income populations.³⁶ Rather, as displayed in the Urban Institute's 2015 seminal study comparing financial education with financial coaching,³⁷ a well-structured financial coaching program can increase savings amounts and the number of deposits, paying bills on time, credit scores and familiarity with a credit report, and the likelihood of having a budget; while reducing debts, the likelihood of borrowing money from family and friends, the use of payday loans, and financial stress levels.³⁸

While any increased engagement in financial education is welcome, this approach would have too few controls, and there would be inadequate oversight of the activities to ensure the achievement of the CRA goals. Furthermore, bank-designed curricula are often aligned with the bank's business goals, rather than consumer needs, and deploying these throughout the communities that CRA aims to serve would function as a new marketing stream for businesses rather than fulfilling the law's intent, as shown in this testimony, of ensuring equal access to banking services.

Community Input Is Essential

As discussed in our 2018 response to the ANPRM and in our meeting with the OCC and the FDIC in anticipation of the proposed NPRM, we urged the OCC and the FDIC to preserve community feedback to meet the needs of their entire communities, especially LMI communities. Otherwise, we argued that this would essentially strip the "community" out of the Community Reinvestment Act.

Even though the NPRM explicitly states that it would preserve community voices, it does not articulate how this is actually the case. It does not specify how the regulatory agencies would solicit, review, or weigh public comments from community organizations or individuals about the

performance of banks or their contribution to helping meet the credit needs of the local communities in which they are chartered.

The history of the enactment of HMDA and CRA underscores the essential role of community groups in diagnosing the causes of and offering effective solutions to community disinvestment. Furthermore, prior to every major policy advance to expand access to credit to minority and disadvantaged people, many in the financial services industry and regulatory community either denied the existence of a problem or predicted that fair housing and fair lending laws, HMDA, and CRA would have dire consequences. In virtually every case, community-based advocates have been proven right, and the so-called experts were wrong. In this connection it's worth noting that the financial crisis of a decade ago was driven largely by unregulated financial institutions that were not covered by CRA, which should give pause to those who advocate for weakening a regulatory regime that has withstood the test of time.

CONCLUSION

“Major updates to the CRA regulations happen once every few decades. So, it is much more important to get reform right than 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.”

—Dr. Lael Brainard, Board of Governors of the Federal Reserve System, January 8, 2020

In the four-decades since CRA was proposed, the law has increased bank lending in LMI communities, increased the share of loan portfolios with CRA-covered loans, and outpaced similar growth in lending to LMI communities among non-CRA-covered institutions. CRA has helped to spur mainstream regulated financial institutions to innovate in ways that have been helpful to minority LMI borrowers. Moreover, it has encouraged regulated banks to establish and strengthen relationships with local community-based organizations (CBOs) which help advance banks' goal of lending safely and affordably to LMI residents. One of the most important outcomes of these activities is the creation of Community Development Corporations (CDCs) and CDFIs that have assisted in ensuring that capital and credit flow into LMI neighborhoods from banks in ways that are prudent and affordable.

Yet, the CRA is not perfect. Currently, 98% of banks pass their CRA exams, while many families and communities of color remain locked out of meaningful financial services including 16.9% of Black households and 14.0% of Latino households, according to the FDIC.³⁹ As the Latino community grows, especially in rural America where the Hispanic population has doubled since 1990, CRA remains a critical tool for ensuring that the financial system serve 18% of the population in a fair and inclusive manner.⁴⁰

We hope this testimony provides the Committee with information on the ways in which the prudential regulators can improve the CRA through regulations that can be more effective in promoting responsible lending to the diverse populations of the U.S. In moving forward with

their NPRM, we urge the OCC and FDIC to withdraw their current NPRM and work with the Federal Reserve to propose a new NPRM. In proposing a new, revised NPRM, we urge all three prudential regulators—together—to further consult with civil rights, economic justice, and community organizations about how best to modernize the regulations under this important law to serve all communities—especially those it was designed to protect. We look forward to further discussions on strengthening the CRA and will be happy to respond to any questions raised by this testimony.

¹ It is well known that individuals of color have historically had difficulty accessing credit, and when they are able to do so, obtain lower dollar amounts. For example, the overall rate of mortgage denials for individuals of color was between 13.5% and 18.4%, while the denial rate was only 8.8% for Whites. In 2017, the average value of home purchase loans for individuals of color ranged from \$224,000 to \$230,000, while the average value for Whites was \$254,000. Similarly, access to credits for minority-owned businesses is still a challenge, as approval rates for credit for individuals of color is 6% to 19% lower than that of Whites. In 2006, the average loan amount for high-sales minority firms was \$149,000, while the non-minority average was more than twice this amount at \$310,000. “Large Numbers of Loan Applications Get Denied. But for Blacks, Hispanics and Asians, the Rejection Rate Is Even Higher.” Washington Post. May 23, 2018. Accessed October 10, 2018. https://www.washingtonpost.com/realestate/large-numbers-of-loan-applications-get-denied-but-for-blackshispanics-and-asians-the-rejection-rate-is-even-higher/2018/05/22/dac19ffc-5d1b-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.0d4073abd59a; data obtained from 2017 Home Mortgage Disclosure Act (HMDA) data provided by the Consumer Protection Bureau, <https://www.consumerfinance.gov/dataresearch/hmda/explore>; “2016 Small Business Credit Survey: Report on Minority-Owned Firms.” Fed Small Business. Accessed October 10, 2018. <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-ownedfirms>; “The State of Minority Business Enterprises: An Overview of the 2007 Survey of Business Owners.”

² “Banking on Local Communities.” New York Times, April 15, 2004. Accessed October 10, 2018.

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⁴ UnidosUS, Latino Homeownership 2007–2017: A Decade of Decline for Latinos (Washington, DC: UnidosUS, 2019), http://publications.unidosus.org/bitstream/handle/123456789/1963/latinohomeownership_statsbrief_62119.pdf?sequence=1&isAllowed=y (accessed January 8, 2020).

⁵ Dore, Tim and Traci Mach. “Recent Trends in Small Business Lending and the Community Reinvestment Act.” FEDS Notes (2018). Accessed October 12, 2018. <https://www.federalreserve.gov/econres/notes/feds-notes/recenttrends-in-small-business-lending-and-the-community-reinvestment-act-20180102.htm>.

⁶ Kim Nauer, “CRA,” *The Neighborhood Works*, Chicago Reader, Inc., (December 1993/January 1994): 6.

⁷ Bray Hammond, “Banks and Politics in America from the Revolution to the Civil War” in *Community Reinvestment Performance: Making CRA Work for Banks, Communities and Regulators*, ed. Kenneth A. Thomas, Ph.D. (Chicago: Probus Publishing Company, 1994), 316–317.

⁸ Kenneth T. Jackson, *The Crabgrass Frontier: The Suburbanization of the United States* (New York: Oxford University Press, 1987), 194.

⁹ *Ibid.*

¹⁰ U.S. National Commission on Neighborhoods, *People, Building Neighborhoods: Final Report to the President and the Congress of the United States*. Vol. 31. U.S. National Commission on Neighborhoods, Washington, DC, 1979, 69.

¹¹ Arthur D. Naparstek and Chester D. Haskell, “Geographic Discrimination in Civil Rights Issues of Euro-Ethnic Americans in the United States: Opportunities and Challenges,” in *A Consultation Sponsored by the U.S. Commission on Civil Rights*. U.S. Commission on Civil Rights, Washington, DC, 1980, 140.

¹² Jane Jacobs, *The Death and Life of Great American Cities* (New York City: Random House, 1961).

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- ¹³ Citizens Action Program, "Citizens Action Program Position on Redlining," in *Redlining: Discrimination in Residential Mortgage Loans*, Illinois Legislative Investigating Commission report to the Illinois General Assembly, 1975.
- ¹⁴ The Center for Community Change and the National Urban League, *The National Survey of Housing Abandonment* (New York: 1971).
- ¹⁵ John T. Metzger and Marc A. Weiss, *The Role of Private Lending in Neighborhood Development: The Chicago Experience* (Evanston, IL: Center for Urban Affairs and Policy Research, Northwestern University, 1988), 13.
- ¹⁶ Robert Davis, *Chicago Tribune*, June 17, 1974, Sect. 1: 2.
- ¹⁷ Illinois Legislative Investigating Commission, "Redlining," 27.
- ¹⁸ William L. Taylor for the Center for National Policy Review, Catholic University School of Law, *Home Mortgage Disclosure Act of 1975: To Improve Public Understanding of the Role of Depository Institutions in Home Financing*, 94th Cong., 1st sess., May 6, 1975: 532–533.
- ¹⁹ U.S. National Commission on Neighborhoods, *People, Building Neighborhoods*, 81.
- ²⁰ *Home Mortgage Disclosure Act of 1975*, Public Law 94-200, 94th Cong., 2nd sess. (December 31, 1975).
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ATTACHMENT A

LATINO HOMEOWNERSHIP 2007-2017: A Decade of Decline for Latinos*

Key Findings

- 1. Since the Great Recession, the White-Latino homeownership gap remains unchanged.** In 2007, about half of Latinos owned a home. During the Great Recession, millions of Latino families lost their homes to foreclosure, significantly decreasing the homeownership rate. Since the end of the Recession, the number of new Latino homeowners has increased, yet growth in new Latino homeowners still lags behind new White homeowners.
- 2. Despite gains, disparities in home purchase lending to Latinos have persisted.** In 2017, Latinos made up 13% of U.S. households, yet received less than 10% of mortgages to purchase a home. During the Recession, Latino borrowers struggled to access affordable loans, as lenders set more stringent standards. Since, mortgages to Latinos have increased; yet overall growth in loans made to Latinos has been smaller than the growth in loans to Whites.
- 3. Latinos face dual barriers of access to credit and affordability.** In the past decade, fewer Latino applicants have been denied a mortgage. However, emerging trends of increasing denials due to debt, collateral, and cash reserves point to growing challenges in Latinos' ability to afford a home in their communities. Latinos also continue to face disparities in home mortgage costs.
- 4. There appear to be cracks in the foundation, as more Latinos fall behind on their mortgage payments.** Despite a drop in the foreclosure rate, there has been a sharp increase in early- and late-stage mortgage delinquency for Latinos. Significantly more Latinos were more than 30 days past due on their mortgage in 2017, as compared to 2014.

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Introduction

Hispanic* Americans represent a growing and influential segment of the U.S. housing market. Since 2010, growth in Latino homeownership has accounted for 60% of total homeownership growth in the United States.¹ Moreover, projections from the Harvard Joint Center for Housing Studies indicate that Latinos will make up about 37% of new American households and half of new homeowners in the coming decade.²

Homeownership has long been a cornerstone of the American dream for countless Latinos, and Latinos are more likely than other groups to have the majority of their assets invested in their homes.³ Furthermore, Latinos place a high value on homeownership. According to a recent poll, more than nine out of 10 (94%) Latino voters said that it was important for lawmakers to create more homeownership opportunities.⁴

Since the Great Recession, Latino homeownership rebounded from a low of 45% in 2014 to 47.2% in 2017. Despite recent gains, continued low Latino homeownership rates and persistent homeownership disparities have the potential to dampen the future prospects of the nation's housing market and economy. For example, in 2016, about 40% of Latino homeowners' wealth was tied to the equity in their homes.⁵ And many Latinos have yet to recover from the losses they sustained and continue to have less wealth. Additionally, according to our analysis of Home Mortgage Disclosure Act (HMDA) data, Latinos continue to lag-behind Whites in terms of homeownership. And Latinos are more likely to be denied a mortgage, receive fewer home mortgages, and are more likely to fall behind on their mortgage payments than Whites.

Given that Latino households will contribute to significant growth in the housing market over the next decade, it is critical to address the low homeownership rate of Latinos and increase Latinos' access to affordable homeownership opportunities. Doing so is not only imperative to ensure that the benefits of homeownership are available to all Americans in the decades to come, but also for the future of the nation's economy. Investments in housing and consumption of housing services contributes an average of 15% to the nation's GDP.⁶ From home construction to buying a first home, Latinos will be critical to bolstering the housing market and the nation's economy.⁷

* The terms "Hispanic" and "Latino" are used interchangeably by the U.S. Census Bureau and throughout this document to refer to persons of Mexican, Puerto Rican, Cuban, Central and South American, Dominican, Spanish, and other Hispanic descent; they may be of any race.

This statistical brief illustrates the status of Latinos in the mortgage market for the period between 2007 to 2017, and emerging trends for Latinos homeowners.⁸ It is intended to serve as a resource to policymakers and stakeholders. This brief uses HMDA home purchase mortgage origination data from the Consumer Financial Protection Bureau (CFPB) and National Survey of Mortgage Originations data from the Federal Housing Finance Agency, unless otherwise indicated.

Table 1: Indicators at a Glance 2007-2017

	2007		2017	
	Latinos	Whites	Latinos	Whites
Population ⁹	45,427,437	223,000,483	58,846,134	235,507,457
Households	12,311,308	223,005,483	15,823,610	235,507,457
Homeowners	6,141,649	59,576,858	7,471,778	58,261,487
Homeownership Rate	49.9%	72.2%	47.2%	69.5%
Home Purchase Originations	428,834	2,561,107	395,858	2,772,559
% Non-Conventional	10.6%	11.65%	52.2%	33.3%
% FHA	8%	7.3%	41.3%	1.8%
% Higher-Priced*	25.4%	11.5%	19.6%	8.2%
% Overall Approval Rate	67.3%	82.7%	85.9%	90.3%
% Overall Denial Rates	32.8%	17.3%	14.1%	9.7%
Top Reason for Denial	Credit History	Credit History	Debt-to-Income Ratio	Debt-to-Income Ratio
Top Mortgage Lender	Wells Fargo	Bank of America	Wells Fargo	Wells Fargo

* As identified by the CFPB, a mortgage is higher-priced if the annual percentage rate (APR) is 1.5 percentage points (or more) higher than the Average Prime Offer Rate (APOR).

Key Dates: The Great Recession & Recovery¹⁰

October 2006: Housing market cools as foreclosures begin to rise.

December 2007: Official start of the Great Recession after weakening economic growth; housing crisis deepens with foreclosures on the rise.

January 2008: Federal Reserve responds to slowing growth by continuing to drop interest rates.

February 2008: Economic Stimulus Act signed into law by President George Bush includes \$152 billion in taxpayer credits, business tax cuts, and an attempt to keep housing prices from quickly rising.

March 2008: Large bank lenders and mortgage companies begin to go under.

September 2008: U.S. Treasury takes over the management of Freddie Mac and Fannie Mae, two of the largest companies guaranteeing home mortgages.

October 2008: Stock market crashes with Dow Jones reaching historic lows—millions of Americans see drastic losses on financial investments; Troubled Asset Relief Program (TARP) signed into law by President George Bush includes \$439 billion in taxpayer funds to buy mortgages and other assets from struggling financial institutions.

December 2008: Auto industry receives TARP funds; Federal Reserve lowers short-term interest rate to 0%.

January 2009: U.S. government continues bailing out banks.

February 2009: President Obama signs the American Recovery and Reinvestment Act and Economic Stimulus Act (ARRA) into law, which included \$831 billion in tax cuts, funds to spur employment, temporary relief programs to those hit hardest, and spending for schools, health care, and infrastructure.

June 2009: Official end of the Great Recession.

October 2009: U.S. unemployment rate hits a record high.

December 2009: Home foreclosures reach a record high.

July 2010: President Obama signs the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) into law to increase consumer protections and government regulatory power over financial institutions; Dodd-Frank leads to the creation of the Consumer Finance Protection Bureau (CFPB), which has returned billions to defrauded consumers.

June 2014: Labor market recovers jobs lost during the Great Recession.

May 2018: Congress eases Dodd-Frank regulations on financial industry.

Gaps and Disparities in Latino Homeownership are Stagnant

Since the Great Recession, the White-Latino homeownership gap remains unchanged. In 2007, about 50% of Latinos owned a home. During the Great Recession, millions of Latino families lost their homes to foreclosure, and few new applicants received a mortgage to buy a home—significantly decreasing the homeownership rate. Then in 2014, the homeownership rate declined to a low of 45%. Since 2014, the Latino homeownership rate has risen to 47.2% in 2017 (see Figure 1).

Between 2007-2017, new Hispanic households have grown by 28%, while new White households have grown only 5% (See Table 1). The number of Latino homeowners also continued to grow, yet this growth still lagged behind that of White homeowners (see Figure 2). In terms of percentage points, the Latino homeownership rate lags behind the rate of Whites by about 22 percentage points—the same gap that existed in 2007 (see Figure 1).

Figure 1: Homeownership for Latinos has Slightly Declined in the Last 10 Years

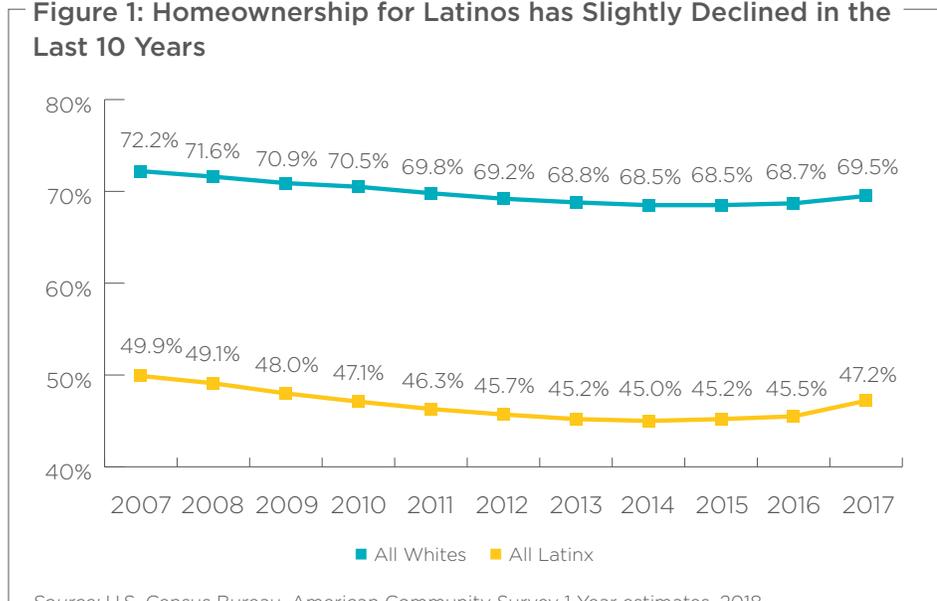
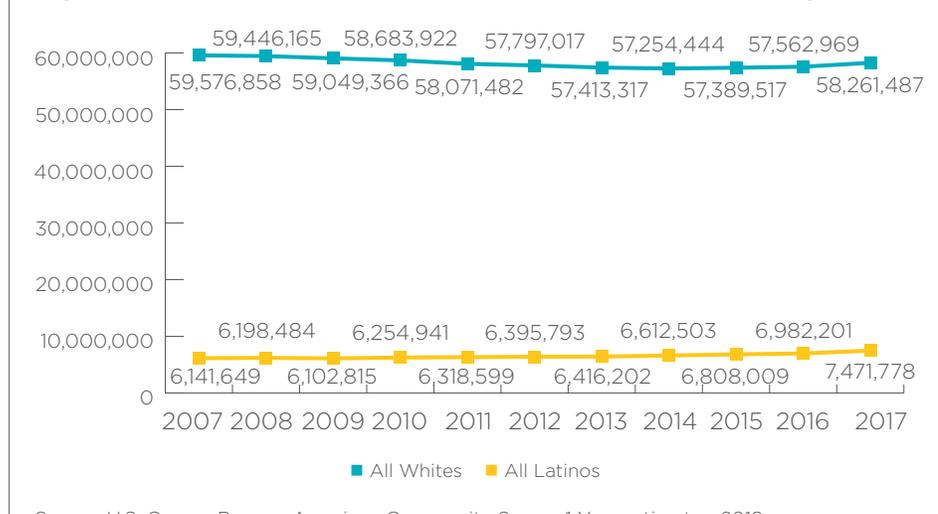


Figure 2: The Number of Latino and White Homeowners by Year



Source: U.S. Census Bureau, American Community Survey 1-Year estimates, 2018.

Disparities and Gaps Remain in Home Purchase Originations*

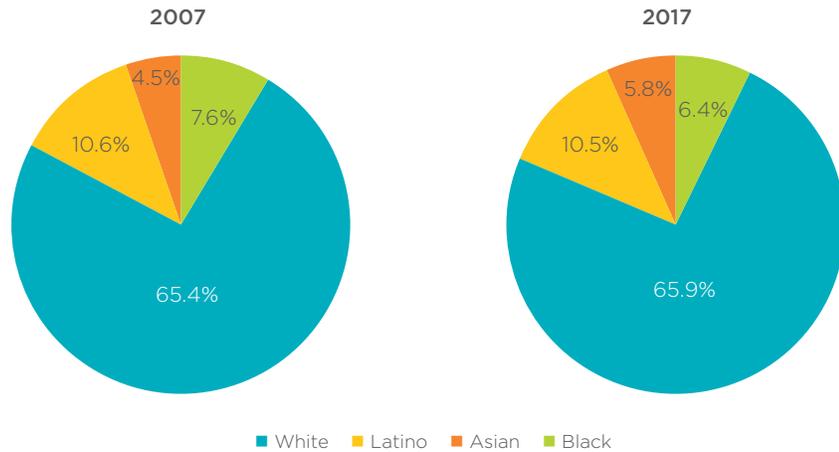
Disparities in home lending have persisted since the Great Recession.

In 2017, Latinos composed 13% of households, yet owned only 9% of the homes. The same year, Latinos received less than 11% of mortgages to buy a home and fewer mortgages than they received in 2007 (see Figure 3).¹¹ During the Great Recession, the number of mortgages for home purchases originated to Latinos dropped by 54.8%, from 354,994 in 2007 to 194,721 in 2011 (see Figure 4). In 2012, mortgages to Latinos began to increase, and by 2016 the number of loans surpassed 2007 levels to 363,111 (see Figure 4). Despite these improvements, overall growth in loans made to Latinos has been smaller than the growth in loans to Whites (see Figure 4). Since 2011, Whites received consistently more loans each year, receiving 200,000 or more loans in four of those years, while the growth in mortgages to Latinos has not surpassed 60,000 each year (see Figures 4 and 5).

* Home purchase originations do not include mortgages for the purchase of manufactured homes.

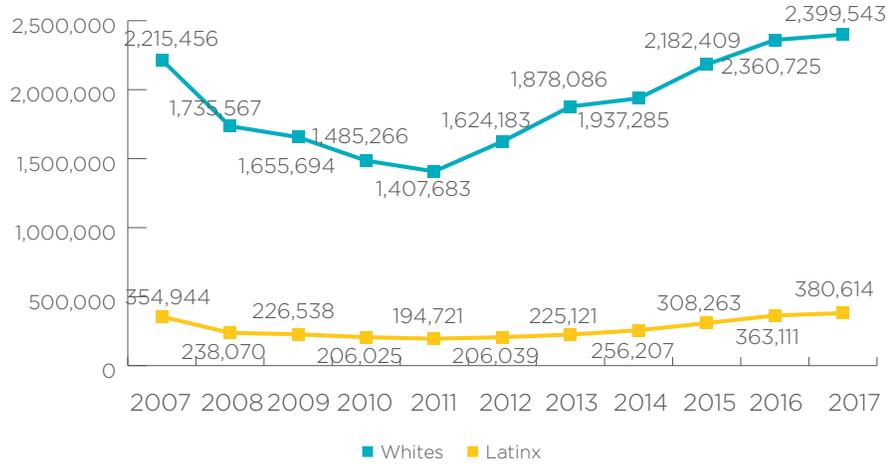
Figure 3: A Comparison of Home Purchase Originations by Race and Ethnicity 2007 and 2017

While the share of Latinos and other minority groups heading new households has grown in the last decade, the share of home purchase loans made to eligible borrowers in these communities remained relatively unchanged.

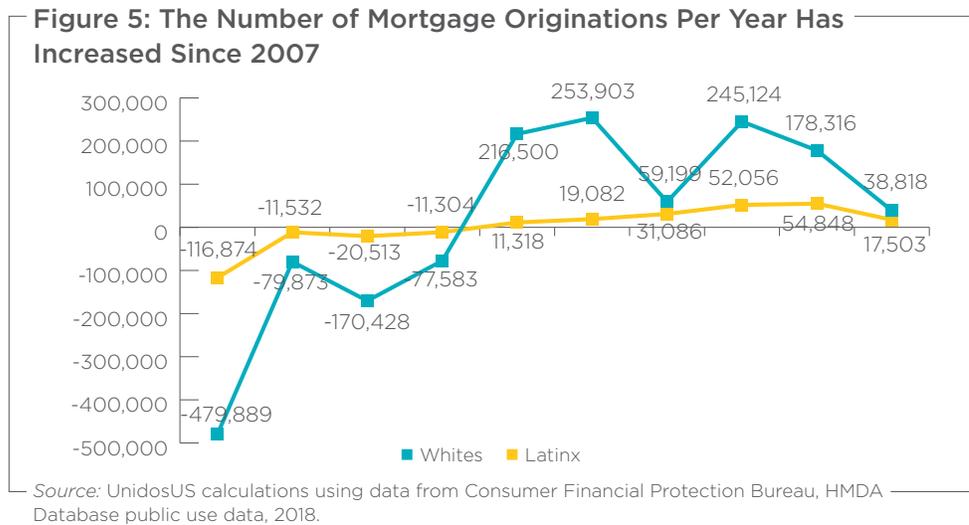


Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018.

Figure 4: The Number of Originations to Latinos Has Increased Slightly Since 2007



Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018.



Latinos and the Community Reinvestment Act

The year 2017 marked the 40th anniversary of the Community Reinvestment Act (CRA). CRA was enacted to encourage banks to serve low-and moderate-income neighborhoods by making direct investments and providing affordable bank and credit services to the communities in which they are located. CRA has helped make affordable homeownership possible for millions of Americans with modest incomes, including Latinos. Studies show that even during the Great Recession, homeowners with a mortgage spurred by CRA were more likely to sustain homeownership.¹² Since the end of the Great Recession, the CRA bolstered home lending for low-and moderate-income communities, especially for Latinos. Since 2014, CRA helped facilitate between 15% to as much as 35% of home loans to Latinos, about two to three times the share of loans facilitated to Whites (see Figure 6).

Figure 6: CRA has Increased the Percentage of Loans to Latinos in Low-and Moderate-Income Census Tracts

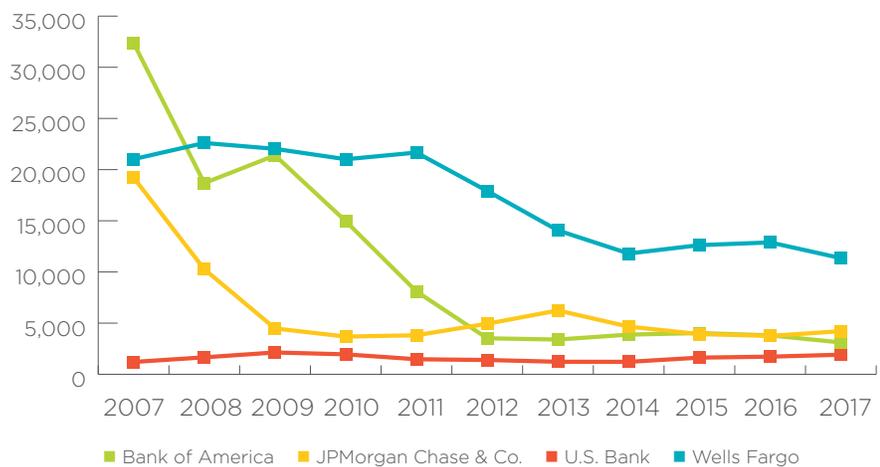
Year	Quarter	White (%)	Latino (%)
2014	Q1	12.1	20.9
	Q2	13	28.3
	Q3	11.1	34
	Q4	12.1	26.7
2015	Q1	10.1	26.7
	Q2	11.2	15.2
	Q3	10.2	21.9
	Q4	13	28.2
2016	Q1	11.2	29.1
	Q2	9.9	27.8
	Q3	11	21.4
	Q4	10.7	16.7
2017	Q1	7.8	30.7
	Q2	11.6	20
	Q3	6	12.3

Source: National Mortgage Database, National Survey of Mortgage Originations Public Use File, November 8, 2018.

The Rise in Non-Bank Lending

Non-bank lending has failed to fill the gap left by traditional banks since the end of the Great Recession. Since 2007, home lenders adopted more stringent lending standards, limiting the pool of mortgage applicants eligible to qualify for a mortgage. By some estimates, these standards screened out about six million eligible borrowers—including numerous Latinos.¹³ Meanwhile, the largest banks significantly reduced their mortgage lending to borrowers with modest incomes.¹⁴ This retreat has hindered Latinos’ prospects for qualifying for an affordable home loan. Between 2007 and 2017, the three largest banks have reduced home purchase lending to Latinos by 43% (Wells Fargo), 66% (J.P. Morgan Chase), and 90% (Bank of America) (see Figure 7).

Figure 7: Home Purchase Originations by Top Banks to Latinos

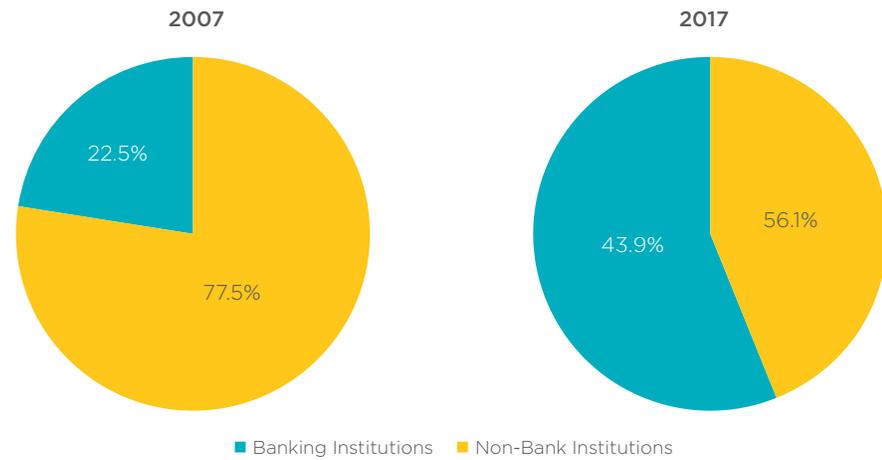


	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
■ Wells Fargo	21,023	22,603	22,030	21,013	21,666	17,911	14,057	11,803	12,621	12,886	11,352
■ JPMorgan Chase & Co.	19,222	10,267	4,479	3,684	3,816	4,943	6,236	4,659	3,928	3,751	4,214
■ Bank of America	32,370	18,680	21,388	14,956	8,090	3,518	3,397	3,876	4,031	3,803	3,113
■ U.S. Bank	1,207	1,658	2,134	1,950	1,472	1,397	1,226	1,218	1,630	1,724	1,916

Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Home Purchase Originations are for single-family, first-lien, owner-occupied housing units, and does not include manufactured homes.

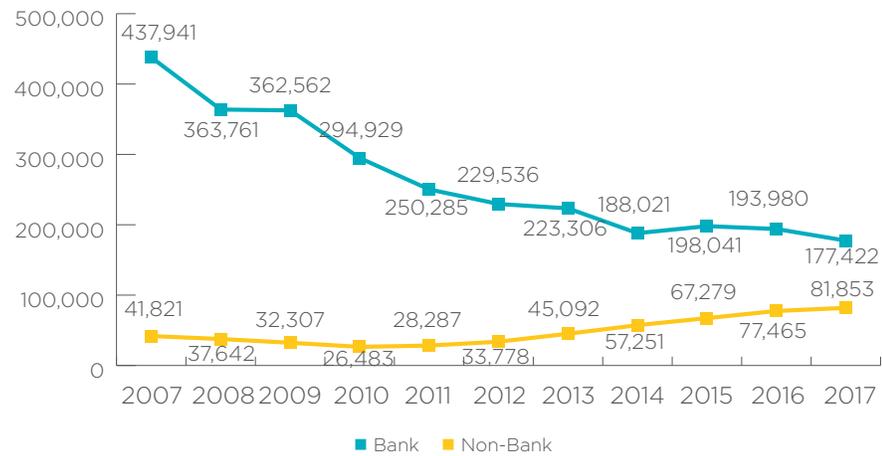
Since the end of the Great Recession, non-bank lenders have increased home mortgage lending, (Figures 8, 9, and 10). Yet, non-bank lending did not fully offset the effects of bank lenders’ reducing home purchase lending to borrowers with modest incomes.¹⁵ Similarly, non-bank lenders have not bolstered home purchase mortgage originations to Latinos. Between 2007 and 2017, bank lending to Latinos declined by approximately 73%, compared to a decline of approximately 60% for Whites. In the same time period, non-bank lending to Latinos increased about 200%, compared to about 104% to Whites. Even so, the reduction in home purchase lending by top bank lenders influenced Latinos’ access to home purchase mortgages to a greater degree than the increase of lending by non-banks.

Figure 8: Share of Home Purchase Originations by Type of Financial Institution 2007 and 2017



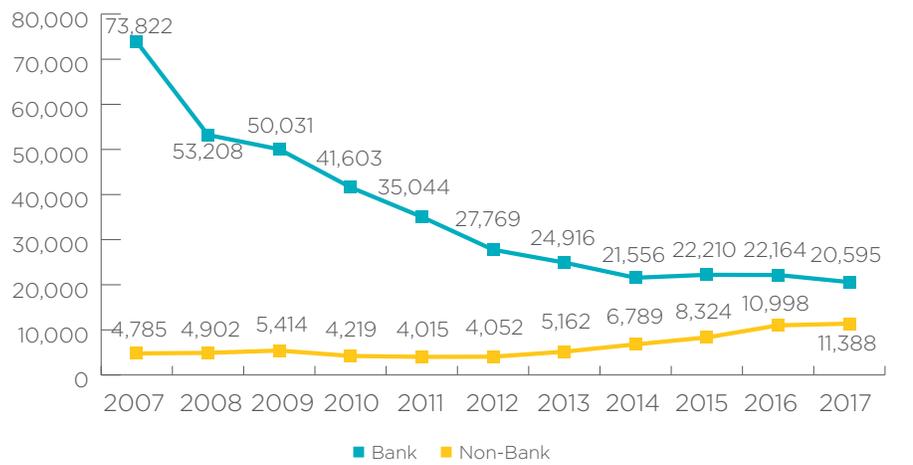
Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018.

Figure 9: Home Purchase Originations by Top Lenders Between 2007 and 2017 for Whites



Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Figure 10: Home Purchase Originations by Top Lenders Between 2007 and 2017 for Latinos



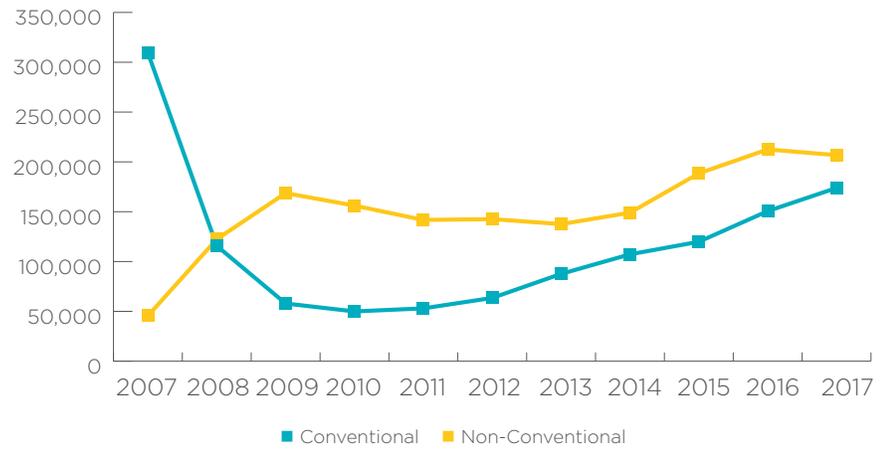
Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Latinos overwhelmingly rely on non-conventional loans, such as FHA.

The rate of non-conventional mortgages for Latinos has more than quadrupled since 2007, largely due to an increase in FHA loans (see Figure 11). In 2017, more than half of the loans that were originated for Latinos were non-conventional, representing an increase of 41.6% since 2007 (see Figure 12).

Since the Great Recession, FHA has been a critical source of financing for cash-strapped, credit-eligible borrowers—especially Latinos—who are less likely to have wealth passed down from previous generations. Yet, FHA’s initial mortgage insurance premiums and fees required for the life of the loan, have added to Latinos’ overall mortgage costs.

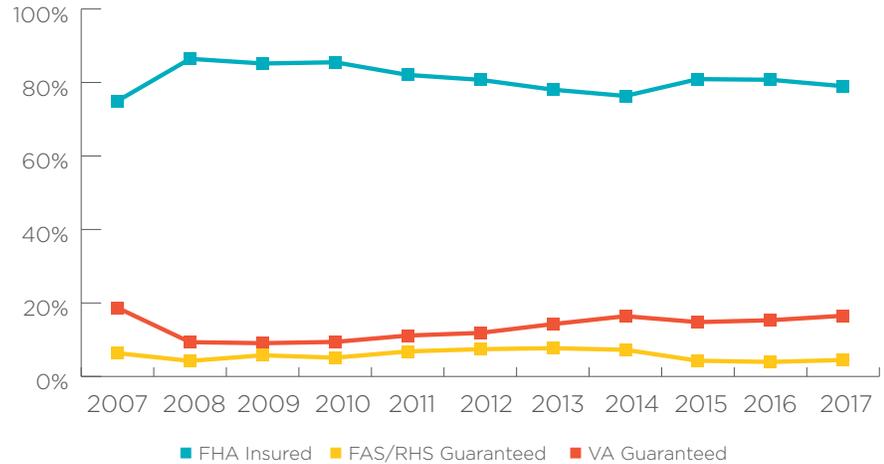
Figure 11: Latino Conventional vs. Non-Conventional Originations



2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
■ 309,395	115,694	57,884	49,918	53,003	63,470	87,594	107,199	119,820	150,589	173,852
■ 5,549	122,376	168,654	156,107	141,718	142,569	137,527	149,008	188,443	212,522	206,762

Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Figure 12: Non-Conventional Originations to Latinos



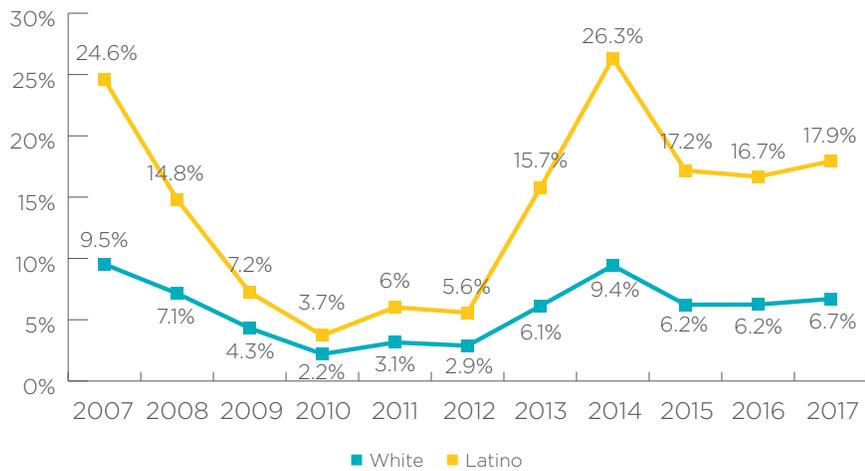
2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
■ 74.9%	86.4%	85.2%	85.5%	82.1%	80.7%	78%	76.3%	80.9%	80.7%	79%
■ 6.3%	4.2%	5.8%	5.1%	6.8%	7.4%	7.7%	7.2%	4.3%	3.9%	4.5%
■ 18.7%	9.3%	9.1%	9.4%	11.1%	11.8%	14.2%	16.4%	14.8%	15.3%	16.5%

Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Higher-Cost Loans Dominate the Latino Home Purchase Market

Disparities in mortgage costs continue for Latinos. While Latinos were less likely to receive a higher-cost loan in 2017 than in 2007, Latino borrowers were still more likely to pay more for a loan to purchase a home than White borrowers (see Figure 13). In 2007, 25% of Latino home loans were higher-priced. Since then, higher-priced lending to Latinos plummeted to below 5% in 2010, spiked up to 26% in 2014, and by 2017 had declined to 18%. While higher-priced lending to Whites followed a similar pattern in the past decade, higher-priced lending remained below 10%. In 2017, about 7% of mortgages to Whites were higher-priced—eleven percentage points lower than Latinos (see Figure 13). Since the Great Recession as bank lending to Latinos declined and the percentage of non-conventional loans made to Latinos increased steadily. Between 2012 and 2014, there was a significant spike in the incidence of higher priced lending to Latinos. These trends, especially in 2014, suggest that more affordable loan options became limited, and Latinos' were more likely to be approved for higher priced loans.¹⁶

Figure 13: Incidences of Higher Priced Lending Have Declined Slightly for Latinos Since 2007

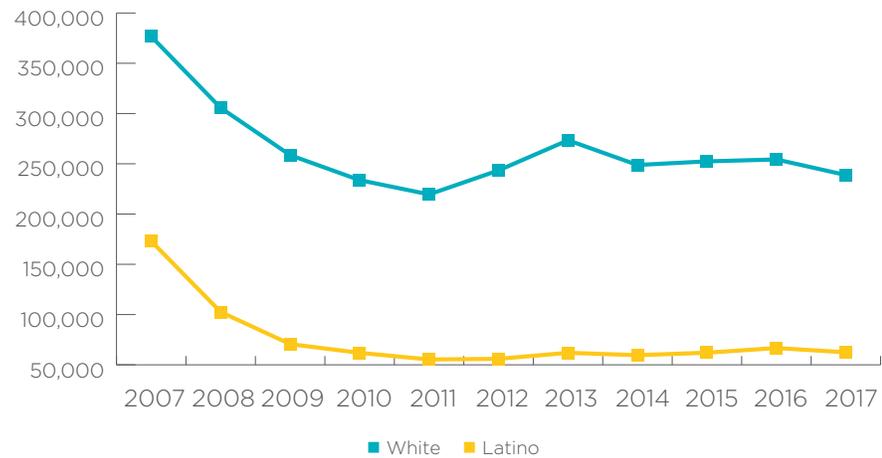


Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Mortgage Denials Have Declined for Latinos

Latinos face dual barriers of access to credit and affordability. In the past decade, fewer Latino borrowers were denied a home loan (see Figure 14). In 2007, approximately 173,000 Latino applicants were denied a mortgage and the most common denial reason was credit history. In 2017, approximately 62,000 Latinos were denied a mortgage and the most common denial reason was an applicants' debt-to-income ratio (DTI) (see Figure 15). The increase in denials due to DTI points to growing challenges in Latinos' ability to afford a home in their community.

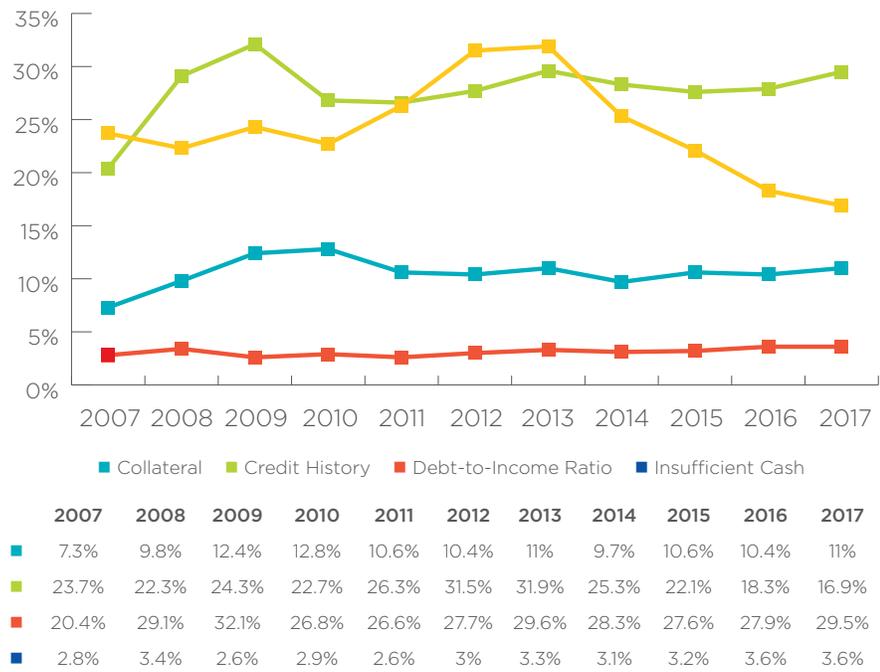
Figure 14: Home Purchase Mortgage Denials to Latinos Have Declined Since 2007



	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
White	376,655	305,635	258,617	233,739	219,547	243,451	273,419	248,817	252,417	254,313	238,820
Latino	172,994	102,551	70,590	61,933	55,308	55,941	61,947	59,578	62,055	66,690	62,471

Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018. Figure includes all HMDA-tracked bank and non-bank, single-family, first-lien, owner-occupied housing units. The figure does not include manufactured homes.

Figure 15: Top Home Purchase Mortgage Denial Reasons for Latinos



Source: Consumer Financial Protection Bureau, HMDA Database public use data, 2018.

Profile of New Latino Homeowners in 2017

Since the end of the Great Recession, new Latino homeowners with higher credit scores have accounted for most of Latino’s homeownership growth. Beginning in 2017, the credit scores of Latino mortgage applicants approved for a home purchase mortgage began to rise, while DTI and payment-to-income ratios began to decline. These trends suggest potential barriers for eligible Latinos who reside in high-cost areas or have a credit score below 700.



Average Credit Score at Origination:

680



Average Debt-to-Income Ratio:

39.1



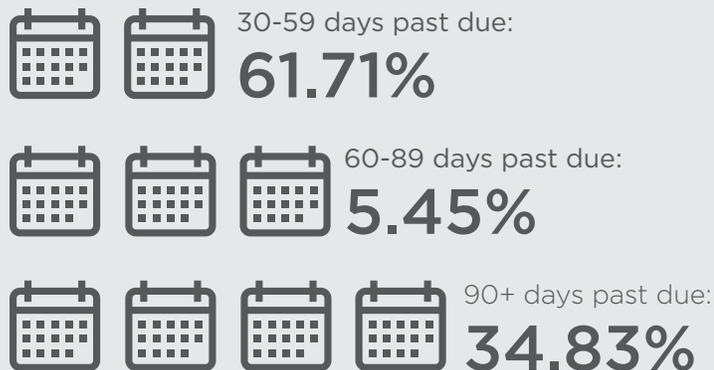
Average Payment-to-Income Ratio:

22.6

Mortgage Delinquencies in 2017

Since the Great Recession, the declining foreclosure rate has supported the story of recovery and restoration in the nation's housing market. However, this is not the story for many hard-working, credit-worthy Hispanics. Since 2014, the percentage of Latino homeowners who made their mortgage payments on-time declined. According to data from the National Survey of Mortgage Originations at the start of 2014, nearly all (98.7%) Latino homeowners were current on their payments, yet by the third quarter of 2017, the percentage of Latino homeowners who were current on their mortgage payments had fallen by 21 percentage points.¹⁷ Additionally since 2014, the number of Latino homeowners who were behind on their payments has grown, with an increase in the percentage of homeowners who missed one or more payments. Homeowners who miss three or more payments, or are more than 90 days past due, are at risk of foreclosure. These trends, coupled with demographic trends, indicate growing weakness in the housing market and concerns about Latino homeowners' ability to remain in their homes and sustain homeownership to build wealth.

Among Latinos who are not current on their mortgage payments:



Conclusion

Ten years have passed since the Great Recession, and by many indicators, our nation's economy and housing market have rebounded. But for the Latino community, the last decade has not represented a full recovery from the significant loss of jobs, homes, and wealth experienced in the wake of the financial crisis. At the same time, new household formation and data on Latino homeownership show that Latinos saw gains in the last 10 years, yet improvements did not equal a full recovery, and disparities persist. This lack of progress has been exacerbated by the growing absence of affordable lending to low- and moderate-income communities, and the eligible Latino borrowers' limited access to affordable loan products.

Making home loans to families of modest means is a profitable, proven business. Yet since the end of the Great Recession, leading lenders with national footprints have shied away from the home purchase market. This has left many new Latino customers on the sidelines, just as they become upwardly mobile. This retreat will impede future growth in the nation's housing market and economy, affecting the ability of eligible borrowers to obtain affordable home financing and, possibly stymie the housing industry's contribution to economic growth.

To ensure that Americans, including Latinos, continue to benefit from homeownership, a responsible lending commitment by financial institutions, together with modest regulatory incentives, and federal investments is needed. Building on existing incentives such as the affordable housing goals and a national duty to serve, and investments in housing counseling, is also a smart business move for the nation's lenders. Just as these models have proven to be successful in the past, partnerships between lenders and the federal government can bring standardized underwriting and origination systems to the housing market and promote access to affordable homeownership.

Endnotes

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- 10 "Great Recession Timeline." September, 2018. Accessed June 2, 2019. <https://www.history.com/topics/21st-century/great-recession-timeline>.
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- 12 Bhutta, Neil and Daniel Ringo. "Assessing the Community Reinvestment Act's Role in the Financial Crisis." April 26, 2015. Accessed June 2, 2019. <https://www.federalreserve.gov/econresdata/notes/feds-notes/2015/assessing-the-community-reinvestment-acts-role-in-the-financial-crisis-20150526.html>.
- 13 Goodman, Laurie, et al. "Overly Tight Credit Killed 1.1 Million Mortgages in 2015." November 21, 2016. Accessed June 2, 2019. <https://www.urban.org/urban-wire/overly-tight-credit-killed-11-million-mortgages-2015>.
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Appendix A. Latino Households in High-Cost Metropolitan Areas in 2017

Metropolitan Area	Home Price-to-Income Ratio	# ALL Households	# Latino Households	% Latino Households (of All Households)
Santa Cruz-Watsonville, CA	10.7	95,536	21,458	22.40%
San Jose-Sunnyvale-Santa Clara, CA	10.0	647,891	128,156	19.70%
Los Angeles-Long Beach-Anaheim, CA	9.5	4,320,174	1,473,113	34%
Urban Honolulu, HI	9.2	311,451	21,477	6.90%
Santa Maria-Santa Barbara, CA	9.0	144,015	47,108	32.70%
San Francisco-Oakland-Hayward, CA	8.9	1684081	264,496	15.70%
Kahului-Wailuku-Lahaina, HI	8.7	54,434	4,347	8%
Napa, CA	8.7	49,044	11,549	23.50%
Santa Rosa, CA	8.4	190,058	32,638	17%
San Luis Obispo-Paso Robles-Arroyo Grande, CA	8.3	105,044	16,449	15.60%

Source: Tabulations of National Association of Realtors, Metropolitan Median Area Prices, and Moody's Analytics Forecasts. Note: Home prices are the median sale price of existing homes and incomes are the median household income within markets.

ATTACHMENT B

November 14, 2018

SUBMITTED VIA REGULATIONS.GOV

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency (OCC)
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

Re: ANPRM on Reforming the Community Reinvestment Act's Regulatory Framework, Docket ID: OCC-2018-0008

Dear Chairman Otting and members of the Legislative and Regulatory Activities Division,

On behalf of UnidosUS (formerly the National Council of La Raza), we are writing to express our concerns regarding the Office of the Comptroller of the Currency's (OCC) advanced notice of proposed rulemaking (ANPRM) on Reforming the Community Reinvestment Act (CRA) Regulatory Framework (RIN 1557-AE34). Specifically, we ask that the OCC and its fellow regulators (the Federal Deposit Insurance Corporation (FDIC) and the Board of Governors of the Federal Reserve System (the Fed)) proceed in a way that not only improves and strengthens the CRA—without violating the original intent of the law or related civil rights laws.

UnidosUS is the largest Latino civil rights organization dedicated to improving life opportunities for the nation's 58 million Hispanics.¹ Through a network of nearly 300 affiliated community-based organizations, UnidosUS reaches millions of Latinos each year in 37 states, Puerto Rico, and the District of Columbia. To achieve its mission, UnidosUS expands opportunities for Latinos through capacity-building assistance to a national network of multi-service affiliate organizations rooted in Latino communities; robust and tested program models; applied research, policy analysis, and advocacy; and civic engagement efforts, providing a Latino perspective in five key areas: assets/investments; civil rights/immigration; education; employment and economic status; and health. For almost three decades, UnidosUS has conducted research and analysis and has testified in front of Congress on issues related to improving the financial standing of Latinos; including strengthening the CRA and the Home Ownership and Equity Protection Act (HOEPA), supporting strong fair housing and lending laws, and expanding access to affordable credit. In addition, UnidosUS manages a network of over 50 community-based, HUD-approved housing counseling agencies in more than 20 states across the country. Since its inception in 1997, the UnidosUS Housing and Wealth Alliance has helped over 590,000 families with their housing counseling needs.

In short, we have experience as both consumers and lenders. Our subsidiary, the Raza Development Fund (RDF), is the nation's largest Latino community development financial institution (CDFI). Since 1999, RDF has provided \$400 million in financing to locally based

development projects throughout the country. This work has not only supported the Latino community through pre-development loans, organizational assessments and a range of unconventional lending products, but has substantially increased UnidosUS's institutional knowledge of how Latinos interact with the mortgage and real estate markets, their credit and capital needs, and the impact of government regulation on lenders.

Given the significant impact that CRA has had on access to credit since its enactment, many of the proposals or examples contained in the ANPRM are troubling and potentially harmful for low-income consumers. Additionally, many of the proposals as articulated or contemplated within the ANPRM may have an adverse, disparate impact on Latinos and other individuals of color—which could violate the Equal Credit Opportunity Act (ECOA)¹ or Title VIII of the Civil Rights Act of 1968 (Fair Housing Act of 1968)—and should not be adopted.² Accordingly, we urge the OCC and fellow prudential banking regulators (the FDIC and the Fed) to consider a proposed rulemaking process that would: 1) do no harm; 2) increase the size and impact of investment in LMI communities; and 3) expand access to affordable credit for communities.

Background

Congress enacted the CRA with the belief that financial institutions have a responsibility to meet the credit needs of the entire community that they serve, including meeting the needs of low-and moderate income (LMI) neighborhoods, as well as inner city, older, and predominantly minority neighborhoods.³ This is clear from the remarks of Senator William Proxmire (D-WI), the principal sponsor of the Act, on the Senate floor clarifying the intent of the law. He articulated:

The committee included title IV to reaffirm that [banks] are indeed chartered to serve the convenience and needs of their community, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans. . . . Mr. President[,] the solution to housing and economic development needs is not simply a Federal program, a Federal charge What it takes is the kind of resources that the local financial institutions have, and they have plenty. . . . The private sector has the capital, the know-how, and the efficiency to do the job. And the banking industry must be encouraged to reinvest in local needs . . . We need to encourage bankers to get out of the office and walk around the block and find loan opportunities here at home.⁴

¹ 15 U.S.C. §§ 1691-1691f (1976).

² 42 U.S.C. §§ 3601-3619, 3632 (1982 & Supp. III 1985).

³ Marscio, Richard D. "Fighting Poverty Through Community Empowerment and Economic Development: The Role of the Community Reinvestment and Home Mortgage Disclosure Acts." *New York Law School Journal of Human Rights* 12 (1995): 281-89. Accessed October 10, 2018. Fighting Poverty Through Community Empowerment and Economic Development: The Role of the Community Reinvestment and Home Mortgage Disclosure Acts.

⁴ 123 *Cong. Rec.* 17,630 (1977) (emphasis added).

In addition to meeting the credit needs of communities, CRA was also enacted to combat “redlining,” the discriminatory practice of marking off areas on maps where banks avoided investments based on community demographics.⁵ Neighborhoods that were considered high risk, or deemed “hazardous” were often redlined, denying occupants or potential occupants’ access to capital investment which could have improved the housing and economic opportunities of residents.⁶ Additionally, the purportedly “hazardous” neighborhoods were often comprised primarily of LMI consumers and communities of color. Even today, two-thirds of neighborhoods that the Home Owners’ Loan Corporation (HOLC) classified as “hazardous” in 1935 to 1939 remain inhabited disproportionately by individuals of color.⁷

Due to its requirement for banks to meet the credit needs of their communities and intent to combat redlining, CRA has become one of the most important tools that LMI households and communities of color have to access mainstream banking services, credit, and investments. CRA has helped to revitalize neighborhoods and enable non-traditional borrowers—including many Latinos—to gain access to financial services and benefit directly from investments made by large mainstream banks that may have otherwise have left the community underserved. CRA has also been an important tool—albeit indirectly—in mitigating the effects of discrimination and disparate treatment of individuals of color and immigrants within mainstream financial markets.⁸ Specifically, CRA has led to \$1.7 trillion in lending to economically distressed areas since its enactment and has partially been responsible for the gains in credit in low and moderate income (LMI) communities and communities of color.⁹ Another 2017 study found that CRA increased credit activity by 9% from 2004 to 2012 and the number of credit visible individuals in the community by 7%.¹⁰ Still another study found that between 2010 and 2016, the CRA expanded the number of small business loans in LMI neighborhoods by 38%.¹¹

With this legal and substantive background in mind, below we address some of the specific questions raised in the ANPRM.

⁵ Sen. William Proxmire stated that “the CRA responds to nationwide demands that Congress do something about redlining.” 123 *Cong. Rec.* 17,604 (1977).

⁶ “Redlining Was Banned 50 Years Ago. It’s Still Hurting Minorities Today.” *Washington Post*. March 28, 2018. Accessed October 10, 2018. https://www.washingtonpost.com/news/wonk/wp/2018/03/28/redlining-was-banned-50-years-ago-its-still-hurting-minorities-today/?noredirect=on&utm_term=.019bbd88d58a.

⁷ *Ibid.*

⁸ *See infra* at note 14.

⁹ “Banking on Local Communities.” *New York Times*, April 15, 2004. Accessed October 10, 2018.

¹⁰ Federal Reserve Bank of Boston. “Using Credit Reporting Agency Data to Assess the Link between the Community Reinvestment Act and Consumer Credit Outcomes.” Federal Reserve Bank of Boston. March 04, 2014. Accessed October 10, 2018. <https://www.bostonfed.org/publications/community-development-discussion-paper/2013/using-credit-reporting-agency-data-to-assess-the-link-between-the-community-reinvestment-act-and-consumer-credit-outcomes.aspx>.

¹¹ Dore, Tim and Traci Mach. “Recent Trends in Small Business Lending and the Community Reinvestment Act.” *FEDS Notes* (2018). Accessed October 12, 2018. <https://www.federalreserve.gov/econres/notes/feds-notes/recent-trends-in-small-business-lending-and-the-community-reinvestment-act-20180102.htm>.

Revising or Transforming the Current Regulatory Approach

Question 7:

We urge the OCC to continue using the current general framework of rating banks based on their lending, investments, services, and other factors, including the number of complaints and responses, a bank's public file, evidence of discriminatory practices, and a bank's assessment area. We are troubled that, in a memorandum released by the Department of the Treasury in May of 2018, Treasury proposed switching its rating process to one ratio composed of the dollar amount of a bank's CRA activities (loans, investments, and services to LMI individuals) divided by the bank's assets.¹²

The clear language of the CRA states that banks "have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered."¹³ The key word in this language is the word "local." A single ratio or metric—as proposed in the Treasury memorandum—derived from a banks' CRA activities divided by its' total assets cannot tell an examiner, a bank, or a member of the public how responsive a bank is to its various service areas or different needs in a particular assessment area.

In particular, some banks may be tempted to find the lowest risk loans with the highest yields in just one or two LMI neighborhoods—without regard to the broader needs of diverse groups in their community. Similarly, some banks may seek out a small number of large dollar loans and investments only marginally benefitting LMI residents to boost their numerator in the one ratio. Either option would be problematic. The first clearly disregards the stated intent of the CRA to "help meet the credit needs of the local communities in which they are chartered." Both options could result in a disparate impact upon racial and ethnic minorities—in violation of ECOA and/or the Fair Housing Act of 1968.¹⁴ Even though CRA ratings have not been as effective in

¹² "Community Reinvestment Act - Findings and Recommendations." U.S. Department of the Treasury. April 3, 2018. Accessed October 10, 2018. [https://home.treasury.gov/sites/default/files/2018-04/4-3-18 CRA memo.pdf](https://home.treasury.gov/sites/default/files/2018-04/4-3-18%20CRA%20memo.pdf).

¹³ 12 U.S.C. §§ 2901(a)(1)-(3) (2006).

¹⁴ It is well known that individuals of color have historically had difficulty accessing credit, and when they are able to do so, obtain lower dollar amounts. For example, the overall rate of mortgage denials for individuals of color was between 13.5% and 18.4%, while the denial rate was only 8.8% for Whites. In 2017, the average value of home purchase loans for individuals of color ranged from \$224,000 to \$230,000, while the average value for Whites was \$254,000. Similarly, access to credits for minority-owned businesses is still a challenge, as approval rates for credit for individuals of color is 6% to 19% lower than that of Whites. In 2006, the average loan amount for high-sales minority firms was \$149,000, while the non-minority average was more than twice this amount at \$310,000. "Large Numbers of Loan Applications Get Denied. But for Blacks, Hispanics and Asians, the Rejection Rate Is Even Higher." *Washington Post*. May 23, 2018. Accessed October 10, 2018.

https://www.washingtonpost.com/realestate/large-numbers-of-loan-applications-get-denied-but-for-blacks-hispanics-and-asians-the-rejection-rate-is-even-higher/2018/05/22/dac19ffc-5d1b-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.0d4073abd59a; data obtained from 2017 Home Mortgage Disclosure Act (HMDA) data provided by the Consumer Protection Bureau, <https://www.consumerfinance.gov/data-research/hmda/explore>; "2016 Small Business Credit Survey: Report on Minority-Owned Firms." Fed Small Business. Accessed October 10, 2018. <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms>; ¹⁴ "The State of Minority Business Enterprises: An Overview of the 2007 Survey of Business Owners."

driving investment as we had hoped, a single ratio or metric would do nothing to strengthen CRA's effectiveness.

Therefore, we urge the OCC and its fellow regulators to continue their ratings and examinations using the current framework that includes lending, investment, and services tests—to avoid running afoul of the original intent of the law and prevent disparate impacts upon minority communities. If the OCC wishes to revise this standard, they should work with Congress in order to amend the law, rather than attempt to change the law through regulations.

Question 11:

12 U.S.C. §§ 2901(a)(1)-(3) requires banks to help meet the credit needs of the local communities in which they are chartered and serve the convenience and needs of the communities in which they are chartered to do business.¹⁵ In order to determine whether banks are meeting this requirement, bank examiners are currently required to consider community comments on local needs and how well banks are responding to these needs.

Sole reliance on a single metric devalues community input on community needs or the bank's performance not adequately captured by the metric, effectively remove the "community" from the *Community Reinvestment Act*. This would clearly violate the intent and purpose of the CRA, specifically a bank's requirement to "serve the convenience and needs of the communities in which they are chartered."¹⁶ As such, we strongly disagree with any proposals that would adopt one ratio to measure a bank's CRA activities.

There may be ways to more effectively capture the quality as well as quantity of community involvement beyond the often "process-focused" listing of meetings or events that banks offer to demonstrate consultation, and we and our partners would be happy to discuss these in the context of the current regulatory framework.

Question 12:

The CRA is focused on the outcome of the banks' activities—namely, meeting the credit needs of their communities. Quantitative measures are surely helpful as one of several criteria against which to assess effectiveness, but qualitative judgments are also crucial. Sole reliance on average rates and dollar amounts, would allow some banks to focus on the amount of money that was provided to a community, rather than actual outcomes of the dollars in a community.

As articulated by the ANPRM, how community development services are quantified is not specified by the text of the CRA or its regulations. The ANPRM suggests that these community development services might be quantified using average rates to calculate a specific dollar amount or value for these services. By attempting to quantify community development services

Minority Business Development Agency. April 19, 2017. Accessed October 10, 2018.

<https://www.mbda.gov/page/state-minority-business-enterprises-overview-2007-survey-business-owners-0>.

¹⁵ 12 U.S.C §§ 2901(a)(1)-(3) (2006).

¹⁶ *Ibid.*

using a dollar amount or average rates runs the risk of banks utilizing the rates most favorable to them, regardless of the actual impact on LMI neighborhoods or individuals.

Thus, a more appropriate measure would be to measure through standardized methods how many LMI individuals were assisted—and to what degree—by community development services, investments or grants, rather than how much money was spent on facilitating these services.

Redefining Communities and Assessment Areas

Question 13:

A financial institution's first step in complying with the CRA is to delineate the community it serves. The regulations mandate that a map be used and that the delineated area may not exclude LMI neighborhoods.¹⁷ Additionally, the regulations provide specific methods for delineating a community in one of three ways including: 1) a Standard Metropolitan Statistical Area (SMSA), 2) an institutions effective lending territory or the local area around each office that makes a substantial portion of its loans, or 3) any other reasonably delineated area that meets the purpose of the CRA and does not exclude LMI areas.¹⁸

With the advent of internet banking and the changing nature of technology, the current approach for delineating assessment areas should be expanded—but not at the expense of weighing physical branches. Our research demonstrates that bank branches remain extremely important in providing access to financial services and credit to LMI communities and communities of color.¹⁹ According to the FDIC's National Survey of Unbanked and Underbanked Households, 71.6% of Latinos visited a bank branch in 2017, with more than 25% visiting a branch 10 or more times in 2017.²⁰ Research also shows that there is a direct correlation between the number of bank branches and ATM's located in a neighborhood and the credit opportunities available to the surrounding community.²¹ Unless full-service branches remain included in a bank's CRA rating and are prioritized in that rating, full-service branches within LMI communities and communities of color may be targeted for branch closures that would disproportionately and disparately reduce the quantity and quality of the financial products and services available to them.

¹⁷ 12 C.F.R. § 228.41

¹⁸ Ibid.

¹⁹ "Profiles on Latino Banking: Technology." Accessed October 10, 2018.

http://publications.unidosus.org/bitstream/handle/123456789/1401/lb_technology.pdf?sequence=1&isAllowed=y

²⁰ "2017 FDIC National Survey of Unbanked and Underbanked Households." October 23, 2018. Accessed October 26, 2018. <https://www.fdic.gov/householdsurvey/2017/2017report.pdf>.

²¹ Ozgur Emre Ergungor, *Bank Branch Presence and Access to Credit in Low- to Moderate-Income Neighborhoods*, *Journal of Money, Credit, and Banking*, September 2011, <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1538-4616.2010.00343.x>

Question 14:

12 U.S.C 2901(a)(1)-(3) requires that banks must serve the convenience and needs of the communities in which they are chartered to do business.²² Similarly, agency guidelines state assessments areas must include “the geographies where the institution has its main office, branches, and deposit-taking ATMs, as well as the surrounding geographies in which the institution originated or purchased a substantial portion of its loans.”²³

Full-service bank branches are the most common way households access their finances, according to the FDIC.²⁴ UnidosUS research shows that Latinos’ most common savings method is depositing funds into a savings account at a bank.²⁵ Activities made from full branches, staffed by customer service personnel, should continue to be weighted heavily in comparison to other activities. Areas beyond or outside of bank branches, including remote investments and deposit-taking ATMs, should be considered in the “aggregate,” and not weighted as heavily as activities from fully-staffed bank branches. Otherwise, the importance of branches will be diluted. The single exception to this standard might be city- or MSA-wide activities—such as an affordable housing or small dollar lending program—that is limited or targeted specifically to LMI individuals and families. Otherwise, affording CRA credit for MSA-wide activities that may serve predominantly affluent populations, especially under the “one ratio” standard contemplated by the ANPRM, would actually encourage the divestment of bank branches in LMI areas, resulting in disparate impact upon communities of color—including Latinos— as articulated in the response to question 13.

Question 15:

We oppose the suggestion of automatically categorizing certain community and economic development loans or investments by banks under the CRA. Community and economic development activities, as well as revitalization and stabilization activities, are clearly defined in current agency guidance documents.²⁶ CRA guidance documents encourage lenders to target activities in Neighborhood Stabilization Program areas as designated by U.S. Department of Housing and Urban Development, as well as, disaster areas designated by U.S Federal

²² 12 U.S.C 2901(a)(1)-(3) (2006).

²³ “Large Institution CRA Examination Procedures.” Board of Governors of the Federal Reserve System. April 2014. Accessed October 2018. https://www.federalreserve.gov/supervisionreg/caletters/CA_14-2_attachment_1_Revised_Large_Institution_CRA_Examination_Procedures.pdf.

²⁴ FDIC, “Brick and Mortar Banking Remains Prevalent in an Increasingly Virtual World,” FDIC Quarterly, 2015, Volume 9, No. 1, <https://www.fdic.gov/bank/analytical/quarterly/2015-vol9-1/fdic-4q2014-v9n1-brickandmortar.pdf>

²⁵ “Banking in Color: New Findings on Financial Access for Low- and Moderate-Income Communities.” Accessed October 10, 2018.

http://publications.unidosus.org/bitstream/handle/123456789/1203/bankingincolor_web.pdf?sequence=1&isAllowed=y.

²⁶ “CRA: Community Development Loans, Investments, and Services.” Office of the Comptroller of the Currency. March 2014. Accessed September 2018. <https://occ.gov/>.

Emergency Management Agency—giving them further guidance on where and how to respond to underserved and LMI geographies.²⁷

Implementing a definition or a categorization of loans and investments could create an overly prescriptive framework that actually discourages banks from responding to local consumer needs. This designation could also result in many banks ignoring the unique needs of LMI communities or communities of color if they fall outside of the pre-designated categories. Similarly, limiting activities to those that are pre-defined by the government would prevent local community groups from prioritizing their own needs, precludes their ability to articulate concerns to local banks, and would discourage innovation. Such effects may well violate the language and intent of the CRA, as articulated in response to ANPRM question 11.

Additionally, these activities could have a disparate impact on communities of color. If the OCC and its fellow regulators would like to expand the current definition of community and economic development activities, they should consider the following lending activities, services, and investments:

- Investments in community-based organizations, such as community development finance institutions (CDFIs). A bank can better target its investment in LMI individuals and neighborhoods through community-based organizations located within its assessment areas that are trusted by and currently serving LMI borrowers. CDFIs often offer economically disadvantaged individuals and communities experiencing historical disinvestment a range of financial services and credit products, including student loans, small business loans, personal loans or home loans, or other innovative products.²⁸
- Investments in nonprofit housing counseling agencies and programs. Decades of research, including our own, has shown that housing counseling helps improve outcomes for LMI mortgage borrowers, from gaining an affordable mortgage and obtaining sustainable homeownership.²⁹
- Foreclosure prevention programs. A bank has a variety of tools that it can use to help a homeowner struggling to make their mortgage payments, including modifying mortgage payments, reducing interest rates and reducing the principal mortgage amount to allow homeowners to sustain homeownership.

²⁷ “CRA 101: An Introduction to the Community Reinvestment Act.” Federal Reserve Bank of Richmond. Accessed October 9, 2018.

https://www.richmondfed.org/~media/richmondfedorg/conferences_and_events/community_development/2012/cra_intro_050212.pdf

²⁸ “CDFI Products and Services.” CDFI Coalition. 2018. Accessed October 9, 2018. <http://cdfi.org/cdfi-products-and-services/>.

²⁹ Abdighani Hiram, and Peter Zorn. “A Little Knowledge Is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Purchase Homeownership Counseling.” Harvard Joint Center for Housing Studies. August 2001. Accessed October 9, 2018. <http://www.jchs.harvard.edu/sites/default/files/liho01-4.pdf>. and Erika Hizek, Charles Kamasaki, and Geraldine Schafer. “Increasing Hispanic Homeownership: Strategies for Programs and Public Policy.” UnidosUS. June 9, 2002. Accessed October 9, 2018. <http://publications.unidosus.org/handle/123456789/1082>.

- FinTech investments for LMI consumers. LMI households and communities of color have long been precluded from formal banking institutions. FinTech could be utilized by banks in order to better assist these communities and provide access to financial services to all Americans.

In sum, we believe that instead of attempting to presumptively assume that certain kinds of loans or investments effectively further the purposes of CRA—an exercise that seems both unnecessary and dangerous—regulators should assess the actual impact of such services on LMI families.

Question 16:

The plain language of the CRA clearly states that banks must “demonstrate that their deposit facilities serve the convenience and needs to of the communities in which they are chartered to do business.”³⁰ Allowing banks to count a large amount of loans or services outside the communities in with they are chartered toward CRA credit—as contemplated in question 16—could violate the clear language of the CRA.

Allowing banks to provide a large number of loans or services outside of the communities in which they are chartered could have a devastating and discriminatory impact on LMI communities and communities of color. Since 1996, banks covered by the CRA have invested more than \$980 billion in historically underserved zip codes through loans, investments, and philanthropy.³¹ Local institutions lending in the communities they know best make homeownership, entrepreneurship and even basic banking services more accessible—especially in LMI communities and communities of color.

Therefore, the OCC and its fellow regulators should ensure that if banks seek CRA credit for services to areas or populations outside that bank’s CRA assessment area(s), such services should receive significantly less consideration than a bank’s activities in the communities in which they are chartered. The sole potential exception to this standard, as noted above, might be a city-or MSA-wide program exclusively targeted to and benefitting LMI individuals, such as an affordable mortgage program.

Question 17:

As a general rule, expanding community development activities to include ancillary workforce development and social service activities, as proposed in this question, are outside the original intent of CRA. In most cases, these activities neither assist in meeting the credit needs of the local communities, nor do they serve the convenience and needs of their communities. As

³⁰ 12 U.S.C. §§ 2901(a)(1)-(3) (2006).

³¹ Velasquez, Sharon. “CRA ‘Reform’ Is an Attack on Communities of Color.” *Common Dreams*. March 01, 2018. Accessed October 09, 2018. <https://www.commondreams.org/views/2018/03/01/cra-reform-attack-communities-color>.

Senator Proxmire clearly stated from the Senate floor as the CRA was debated: “convenience and needs of their community, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans. . . .”³²

One might imagine circumstances in which a bank’s investment might support workforce development activities—e.g., financing a child care center that trains local residents for the jobs created—but such an investment would receive full CRA credit under rules. It is difficult to imagine when social services or apprenticeships unrelated to the purposes of CRA should be awarded CRA credit equal to that of meeting the credit needs of local communities. Thus, these ancillary activities should not receive equal weight to lending or investments that directly benefit LMI residents, and the extent to which they are counted at all should depend on the extent to which their principal beneficiaries are LMI residents.

Question 18:

Senator Proxmire made it clear that banks should be investing in their local communities principally through direct loans, not through other kinds of investments. He stated from the floor of the Senate that “the private sector has the capital, the know-how, and the efficiency to do the job. And the banking industry must be encouraged to invest in local needs, rather than continuing to favor speculative loans to shaky foreign regimes, to REITS, to unnecessary supertanker fleets, to bank insiders, and all of the other questionable ventures that have managed to get credit while our local communities starve.”³³

The regulations for the CRA define community development activities as loans, investments, and services that have a primary purpose of “community development.”³⁴ Certain activities such as a bank’s investment in loan-backed securities are considered a qualified investment under current CRA examination and regulatory guidance, and a bank may receive credit for these activities that “benefit its assessment area(s) or a broader statewide or regional areas that includes the bank’s assessment area(s).”³⁵

However, this type of activity should not receive significant CRA consideration, especially in light of Senator Proxmire’s statements. Purchasing a loan-backed security is a financial transaction that does not itself provide or facilitate financing to an LMI borrower since the very existence of the security demonstrates that loan already was originated by another entity. Through a loan origination, the bank is issuing credit to an LMI borrower and, therefore, internalizing its affirmative obligation to lend to LMI borrowers. This activity disavows the bank’s obligation to lend to LMI borrowers, gives the bank credit for an activity that it

³² 123 *Cong. Rec.* 17,630 (1977).

³³ 123 *Cong. Rec.* 17,630 (1977).

³⁴ 12 CFR 25.12(g) and 195.12(g).

³⁵ “CRA Investment Handbook.” Federal Reserve Board of San Francisco. March 2010. Accessed October 2018. <https://www.frbsf.org/community-development/files/CRAHandbook.pdf>.

participates in for its own profit and convenience, and may result in disparate and discriminatory impacts on persons of color.³⁶

Question 21:

Senator Proxmire made it clear in 1977, under their charters, banks should be granting loans and extending credit in their local communities.³⁷ Thus, under the clear intent of the CRA, mortgage and consumer lending should continue to be considered as CRA activities, provided their principal beneficiaries are LMI families in the bank's service area(s).

Limiting loans to certain areas or borrowers, as suggested by this question, would enable banks to cherry pick their investments to select the loans that are most favorable or are the most profitable—at the convenience of the bank—rather than responding to local needs. Therefore, banks should receive credit for consumer lending when they can demonstrate that their products are responding to local needs and are affordable and not predatory.

Question 22:

Consumer credit is often an important stepping stone to larger lines of credit, such as mortgages and business loans, and a common need for LMI households.³⁸ As such, banks should receive CRA credit for consumer lending when they can demonstrate that their products are responding to inadequately served local needs and are affordable—meaning they are offered to LMI borrowers at or below market interest rates. This will ensure that LMI communities have access to financial services that meet their needs as intended by CRA legislation.

A prime example of this would be offering affordable small dollar, consumer loans. Affordable consumer lending options would benefit LMI consumers who are more inclined to experience income volatility, and have trouble weathering unexpected expenses. Specifically, Latinos are more likely to experience a 50% drop in income than their white counterparts,³⁹ and need small dollar credit to assist in weathering unexpected expenses. This is confirmed by the 2017 Federal Reserve's Survey of Household Economics and Decisionmaking (SHED), which shows that 53% of Latinos would not be able to afford a \$400 emergency, compared to 33.97% of Whites.⁴⁰ Without access to safe and affordable consumer loans, LMI communities and communities of color often are forced to resort to predatory alternative lenders. Under the CRA, banks should be

³⁶ Ibid.

³⁷ 123 *Cong. Rec.* 17,630 (1977).

³⁸ "Small Dollar Consumer Loans: Nonprofit Lenders Making A Difference." Credit Builders Alliance. 2013. Accessed October 2018. <https://www.creditbuildersalliance.org/download/6399/>.

³⁹ Loprest, Pamela, Aust Nichols, and Gregory Acs. "Risk and Recovery: Understanding the Changing Risks to Family Income." Urban Institute. October 2009. Accessed September 2018. <https://www.urban.org/sites/default/files/publication/32996/411971-risk-and-recovery-understanding-the-changing-risks-to-family-incomes.pdf>.

⁴⁰ "Board of Governors of the Federal Reserve System." The Fed - Money Stock and Debt Measures - H.6 Release - April 26, 2018. June 19, 2018. Accessed October 09, 2018. <https://www.federalreserve.gov/publications/2018-economic-well-being-of-us-households-in-2017-dealing-with-unexpected-expenses.htm>.

rewarded for offering or otherwise investing in these products, as they would be responsive to community needs in a modern economy. Affordable consumer lending, however, should not be a substitute for offering the other loan products, such as mortgages and small business loans clearly envisioned by the drafters of the legislation.

Question 25:

As Senator Proxmire clearly stated from the Senate floor as the CRA was debated: “convenience and needs of their community, and as the bill makes clear, convenience and needs does not just mean drive-in teller windows and Christmas Club accounts. It means loans. . . .”⁴¹ Under current CRA examination guidelines, a bank’s loan originations qualify for more credit on the lending test than its loan purchases, which currently receive consideration as a qualifying activity on the investment test.⁴²

As contemplated by question 25, a bank’s loan originations and loan purchases should not receive equal consideration when evaluating that bank’s lending performance. Purchasing a loan does not have the same effect as directly issuing a loan. Only loan origination requires the proactive and affirmative outreach activities to underserved members of the banks’ community as envisioned by the drafters of CRA. Therefore, any proposal to give equal consideration for loan purchases would, we believe, violate the original intent of the law.

Additionally, giving equal consideration to a bank’s loan purchases runs the risk of further exacerbating disparities in home lending to LMI borrowers. According to 2017 HMDA data, Latinos received less than 9% of all home purchase loans, while 65% of loans issued to Whites.⁴³ And, Latinos were about twice as likely as Whites to be denied mortgage credit.⁴⁴ Since the financial crisis of 2007, the largest bank lenders have decreased home lending to LMI borrowers.⁴⁵ Scaling back of LMI lending has a disparate impact on Latinos, who are more likely than Whites to be LMI borrowers.⁴⁶

⁴¹ 123 *Cong. Rec.* 17,630 (1977).

⁴² Darryl E. Getter. “The Effectiveness of the Community Reinvestment Act.” Federal Reserve Bank of New York. January 7, 2015. Accessed September 2018. <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/cra/reports/CRS-The-Effectiveness-of-the-Community-Reinvestment-Act.pdf>.

⁴³ “Data Point: 2017 Mortgage Market Activity and Trends.” May 2018. Accessed October 10, 2018. https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_hmda_2017-mortgage-market-activity-trends_report.pdf.

⁴⁴ *Ibid.*

⁴⁵ “The Decline in Lending to Lower-Income Borrowers by the Biggest Banks.” Accessed October 10, 2018. <https://www.federalreserve.gov/econres/notes/feds-notes/the-decline-in-lending-to-lower-income-borrowers-by-the-biggest-banks-20170928.htm>.

⁴⁶ DeSilver, Drew, and Kristen Bialik. “Blacks, Hispanics Face Mortgage Challenges.” January 10, 2017. Accessed October 10, 2018. <http://www.pewresearch.org/fact-tank/2017/01/10/blacks-and-hispanics-face-extra-challenges-in-getting-home-loans/>.

Question 27:

The text of the CRA clearly states that regulated banks are required “to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business.”⁴⁷ Therefore, bank delivery channels, branching patterns and branches in LMI areas should remain a part of CRA evaluations as they fulfill the true intent of the law.

Full-service bank branches are the most common way households access their finances, according to the FDIC.⁴⁸ Similarly, research also shows that there is a direct correlation between the number of bank branches and ATM’s located in a neighborhood and the credit opportunities available to the surrounding community.⁴⁹ Branch closures create a negative ripple effect on local lending, concentrating in LMI communities and communities of color.⁵⁰ Research has not demonstrated that ATMs (deposit-taking or otherwise), telephone banking, internet banking, or banking services delivered through mobile device applications is an adequate substitute for full-service branch banking in meeting the needs of underserved communities—especially Latinos. Despite the shift to financial technology, branches remain the more effective delivery channel for helping LMI consumers access personal, home and business loans, as well as other banking services. While bankers should be encouraged to offer low-cost financial technology products to underserved communities, until such time as research demonstrates definitively that tech-based systems equally serve LMI and minority communities, such encouragement should not come at the expense of branch banking. The omission of branches in CRA exams would have disproportionate and disparate impact on LMI communities as banks continue to close full-service branches and shift their services to mobile platforms, and thus should not be considered.

Recordkeeping and Reporting

Question 31:

The intent of CRA was not to minimize the record keeping burden on banks, nor have we seen convincing evidence that CRA compliance is inherently burdensome. In fact, to the extent that some banks complain about excessive paperwork, our impression is that such paperwork is often generated as an attempt to substitute for actual lending to LMI communities. The economic impact of CRA-related data collection, recordkeeping, and reporting should not guide CRA regulations or modernizations efforts, and in any event current evaluation policies are accommodating to CRA-regulated banks by accounting for their size and scope. Such accommodations include: reporting timelines based on banks’ size as measured by assets,

⁴⁷ 12 U.S.C. § 2901.

⁴⁸ FDIC, “Brick and Mortar Banking Remains Prevalent in an Increasingly Virtual World,” FDIC Quarterly, 2015, Volume 9, No. 1, <https://www.fdic.gov/bank/analytical/quarterly/2015-vol9-1/fdic-4q2014-v9n1-brickandmortar.pdf>

⁴⁹ Ozgur Emre Ergungor, “Bank Branch Presence and Access to Credit in Low- to Moderate-Income Neighborhoods,” Journal of Money, Credit, and Banking, September 2011, <https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1538-4616.2010.00343.x>

⁵⁰ Nguyen, Hoai-Luu Q. “Do Bank Branches Still Matter? The Effect of Closings on Local Economic Outcomes.” MIT Economics. December 2014. Accessed September 2018. <http://economics.mit.edu/files/10143>.

tailored start dates per institution and the ability to request short-term delayed start date.⁵¹ Moreover, given advances in technology, we believe that tracking the demographic and other characteristics associated with loans to LMI individuals or communities is far less expensive than at any time in the history of the Act. Efforts to undermine reporting requirements are thus unnecessary, and would weaken examiners' and advocates' ability to ensure that banks are meeting local needs. Examiners should instead consider examining banks more frequently, allowing for yearly examinations, for all large institutions regardless of their previous score so that examiners can evaluate and respond adequately; otherwise, examiners are assessing outdated activities that may have already been addressed by banks.

Conclusion

A strong CRA continues to be needed. While CRA has had a positive impact on communities—especially communities of color—homeownership rates, and small business lending rates to LMI individuals and individuals of color are still significantly lower than high-worth individuals and Whites, while minorities' loan denial rates invariably are higher. For example, the overall rate of mortgage denials for individuals of color was between 13.5% and 18.4%, while the denial rate was only 8.8% for Whites.⁵² And access to credits for minority-owned businesses is still a challenge, as approval rates for credit for individuals of color is 6% to 19% lower than that of Whites.⁵³

Given the significant impact that CRA has had on access to credit—especially to LMI communities and communities of color—since its enactment, many of the proposals or examples contained in the ANPRM are troubling and potentially harmful. Specifically, many of the proposals may have an adverse, disparate impact on Latinos and other individuals of color—which could violate the Equal Credit Opportunity Act (ECOA)⁵⁴ or Title VIII of the Civil Rights Act of 1968 (Fair Housing Act of 1968).⁵⁵ Accordingly, we urge the OCC and its fellow regulators (the FDIC and the Fed) to consider a proposed rulemaking process that would: 1) do no harm; 2) increase the size and impact of investment in LMI communities; and 3) expand access to affordable credit for communities.

⁵¹ “Community Reinvestment Act: Supervisory Policy and Processes for Community Reinvestment Act Performance Evaluations.” OCC: Bank Secrecy Act (BSA). June 15, 2018. Accessed October 09, 2018. <https://www.occ.treas.gov/news-issuances/bulletins/2018/bulletin-2018-17.html>.

⁵² “Large Numbers of Loan Applications Get Denied. But for Blacks, Hispanics and Asians, the Rejection Rate Is Even Higher.” May 23, 2018. Accessed October 10, 2018. https://www.washingtonpost.com/realestate/large-numbers-of-loan-applications-get-denied-but-for-blacks-hispanics-and-asians-the-rejection-rate-is-even-higher/2018/05/22/dac19ffc-5d1b-11e8-9ee3-49d6d4814c4c_story.html?utm_term=.0d4073abd59a.

⁵³ “2016 Small Business Credit Survey: Report on Minority-Owned Firms.” Fed Small Business. Accessed October 10, 2018. <https://www.fedsmallbusiness.org/survey/2017/report-on-minority-owned-firms>.

⁵⁴ 15 U.S.C. §§ 1691-1691f (1976).

⁵⁵ 42 U.S.C. §§3601-3619, 3632 (1982 & Supp. III 1985).

Thank you for your consideration. Please contact Jennifer Brown, Esq., Senior Policy Advisor for Economic Policy at UnidosUS (jbrown@unidosus.org) if you should have any questions.

With regards,

A handwritten signature in black ink, appearing to read 'Eric Rodriguez', with a stylized flourish at the end.

Eric Rodriguez, Vice President of Policy & Advocacy
UnidosUS

ATTACHMENT C



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PolicyLink

The Future of Banking:
Overcoming Barriers to Financial Inclusion
for Communities of Color



UnidosUS, previously known as NCLR (National Council of La Raza), is the nation's largest Hispanic civil rights and advocacy organization. Through its unique combination of expert research, advocacy, programs, and an Affiliate Network of nearly 300 community-based organizations across the United States and Puerto Rico, UnidosUS simultaneously challenges the social, economic, and political barriers that affect Latinos at the national and local levels.

For more than 50 years, UnidosUS has united communities and different groups seeking common ground through collaboration, and that share a desire to make our country stronger.

For more information on UnidosUS, visit www.unidosus.org or follow us on [Facebook](#) and [Twitter](#).

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PolicyLink is a national research and action institute advancing racial and economic equity by **Lifting Up What Works**®. We work to ensure that all people in America are economically secure, live in healthy communities of opportunity, and benefit from a just society.

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The Asset Building Policy Network (ABPN) is a coalition of the nation's preeminent civil rights and advocacy organizations committed to expanding economic opportunities for low-income members of communities of color. Citi is the sole corporate supporter and a founding member of the ABPN.

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The Future of Banking:

Overcoming Barriers to Financial Inclusion for Communities of Color

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TABLE OF CONTENTS

vii	Acknowledgments
viii	Preface
ix	Executive Summary
1	Introduction
4	Why Financial Inclusion Matters: The Financial Case for Equity
6	Methodology
6	Community Focus Groups with LMI Consumers of Color
7	Expert Interviews
8	Findings
8	A. Barriers to Financial Inclusion
8	Costly accounts
9	Language barriers
10	Credit barriers
12	Checking account reporting issues
12	Limited access to bank branches
13	Identification requirements
14	B. The Role of Fintech
17	C. Alternative Financial Services (AFS) Fill a Dangerous Void
18	D. Weakening of the Consumer Financial Protection Bureau

18 E. Opportunities for Innovation

18 Alternative data for credit ratings

19 New business models for financial services

20 Innovative loan products

21 Spotlight: *Fuente Credito*

22 Spotlight: Justine Petersen

23 Recommendations: Reforms to Policy, Products, and Practices to Advance Financial Inclusion

23 Connect LMI consumers to appropriate financial products

24 Increase accessibility and utility of financial products and services for LMI consumers

25 Reform policies and regulations to create meaningful access for LMI consumers

28 Raise awareness and encourage reform and innovation

29 Conclusion

30 Endnotes

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This report is dedicated to the 96 million people in the United States who are struggling the most with poverty and financial insecurity. We hope it illuminates a path to forward progress.*

* Previously published reports by PolicyLink have cited 106 million people living in poverty, which was calculated using the American Community Survey (ACS) data. Other researchers choose to use the Current Population Survey (CPS) data because it is the dataset used by the Census Bureau to make official estimates of the number of people in poverty. Using that data, one finds the figure of 96 million.

PREFACE

When we talk about banking, we may not immediately make the connection to economic opportunity. However, the financial services system impacts many parts of our daily lives. Whether the most vulnerable have access to financial tools to make the economy work for them and whether the system is responsive to their financial needs are questions of economic justice and opportunity. Many of the nearly 100 million people living in or near poverty lack full access to financial services, which stymies opportunities for economic well-being and upward mobility. This report, *The Future of Banking*, investigates barriers low- and moderate-income (LMI) consumers of color face in engaging with the ever-changing financial system.

This report follows up the Asset Building Policy Network's (ABPN) 2014 *Banking in Color*, which surveyed more than 5,000 low-income individuals about their interactions with the financial mainstream. This revealing look into the experiences within LMI communities of color with financial institutions shed light onto some of the challenges that approximately 63 million underbanked and unbanked people face every day.

In *The Future of Banking*, we look deeper and wider into those experiences, and connect the dots across the financial system as a whole—from banking and regulation, to financial technology and policy. Drawing on the experiences of LMI consumers of color, bankers, financial technologists, regulators, and policymakers, this report seeks to better understand the limitations of the current financial system and identify areas for innovation. It is our hope that this holistic view can help paint a picture of what a future banking system can entail that helps the 63 million who are currently un- or underbanked advance up the financial and economic ladder.

EXECUTIVE SUMMARY

As currently structured, the financial services industry makes financial inclusion—access to useful and affordable financial products and services that meet people’s needs¹—very difficult for low- and moderate-income (LMI) people of color. Financial exclusion exacerbates other economic challenges such as low wages and unaffordable housing and creates barriers to economic opportunity and mobility. This report, based on focus groups and interviews with community leaders and residents, and policy experts, describes the barriers to financial inclusion faced by lower-income people of color and shares ideas and solutions that can enhance full financial access and inclusion.

Some of the barriers to safe, regulated financial services include:

- Prohibitive identification requirements to open bank accounts.
- High interest loans, fees, and costs for accounts.
- Language barriers and lack of culturally relevant services available.
- Lack of access and inclusion within the credit system.
- Checking account reporting practices that bar populations from becoming banked.
- Scarcity of bank branches in low-income communities of color.

These barriers often compel LMI populations to rely on high-cost alternative financial services (AFS), which hold a virtual monopoly of the financial marketplace for people who are underbanked and unbanked. These services have historically left many households in perpetual cycles of debt and financial ruin. This underscores the need for more financial protections, but recent federal action has drastically weakened the Consumer Financial Protection Bureau (CFPB), the primary agency tasked with informing consumers about their rights and reining in potentially dangerous financial service practices.

For some segments, financial technology firms, or “fintechs” have developed solutions to barriers outlined above. However, despite their promise, fintech products and services generally do not cater to the needs of LMI consumers. There are many data protection and security concerns, and an uncertain regulatory climate creates the potential for predatory practices and abuses.

Innovation and technology can play an important role in advancing financial inclusion and equity. Our interview and focus group respondents identified and helped to shed light on several innovative steps, such as alternative credit ratings factors, new business models for financial institutions, and new types of loan products. Based on these conversations, we offer recommendations to expand access to financial services, help LMI consumers of color build wealth, and reach full financial inclusion. Our recommendations include:

- Creating a nationwide network of financial system “navigators” for the underbanked and unbanked.
- Increasing the accessibility, accountability, and utility of financial institutions to meet LMI consumers’ needs.
- Adopting a more inclusive credit rating system that works for all.
- Increasing transparency, and reforming the checking account reporting system.
- Increasing credit availability to LMI consumers.
- Strengthening federal consumer protections and safeguards for financial products, while fostering innovations for fintechs and traditional banking products to enhance financial inclusion.

Given that the financial services industry is essential to the nation’s economy,* we must ensure that the most vulnerable populations are brought into the economic mainstream. As financial services, fintech, public policy, and regulations continue to evolve within a changing global economy, it is essential to continuously focus on the goal of financial inclusion for all. An economically just society cannot be achieved without ensuring meaningful access to safe, affordable, and closely regulated financial services for LMI consumers of color and others who have historically been excluded.

* The financial services industry represents approximately 20% of the nation’s GDP.



INTRODUCTION

Systemic failures in the financial sector led to the financial crisis of 2007-2008 and the Great Recession that followed. These crises disproportionately impacted low- and moderate-income (LMI)* communities of color through job loss, foreclosures and an unprecedented loss of wealth. During the recession, Latinos' household wealth declined by 66%, and Blacks' by 53%, while White households lost 16%.² After the recession's official end, White household wealth began to recover, while Black and Latino families continued to lose wealth for years, causing the long-standing racial wealth divide to grow even wider.³ Ten years after the financial crisis, communities of color have yet to fully recover,⁴ and the financial system has failed to solve the problems that devastated communities of color. To help the most impacted communities recover and rebuild, the banking and financial services industry must increase their focus on serving LMI households, businesses, and communities of color. This report explores key opportunities within the banking industry, policy, and regulation that can lead to financial inclusion for all.

* In this report, LMI households include those with income below 200% of the federal poverty line.

Key terms

AFS (used in the plural): **Alternative financial services**, such as payday lending, pawnshop loans, and rent-to-own stores

Financial inclusion: Access to affordable financial services, credit, and capital for households and entrepreneurs

LMI: Low and moderate income, defined as having household income up to 200% of the federal poverty line

Unbanked: No one in the household has a checking or savings account

Underbanked: Someone in the household has a checking or savings account, but they still used high-cost AFS in the past year

In 2014, UnidosUS, the National Urban League (NUL), and the National Coalition for Asian Pacific American Community Development (CAPACD), who were working in partnership as the Alliance for Stabilizing Our Communities' network, published *Banking in Color*, a groundbreaking look into how the mainstream financial industry was underserving LMI consumers of color. *Banking in Color* revealed key insights from over 5,000 survey participants across several U.S. cities and neighborhoods of Black, Latino, and Asian American Pacific Islander (AAPI) heritage. It captured details of how LMI households of color were managing their finances and how they interacted with the financial services industry—from banks and financial technology (fintech), to payday lenders and check-cashing services. The report offered recommendations for policymakers and the financial services industry to meet some of the financial service needs of LMI communities of color.

Since *Banking in Color* was published, there have been advances in technology, and several efforts and policies have helped to incrementally expand access to affordable financial services for LMI communities, including many of the 63 million adults who are unbanked or underbanked.⁶ Consumer protections have also changed dramatically during this time period. For instance, the federal Consumer Financial Protection Bureau (CFPB) installed several protections in the financial market, including rules for pre-paid debit card products and regulations to protect consumers from ruinous payday lending practices. Many cities made strides from 2014 to 2016, such as New York's move to permit the use of municipal identification cards to help undocumented immigrants and others gain easier access to bank accounts. While these changes were hard won and championed by consumer advocates, recent political shifts under the Trump administration have threatened these gains and put future advances for financial inclusion and enhanced consumer protections in great jeopardy.

Financial and economic data for LMI consumers today remain bleak:

- Of the approximately 96 million people living on household incomes less than 200% of the federal poverty guideline, more than half (54%) are people of color.⁷
- Those with low- and moderate-incomes face numerous barriers to accessing regulated, low-cost, financial services that could improve their financial footing.
- 63 million adults in the United States are unbanked—with no member of the household having a checking or savings account—or underbanked—where someone has an account, but they still relied on high-cost AFS in the past year.⁶
- These barriers particularly impact communities of color; nearly half of all Black (47%) and Latino (43%) households are unbanked or underbanked.⁶

Being disconnected from mainstream financial services carries major costs for LMI consumers. In 2017, the unbanked and underbanked LMI populations, and those with little or no credit history, spent more than \$173 billion in fees and interest for alternative financial services (AFS) such as check cashing, payday lending, pawn shop loans, and rent-to-own stores that notoriously charge upwards of 400% APR.⁸⁻¹⁰

To understand these barriers to financial inclusion and to offer recommendations on solutions, PolicyLink and UnidosUS coordinated with other members of the Asset Building Policy Network (ABPN)* to examine the challenges LMI consumers of color face in their interactions with the financial sector, considering evolving technology, public policy shifts, and decreased consumer protections. Drawing on focus groups with LMI consumers and interviews with experts from across relevant sectors, we highlight persistent barriers to financial inclusion, note opportunities for innovation, and make recommendations for public policy, regulation, and financial product development that can enhance financial inclusion for all. This report focuses on the financial services sector as a key lever within a broader context of creating a more equitable economy that enables all people to fully participate, prosper, and reach their potential.

* The Asset Building Policy Network (ABPN) was established in 2009 as a partnership between the National Urban League, National Coalition for Asian Pacific American Community Development (CAPACD), National Association of Latino Community Asset Builders (NALCAB), Prosperity Now, PolicyLink, UnidosUS, and the Leadership Conference on Civil and Human Rights, funded by Citi Community Development. Citi is the sole corporate supporter and a founding member of the ABPN.



WHY FINANCIAL INCLUSION MATTERS: THE FINANCIAL CASE FOR EQUITY

By the end of this decade, more than half of the children in the United States will be of color. By 2030, the majority of the young workforce will be of color.¹¹ By 2044, the United States will be a majority people-of-color nation,¹² and America's economic strength will depend on people of color contributing fully—as financially and economically secure innovators, workers, entrepreneurs, and leaders. Yet, as America undergoes this momentous demographic transition, economic and racial inequalities are compounding, and inequities remain widespread across multiple indicators from education to employment to wealth and health. For our nation and its economy to thrive, communities of color must access the opportunities they need to live healthy, economically secure lives and reach their full potential. This is no longer just a moral imperative—it is now crucial to the future of the American economy.

Financial inclusion is an important marker of economic health, yet 63 million people are not fully included in the regulated and mainstream financial system. The benefits of financial inclusion, which most middle- and upper-income households take for granted, include affordable and convenient tools for managing finances, savings, and building wealth. Financial products like checking accounts; interest bearing and investment savings accounts; auto loans, home mortgages, business loans; and bill-pay services offer banked households ample opportunity to manage, build, and preserve wealth. Government regulations on mainstream financial products protect their investments, prevent usurious fees, and disclose information needed for sound financial decision-making.

For LMI consumers of color, affordable and convenient financial products are remarkably hard to come by. Janneke Ratcliffe of the Consumer Financial Protection Bureau writes,

“Mainstream [financial service] providers have little interest in competing for this high frequency/low-balance business, forcing lower-income families to rely on [AFS like] check cashers, payday lenders, pawn shops, automobile-title lenders, high-priced credit cards, tax refund advance lenders, and predatory mortgage lenders.”¹³ These AFS do not allow consumers to build credit histories, accumulate savings, or to take steps toward financial security. Worse, these AFS strip massive amounts of wealth from LMI communities. Each year, for-profit tax preparers collect \$2 billion from the Earned Income Tax Credit for working LMI families, and AFS charge more than \$173 billion in interest and fees.⁸ AFS are not only extremely costly; they tend to be unregulated or underregulated, and they often prey upon LMI communities of color, exploiting the precariousness and lower financial capability of consumers.¹⁴⁻¹⁶ Black and Latino consumers disproportionately fall prey to high-cost AFS.^{14,17} Such services stand in the way of full financial inclusion—access to affordable financial services, credit, and capital—which is critical to facilitate economic mobility for LMI families and communities.

Consumers are increasingly aware of the high costs associated with payday lending and other AFS, and are interested in more affordable ways to meet their financial needs through mainstream financial institutions.⁵ However, mainstream financial institutions also charge fees that strip wealth from LMI consumers. Most banks charge substantial fees for covering purchases when consumers overdraw their accounts, called “courtesy overdraft services.” Such fees earned banks and credit unions between \$12.6 and \$32 billion in 2012—a substantial source of revenue.¹⁸ The median debit purchase amount that incurs an overdraft is just \$24.00, and median overdraft fee is \$21.61 for those enrolled in overdraft protection. Since most overdrafts are repaid within three days, this is the equivalent of a 10.955% APR.¹⁹

These staggering figures illustrate both the harm done by a two-tier financial system, and the value of safe financial inclusion for vulnerable populations. The harms must be addressed across industry, while ensuring safe access and inclusion for those who have been historically excluded.

While the financial services sector plays a critical role in the economic well-being of families and communities, we recognize that the financial sector does not operate in isolation. It is interwoven with a variety of other sectors and systems that hinder economic outcomes for the 96 million people living in or near poverty in the United States, particularly the 63 million people who are unbanked or underbanked. The legal, health care, education, tax, and financial services sectors each play critical, specific roles in undermining LMI households’ ability to achieve financial security and, in turn, economic mobility.²⁰ Each of these systems requires significant and comprehensive reforms to improve economic outcomes at scale for people living in or near poverty, and this report focuses on just one of them—the financial services sector.



METHODOLOGY

This report draws upon data from two sources: focus groups with LMI consumers of color; and interviews with experts from several sectors: financial services, financial technology (fintech), policy, regulation, and community advocacy.

Community focus groups with LMI consumers of color

UnidosUS conducted nine focus groups in communities of color in four U.S. cities: Los Angeles, California; San Diego, California; Chicago, Illinois; and Philadelphia, Pennsylvania. These groups were conducted in partnership with UnidosUS's partner agencies, National Coalition for Asian Pacific American Community Development (National CAPACD) and the National Urban League, and were recruited from community-based service providers that specialize in financial capability and education services for low-income residents.

Over the course of nine moderated discussions, 90 focus group participants shared insights from their experiences using financial services. Focus group participants ranged in age from 18 to 79 and were clients of the participating community-based organizations. They were selected primarily based on having familiarity and exposure to banking and credit systems, and the majority reported low- to moderate-income. Efforts were also made to ensure gender balance. Focus groups were conducted in English, Spanish, Thai, and Cantonese between March 2018 and May 2018.

Expert interviews

PolicyLink conducted research interviews with 17 experts and leaders from four categories:

- *Financial services institutions*: Executive staff at mainstream banking and financial institutions and community development financial institutions (CDFIs)
- *Fintech*: Executive staff of current and former fintech companies
- *Civil rights and advocacy organizations*: Senior leadership at organizations focused on expanding civil rights and/or economic opportunities for LMI communities, particularly communities of color
- *Federal policymakers and regulators*: Senior staff of federal elected officials and staff of regulatory agencies.

Detailed notes from interviews were analyzed thematically, and issues that were common across respondent categories were identified. The interview and focus group respondents' views shared in this report reflect their experience as leaders within their respective fields and/or as consumers. To protect our respondents' privacy and maintain confidentiality, we have omitted identifying details from the report.



FINDINGS

A. Barriers to Financial Inclusion

Interview and focus group respondents identified six major barriers to financial inclusion: Unaffordable accounts, language barriers, credit history requirements, checking account reporting, the scarcity of bank branches in lower-income communities, and identification requirements.

Costly accounts

A major challenge among LMI banking respondents were the high fees mainstream financial institutions charge for basic banking services. Account maintenance fees, initial deposit requirements, and minimum-balance requirements at mainstream financial institutions are burdensome and often prohibitive for LMI consumers. The costs of banking are also higher for communities of color than for White communities on average. Compared to the average costs and fees paid by White consumers for checking accounts, financial institutions charge Latinos \$262 more, Black consumers \$190 more, and Asian American consumers \$26 more.²¹ Interview respondents noted that bank fees often exceed the exorbitant costs of check-cashing services, which on average drain 10% of low-income users' annual income.²² A financial institution leader described this issue by stating, "They're living so close to the edge that paying a \$25 overdraft fee is worse than check cashing." Another respondent from a financial institution described this as a mismatch between traditional bank accounts and LMI consumers' needs: "They go 13 cents over and incur \$40 in fees, for instance. The typical amount putting someone in the red is very small, but there is no forgiveness and no buffer built-in."

"They're living so close to the edge that paying a \$25 overdraft fee is worse than check cashing."

While many consumers are aware that they can bypass monthly account maintenance fees by utilizing services like direct deposit, consumers whose employers do not offer direct deposit—approximately 18% of the U.S. workforce in primarily low-wage jobs—are left out of this benefit.²³ Discrepancies in account costs at different financial institutions also requires vigilance on the part of consumers to ensure they are accessing the most affordable accounts and services. Consumers often change banks to avoid high fees, as one focus group participant noted: “Anything with low fees and higher interest, I’m there.” Participants in San Diego said that the high cost of living in their community made banking fees an additional burden to factor into their budget. Across all nine focus groups, high account fees were identified as a common challenge in banking. In Los Angeles, a focus group participant said that the fees charged on her savings account made her feel as though “you’re punished for trying to save.”

Language barriers

The lack of language access services at mainstream banks, both in terms of their staff and written materials, is an impediment to accessing financial services, particularly for low-income consumers whose first language is not English. Language barriers were prevalent for non-English speaking participants in the Asian American Pacific Islander (AAPI) focus groups from Chinese and Thai communities. In the Philadelphia focus group conducted in Cantonese, participants noted that to access financial services or help in-language, either in person or over the phone, they were limited to the few financial institutions in their immediate community. A Chinese respondent said that she opened an account at a Cantonese-speaking bank near her but did not believe they provided access to the same services as larger banks. Participants from the Chinese and Thai focus groups in Los Angeles described challenges conducting banking transactions online and on phones because services in their languages were simply not available. In the Los Angeles focus group, a participant said, “Language barriers keep people from knowing what is even available to them.” In Philadelphia, Chinese community members said that because they generally watch television broadcast in Cantonese, they are not informed of local services unless businesses advertise on these channels, and that they did not see many financial services through this medium.

For non-English speaking consumers, there can also be cultural and generational barriers to banking. In the Thai community in Los Angeles, older non-English speaking community members who need banking assistance must overcome a cultural stigma to seek help from younger community members who speak English.

When financial institutions invest in resources that reflect the language needs of their clients, consumers’ banking experiences seem to improve. In contrast to the experiences of the Thai and Cantonese-speaking focus groups, Spanish-speaking Latino focus group participants in Chicago were able to access more banking services in-language in their communities. They felt confident that they could speak to bank branch staff in person if needed and access services online. However, participants from this focus group who only

spoke Spanish said that they were intimidated when going into an unfamiliar financial institution if they did not know whether there would be Spanish-speaking staff available to help them.

A respondent from an advocacy organization noted that language inaccessibility contributes to the “credit invisibility” of immigrant populations, where individuals have no U.S. credit records. One Cantonese-speaking participant in Philadelphia wanted to buy a car when she first moved to the United States but was denied a car loan. She said she was not given the reason for the denial, nor was she given resources to help her along. Participants in this focus group reported that language barriers make it hard for them to access credit, credit guidance, or financial advice in general.

In addition to language barriers, other issues of cultural capability and sensitivity within financial services were a notable theme for respondents, who reported an overall lack of institutional and cultural acceptance. Some regarded this as an overall impediment to their long-term financial security. In the Chicago focus group, several Muslim participants discussed barriers to interest-bearing accounts such as savings accounts and retirement accounts because earning interest is prohibited by their religion. Participants from this community said that there was not enough information provided by financial institutions about alternative long-term savings products, and as a result they knew members of their community would avoid savings accounts altogether.

Credit barriers

Poor credit and the lack of established credit are significant barriers for LMI consumers attempting to access mainstream banking and/or credit products and services. Nearly 30% of consumers in low-income neighborhoods are credit invisible, meaning they have no record with the three nationwide credit reporting agencies — Experian, TransUnion, and Equifax. An additional 15% have records that are deemed “unscorable” due to insufficient credit history. Black and Latino consumers are also more likely to be credit invisible or deemed unscorable than White consumers.²⁴ In all, one in 10 U.S. adults (26 million people) are credit invisible, and an additional 19 million have unscorable credit files.²⁵ A leader from a national policy organization explained the problem:

A lot of people, mostly low-income, mostly people of color, don't have an entryway into the financial system, and the credit score is your ticket into accessing the financial system. Without either a strong credit score or a prime credit score, or some people don't have a score at all, you can't get access. The credit system as it's set up is really meant to reward people who participate in the mainstream credit market... So, if you're a young person out of college and you're able to get a good credit card, you're able to participate. If you get student loans and pay those back, you're able to participate. If you can't access those things, you basically can't get into the system. The credit system doesn't recognize those folks.

Lack of credit history directly excludes vulnerable consumers from the financial and economic mainstream. This exclusion leads LMI populations directly toward more predatory, alternative financial services (AFS). One focus group participant described it this way, “When you have good credit, they open the door. When you have bad credit, they take away the key.” A financial institution executive highlighted the value of good credit, saying, “Credit is an asset. Credit can be your best asset. People say poverty is expensive; bad credit can be really *expensive*. If you raise your credit, this can literally generate hundreds of extra [dollars] each month.”

“When you have good credit, they open the door. When you have bad credit, they take away the key.”

Knowledge about credit, and the factors impacting credit scores, vary across LMI communities. Focus group respondents who enrolled in financial counseling or prospective homebuyer education classes said they learned the most about their credit in these settings. They were also seen as experts in their own networks and were often the people who their friends and family went to for financial information and advice.

While most focus group participants understood the importance of having good credit and the opportunities that came with having a good score, there was often misunderstanding about how much control consumers had over their score and the discretion a lender had in offering a line of credit. A woman in Philadelphia described an attempt she made to access a loan from her financial institution to help pay bills until she received her paycheck days later. She was denied the loan and was told by her bank that she did not have sufficient credit history. She believed that her relationship with the bank as a long-time account holder should have been enough for her to be a creditworthy borrower, since they knew she had regular deposits into her account from her job. Another participant in Philadelphia was denied a car loan and did not realize it was because the student loan she co-signed with her daughter impacted her debt-to-income ratio and her credit score.

Across the focus groups, a number of participants shared experiences with attempting to access credit. Several participants who had qualified for loans for lower amounts than they originally sought believed that banks offered them the smaller loan amounts due to their low incomes. From these experiences, many myths and misconceptions exist among LMI consumers who are underbanked. Several focus group respondents noted that if they had a low credit score, they would avoid applying for new credit, even though doing so could ultimately improve their score. In Chicago, several African American focus group participants believed that income and race were weighted heavily into a person’s credit score. A woman in Philadelphia described credit bureaus as “the original gangsters, because they have their own system,” that was not transparent or logical to most in her community.

Focus group participants in Philadelphia said they believed credit and lending decisions were related to race:

White people don't have perfect credit but because they want certain properties near the city of Philadelphia, or any other major city...they're preventing [non-White] people who want to fix their homes and who have owned their homes... they're rejecting those people... there's a big banking issue with red-lining.

Another participant echoed this, saying, "They're not lending Black people money to fix up their houses."

Checking account reporting issues

Another critical barrier to banking relates to the lesser-known system of checking account reporting that banks utilize to determine customer eligibility to open or maintain ordinary checking accounts. Two private companies, ChexSystems and Early Warning Services, create files on consumers who have had an unpaid negative balance or were suspected of fraud on previous checking accounts.²⁶ Banks pay a fee to access these databases. Although these systems were originally intended to detect fraud, in practice, they exclude more than a million people from accessing retail banking accounts, often due to relatively small infractions like bouncing a check or incurring a checking overdraft fee.²⁷

As one financial institution executive stated, "A quick one or two strikes, and you end up with a Chex report." This "Chex report," which remains on the consumer's file for up to seven years,²⁶ serves as a banking blacklist prohibiting LMI consumers from entering the financial mainstream. A federal regulator stated that although "70% [of those with reports] are people who made mistakes and couldn't afford to pay," staff at financial institutions tend to "see someone on ChexSystems as a fraudster" who intentionally cheated the system. Unlike credit scores, most consumers are unaware of the checking account reporting system and have little knowledge of how to identify or correct errors that may be on record. Similarly, staff at financial institutions tend to be unaware of how to help clients remedy their checking account reporting histories. Ultimately, these systems are "a much bigger barrier to financial inclusion than most people realize," as a community advocate observed, adding, "If we want to get 70 million people banked, a large portion of that is due to them being barred due to [checking account reporting issues]."

Limited access to bank branches

A barrier to accessing financial services and products is the relative scarcity of bank branches in many low- and moderate-income neighborhoods¹⁶ and most markedly in Black neighborhoods.²⁸ The trend points to even fewer bank branches in the future, particularly in communities of color, as many banks close physical branches in favor of doing more business online.²⁹ In Philadelphia, a focus group participant stated that in her community, "...banks are closing up and moving further out." When describing how she had kept an account for decades, though her bank had been acquired by larger

banks more than once, another participant noted that, “All the banks have left me, I never left my bank.” In the same vein, a financial institution leader observed that financial education for LMI individuals can be beneficial, “but if the individual doesn’t have access to a financial product, then it doesn’t do any good...We tell them they should save, but there are no bank branches in their neighborhood.”

Though there are more account services available online, and many institutions no longer require a customer to be at a branch location to open an account, physical presence still has an impact on whether LMI communities of color are banked. Convenience is often cited as one of the major factors that determine where people bank. Focus group participants noted that a bank’s proximity to home or work was an important factor when choosing where to open an account. Not all respondents regularly used a physical branch location to deposit or withdraw funds, but nearly all respondents had opened their accounts in person at a financial institution. Most of the focus group participants had used online or mobile services, but when asked how they resolved questions or problems with an account, the majority said they preferred to resolve issues in person at a branch. The next most popular option was to handle concerns over the phone. A participant who preferred going in person to her bank said she preferred it to online banking because “computers make so many mistakes.” Access to conveniently located ATMs to access cash was also important across focus group participants, regardless of whether people preferred to use a branch or did most of their banking online or via mobile phones. Bank branches bring benefits to LMI communities which are lost when branches close. One important way that bank branches benefit communities is through their obligations to provide credit in their local neighborhoods under the Community Reinvestment Act (CRA). Passed in 1977 to remedy some banks’ refusal to lend in lower-income areas and communities of color, the CRA created “a continuing and affirmative obligation on banks to help meet the credit needs of the local communities in which they operate [branches].”³⁰ Banks no longer have CRA obligations in communities once branches close their doors, resulting in diminished credit access for those communities. A federal policymaker described the various ways that physical banks benefit communities: “There still are benefits to banks because they have to comply with the CRA, so something has to go back into the community. There are also consumer protections that you have with a bank that you don’t have with [non-bank online payment services]...”

Importantly, bank closures have a prolonged negative effect on the credit supply to small businesses, and these effects are concentrated in areas with low-income and high proportions of residents of color.³¹

Identification requirements

Identification requirements to establish or access bank accounts pose a significant barrier for LMI consumers, particularly immigrants and those with very low incomes. Many financial institutions do not accommodate alternative forms of identification, such as matricula consular IDs or municipal IDs. While other banks formally accept alternative

forms of identification, participants indicated that individual branches still refuse to accept them as valid. This is one example of the inconsistent requirements across the industry, which discourage low-income and immigrant populations from engaging with mainstream banks. One regulator stated that their team had investigated banks' various requirements and discovered that often, "if you had two bankers from the same institution, there was no agreement about what the rule required... The problem isn't regulation, but consistent interpretation" and enforcement.

Variation within and between banks makes it difficult for consumers to identify which banks accept alternative IDs. As a result, these consumers are reluctant to visit institutions out of fear of being turned away. One regulator noted:

Fear in the community is so great that it's hard to convince folks that they can open an account with the identity documents they have. Holding a training to tell people which identity documents they need is complex in itself. People both need to understand which documents they need and be convinced that a bank is a safe *and* affordable way to keep your money.

A fintech leader noted, "ID issues disproportionately affect LMI consumers, based on what I've observed. Those who can afford the least get the most hassle. It shatters the confidence we're trying to build with the customer."

Another identification issue is that low-income consumers tend to have a smaller digital footprint, which makes it difficult to verify their identity electronically. A fintech expert suggested that financial institutions' initial screening protocols often flag low-income consumers because they live in "high-risk" neighborhoods. In order to verify their identity, the system would generate questions based on the consumer's credit history, such as, "You had an auto loan in 2006; what type of car was it?" When consumers have a limited credit history, the system cannot generate those verification questions, and instead, consumers are asked to go through the onerous steps of mailing, faxing, or hand-delivering copies of utility bills, Social Security cards, or other identifying documents. This time consuming and inconvenient process is often a prohibitive barrier to establishing accounts at mainstream financial institutions, excluding many LMI consumers from the rest of the financial and economic mainstream as well.

B. The Role of Fintech

Given the numerous barriers to accessing and utilizing mainstream financial institutions, many are looking to the financial technology sector, or fintech, to meet the financial

"ID issues disproportionately affect LMI consumers, based on what I've observed. Those who can afford the least get the most hassle. It shatters the confidence we're trying to build with the customer."

servicing needs of LMI consumers. Referring to fintech's promise, a regulator stated, "Ways to disrupt the usefulness that people find in payday lending are very welcome." Indeed, fintech has great potential to provide services to LMI consumers in an affordable way, because of their reduced physical footprint and online business model. Since they work almost exclusively online or through mobile applications or "apps," fintech companies are not limited by brick and mortar locations or branches like traditional banks. While they offer convenience and accessibility to unbanked and underbanked individuals, the majority of whom have access to smart phones,³² the lack of physical branches also means that fintechs have lower costs³³ and can pass along these savings to customers. Investments pouring into fintech have grown more than tenfold in recent years, reaching \$19 billion in 2015,³⁴ indicating a thriving field with potential to fill many of the barriers and service gaps within traditional banks.

According to interview and focus group respondents, despite the promise of fintech products and services, most do not see fintechs centering on the needs of LMI consumers; data security remains an issue, and the lack of regulations leaves ample room for predatory practices.

One financial institution executive observed how many fintech firms "get a lot of money behind them, but then they don't know how to reach the consumers." As a result, several fintechs have turned to this respondent's organization, which specializes in serving LMI consumers, for advice on how to reach this population. When financial products are not designed with LMI consumers in mind at the outset, gaps in usability and access can often result.

For non-English speaking consumers in the focus groups, having apps developed in their language is a major factor in using fintech. The Spanish-speaking community in Chicago reported having more experience in using technology in their banking than the Thai or Cantonese-speaking focus groups. Latinos in Chicago said they saw advertisements for fintech companies on Spanish language television, and some had learned how to use specific apps by watching videos online. In San Diego, younger English-speaking Latinos were generally comfortable in trying new online banking services and in using features such as fingerprint identification to access them on their phones.

Data security is also an important concern. Several focus group participants noted that there is no clear process for LMI consumers to identify trustworthy digital financial services among thousands of choices. A fintech leader noted that fintech companies "are not catering to the needs of inexperienced users, so consumers instead opt for the store on the corner that's doing payday lending." Focus group respondents shared that though many had adopted mobile banking apps, they were skeptical about newer fintech products that were not tied to traditional banks because of concerns about data security and identity theft. For the Cantonese-speaking community in Philadelphia, the lack of apps available in their language made them skeptical of the overall usefulness of banking apps.

Compounding the data security concerns of focus group participants were recent examples of data breaches at large corporations like Target and Equifax. This seemed to fuel distrust among respondents, evoking fears from those who did not regularly use apps to conduct financial transactions. One focus group member in San Diego said she used apps for banking despite her doubts about their security, because she felt there were no alternatives to send and receive payments among many in her network. There were generational differences in the regular use of fintech across focus groups, but respondents in every discussion described privacy and security concerns about these apps. People were concerned that if they lost their mobile phones, having banking apps would lead to security breaches and loss of their funds.

“Technology could help make products more affordable, but it also opens the door to predatory products. We must find a way to leverage tech innovation while also protecting vulnerable consumers.”

Respondents also raised concerns about consumer protections and fintech. They acknowledged the reality that fintech products do not come with the same degree of consumer protections and insurance as traditional banking accounts, and several raised concerns about fintech products that did not help consumers build credit. A policymaker explained:

People will have either prepaid cards or [online payment services] and think that they are banked when they're really [not]... These products can open up doors, but I wonder about people getting left behind or thinking that they're getting something better, but it may not be better for them credit-wise and may not be improving their credit score. Or you may be “banking” with an entity that doesn't have insurance, so you could lose your investment or be taken advantage of.

While many fintech firms have embarked on innovative, cutting-edge approaches to address the needs of LMI consumers, they are not subject to the same regulations as financial institutions. Respondents noted that fintechs often blur the line between mainstream and non-mainstream financial services, leaving room for high-tech predatory products targeting LMI consumers, such as newer, online versions of payday lenders. A respondent from an advocacy organization expressed the concern this way: “Technology could help make products more affordable, but it also opens the door to predatory products. We must find a way to leverage tech innovation while also protecting vulnerable consumers.”

Regulating fintech is one way to hold firms accountable to the needs and vulnerabilities of LMI consumers, and to address concerns about data security and trustworthiness of new kinds of non-bank financial institutions. One fintech leader advocated for “principles-based regulations that can evolve with technology.” State

consumer protection laws play an important role in regulating the fintech space, and in July 2018, the federal Office of the Comptroller of the Currency (OCC) announced that it will issue special-purpose national bank charters to non-depository fintech companies.³⁵ Many in the consumer advocacy arena have argued that by creating a new class of “national bank,” the OCC would allow fintechs to circumvent state consumer protection laws like interest rate caps and limits on fees for loans and services.³⁶ To prevent widespread, predatory, high-tech AFS, it is essential that the special-purpose charters for fintechs take steps to ensure meaningful, enforceable, and consistent consumer protection standards.

C. Alternative Financial Services Fill a Dangerous Void

As mentioned previously, the high barriers to utilizing mainstream financial services and limited fintech options drive many LMI consumers to turn to high-cost AFS like payday lending, pawn shop loans, check-cashing, and auto title loans. Underserved communities paid more than \$173 billion in fees and interest for AFS in 2017.⁸ One financial executive mentioned that pawn shops are of particular concern, noting that “Their largest revenue stream comes from lending. In many states, there aren’t usury laws around lending in pawn shops, so you can get \$300 loans at 300% interest rate.” Since pawn shops do not require established credit, a bank account, or a job, loans through pawn shops are one of few options available to the most vulnerable low-income consumers.¹⁰

Interview and focus group respondents pointed out that rent-to-own stores that sell items such as furniture, computers, and even car tires specifically target LMI consumers. Where middle- and upper-income consumers can often rely on reasonably priced credit cards or cash to make certain purchases, LMI consumers who lack the creditworthiness or reliable financing options often turn to rent-to-own services that can legally charge exorbitant rates and fees for financing. In one example, a computer priced at \$851 would cost a borrower \$4,459 if paid over the full duration of a rent-to-own store’s 21-month term.³⁷ Further, if borrowers default on rent-to-own payments, severe consequences can result, such as the repossession of cars—the primary mode of transportation for many LMI workers and those seeking employment.

AFS provide services that LMI consumers need, including small-dollar and short-term loans. However, this comes at high cost. These products tend to be unaffordable, exploitative, and ruinous for LMI families and communities when AFS operate without meaningful market-based competition by more regulated financial institutions.

When asked if they had used an AFS in the past few months, the majority of focus group participants said they had not and specifically cited the high fees associated with products like payday loans as reasons to avoid having to use them. It is important to note, however, that focus group respondents were recruited from community-based service providers that specialize in financial literacy and education services for low-income residents.

D. Weakening of the Consumer Financial Protection Bureau

Consumers, who may often be unaware of their rights, are vulnerable to unscrupulous financial practices. The Consumer Financial Protection Bureau (CFPB) has a critical mission and purpose to inform consumers of their rights and promote consumer protections for financial products. One regulator explained that the CFPB's charge was to help the "common person," who may not understand the important role that consumer protections play in their financial condition. However, several interview respondents expressed concern that the CFPB has been significantly weakened under the current federal administration.

"I'm very concerned that some of the headway that the CFPB has made in the lives of consumers is really being disrupted significantly."

For instance, the 2018 reorganization of the CFPB stripped away the enforcement powers of the unit responsible for pursuing discrimination cases,³⁸ and added a new focus of addressing "outdated, unnecessary, or unduly burdensome regulations."³⁹ One banking executive described the "systematic dismantling of the CFPB" as a dire threat to the future of banking for LMI consumers. A regulator stated, "I'm very concerned that some of the headway that the CFPB has made in the lives of consumers is really being disrupted significantly." As a result of recent federal actions, the CFPB has decreased its focus on several threats to LMI consumer financial protections, such as the adoption of alternative credit-scoring models and tighter regulations on payday lending services.

E. Opportunities for Innovation

The challenges that LMI consumers of color face within the financial services sector are substantial but not insurmountable. Interview and focus group participants identified opportunities for innovation, industry improvements, and regulatory actions that would lower barriers to effective financial inclusion for LMI people of color. Respondents suggested innovations in several areas, including reforms to credit rating models, new business models for financial institutions, and ideas for connecting more vulnerable consumers to existing safe, affordable financial products that are more tailored to specific needs of LMI consumers and the most vulnerable of the underbanked population.

Alternative data for credit ratings

The barriers related to poor credit and limited credit-building opportunities for LMI consumers, immigrants, and others who are left out of the financial mainstream led many respondents to discuss alternative credit rating models. Under the present scoring system, public utilities, telecommunications companies, and landlords report delinquencies to credit bureaus that often harm credit, but they are not required to report on-time payments that could improve credit histories for LMI consumers.

Adding on-time payments from these sources could open the credit market to a larger segment of the 45 million responsible consumers and borrowers who are currently credit invisible and/or un-scorable.²⁴ This change would unleash the full financial market potential of those who have historically been excluded by increasing credit access to LMI households, non-native English speakers, immigrants, and other segments of the unbanked.⁴⁰ A community leader explained the strategy in this way:

Most [LMI] people have a phone or cell phone and pay their bills regularly. That could be captured on a credit report. Right now, it isn't, unless you're delinquent. Those on-time payments could be captured into the credit system, showing that this person has a history of paying their bills on time. Same thing with utilities. [The goal] is really just to pull in more data so that people who are currently not visible to the credit system become visible.

There are varying perspectives among experts and advocates on the inclusion of alternative data like utility bills and rent payments for credit-scoring purposes. Some critics argue that amending the credit reporting system would harm people who are late in paying their rent or utilities. However, these delinquencies can already be reported to the credit bureaus. The experts we interviewed suggested that additional positive data and reporting requirements would have a net benefit by increasing the scoring potential of millions of LMI consumers who are not currently in the system at all. Policymakers should continue to weigh the options to reform the credit-scoring systems to help unlock the positive benefits for LMI consumers, who need access the most and pay the highest costs for being excluded.

New business models for financial services

As noted previously, the fees and balance requirements for ordinary checking accounts at commercial banks are often too costly, prohibiting LMI consumers from entering the financial system in a productive way. Interview respondents noted that this is largely due to outdated business models upon which most banks operate. A fintech leader explained, "Banks' business models are still reliant on overdraft fees. The business [revenue] model doesn't quite exist" that would allow banks to offer LMI consumers a truly free checking account that promises more long-term revenue once they are in the system. To address this issue, interview and focus group respondents emphasized the need for mainstream financial institutions to establish updated business models that allow for lower-cost financial services and fewer barriers to entry for new account holders. The Center for Financial Services Innovation (CFSI) suggests that financial services organizations should update their business models by using an expanded definition of "success" that includes positive outcomes for clients, as well as positive returns for the business. Doing so, according to CFSI, would improve consumers' financial health and enhance institutions' competitive advantage and financial returns from other products down the line.⁴¹

Innovative loan products

LMI consumers need low-cost, accessible financial services, including quick, affordable credit with flexible repayment options, in all areas of financial life—ordinary checking/savings options, auto-financing, home mortgages, small business supports, and long-term investment vehicles. Interview respondents emphasized the need for financial institutions to provide low-cost, small-dollar loans with shorter terms. They stressed this point due to the lack of market alternatives to AFS that are often predatory, overpriced, and fail to build credit histories. A federal regulator explained that people use payday loans because “It’s convenient and they’re friendly. It’s convenient because it’s quick and on demand, so they’re happy to pay the fees. Banks could do that: banks can offer low-cost loans and turn them around quickly.”

LMI consumers also need access to products that are specifically designed to help them establish and build their credit. Experts in the financial services field highlighted several models for consumer loans that were specifically designed to help LMI users manage and pay back debt, that also addressed the need to build credit, such as credit builder loans, small business micro-loans, and a loan fund for contractors. More widespread use of similar products could have long-term economic benefits for consumers far beyond their short-term needs. A financial institution executive described the benefits of one such loan product by saying, “[T]hey can take care of a problem that they would’ve gone to a payday lender to address. When they do this loan instead, this actually builds their credit *and* takes care of the problem.”

In discussing the need for affordable credit and loan products across various areas of financial life (home, auto, retirement, etc.), respondents highlighted lending models that incorporated financial education and coaching in tandem with the products themselves. Focus group participants felt empowered by learning how to navigate various aspects of the financial system, while simultaneously addressing a financial need. Several respondents expressed a desire and appreciation for services that helped them understand the fundamentals and importance of the financial service sector, and how it can be useful in their everyday lives and aspirations to purchase a home, pay bills, or save for the future. They expressed a desire to better understand the importance of credit lines and credit scores, and how good scores translate into cheaper pricing for financed goods and services.

A community organization leader focused on financial coaching for residents described the value of one model that married good loan terms to credit counseling for LMI borrowers:

One thing [a large national bank] had pre-foreclosure crisis, was a program where if you signed up for housing counseling, you’d pay no mortgage insurance—zero—for the life of the loan. It was below market interest rates. It was linked in partnership with housing counseling groups to say that the likelihood that these applicants are going into foreclosure is much less due to housing counseling. It made a huge difference in terms of housing payments.

However, the respondent suggested that they were not aware of similar programs since the foreclosure crisis. Several other respondents also observed that credit for LMI consumers had indeed “dried up” in recent years. One community leader stated succinctly, “We were trying to get rid of all the predatory financial products, but instead people aren’t lending at all.”

While this concern is substantiated,^{42,43} a handful of mainstream financial institutions have stepped into this space and begun offering innovative loan products. One Community Development Financial Institution (CDFI) in our sample offers a range of loan products designed to meet the needs of LMI consumers. One of their executives described their small business micro-loans as “business loans in that five, six, seven, 12,000 dollar range, where even someone with perfect credit wouldn’t get from a bank because it’s just too small.” If they became widely available, services of this kind would offer a viable, affordable alternative to payday lending.

Spotlight: Fuente Credito

Fuente Credito, a small-dollar credit pilot program coordinated by UnidosUS, facilitates access to affordable loans to help LMI consumers, with an emphasis on assisting immigrants to afford the costs associated with adjusting their immigration status or pursuing citizenship.

Fuente Credito:

- Enables community-based service providers to pre-qualify their clients for safe and affordable small-dollar credit or lending circles.
- Offers an online credit application designed to provide fast and personalized options for immigrants who need assistance in financing immigration fees related to Deferred Action for Childhood Arrivals (DACA), citizenship, or other legal services.
- Provides a secure website; compiles loan products from FDIC-insured credit unions, CDFIs and online lending circles; and leverages the expertise of UnidosUS Affiliate organizations in serving immigrant populations in culturally and linguistically relevant ways.

More information at www.fuentecredito.com.

Spotlight: Justine Petersen

Justine Petersen, a credit-building and microlending organization in St. Louis, Missouri, offers several loan products targeted to the needs of LMI consumers:

- **Small business micro-loans:** Loans typically up to \$10,000 for small businesses that do not have access to commercial or conventional loans.
- **Contractor loan fund:** Offers short-term financing so contractors can afford to bid on larger construction jobs that require upfront capital but do not pay until the end of the project.
- **Credit builder loans:** Loans designed to build the practice of making on-time payments, while also saving or paying off a debt; all on-time payments are reported to the credit agencies.

More information at www.justinepetersen.org

The above findings from consumers and leaders from the community, banking, and policy sectors highlight numerous challenges that LMI consumers of color face in pursuit of financial inclusion, as well as opportunities for innovation. To address the challenges identified in this report, various sectors must work together, building on existing models, to create a truly inclusive financial system. The following section provides recommendations to move toward a financial system that advances full financial inclusion for LMI consumers of color and allows opportunity for safe innovation.



RECOMMENDATIONS: REFORMS TO POLICY, PRODUCTS, AND PRACTICES TO ADVANCE FINANCIAL INCLUSION

This research underscores ongoing barriers to financial inclusion that must be addressed to help the 63 million unbanked and underbanked reach financial inclusion. Altogether, the following recommendations can enhance industry practices, government policies and regulations, and support communities to collaborate with banks, fintechs, and public officials to advance full financial inclusion for LMI consumers of color.



Financial Services and Banks | Government
Community Organizations | Fintechs

Connect LMI consumers to appropriate financial products

Problem: Navigating the banking world is complicated, especially for people with low-income and those living in high-poverty neighborhoods. Barriers to access include identification requirements, language access, costly services, and limited product offerings that address the financial needs of LMI populations.

Solutions:

Create a nationwide network of “financial navigators.” Financial institutions should collaborate with their local communities, government, fintech firms, and philanthropy to create a network of “financial navigators” who can reach customers within the underbanked and unbanked population nationwide, help them connect to appropriate financial products, and guide them as they progress through various financial needs.

- Navigators can build on existing networks of community-based credit and financial coaching/education models, and additional partnerships should be developed to reach full scale.

- Banks should tap into direct pipelines, resources, and connections in their existing networks and should partner with community organizations, online fintech platforms, government agencies that contract with local service providers, and others who can advance effective public/private/community partnerships to reach the underserved.
- Navigators' and partners' strategies and activities should advance opportunities to bank the underbanked by onboarding people into a safe banking relationship—a banking home—that connects them to the financial mainstream and offers opportunities for progression from “pre-prime” to prime credit products.

Build partnerships to meet the multidimensional needs of LMI and underbanked consumers. Financial institutions, fintechs, government agencies, and community-based organizations (CBOs) should build partnerships and referral networks to better serve the complex needs of LMI consumers and help underbanked individuals connect to the financial mainstream.

Financial institutions and fintechs should work in partnership with public agencies and CBOs to connect LMI clients to public resources, such as food assistance (Supplemental Nutritional Assistance Program, or SNAP), offer budgeting tools, and direct them to internal or external financial coaches or “navigators” (see above).

Public agencies and CBOs should establish relationships with reputable financial institutions, to which they can refer unbanked and underbanked clients, as well as those in need of particular financial products.

Financial Services and Banks | Fintechs



Increase accessibility and utility of financial products and services for LMI consumers

Problem: Many LMI consumers cannot afford to bank with mainstream financial institutions due to high fees and minimum-balance requirements. Faced with few affordable alternatives, LMI consumers spend millions in fees and interest for high-cost AFS each year. In addition, identification requirements and lack of linguistic accessibility prevent many LMI consumers, particularly immigrants, from achieving full financial inclusion.

Solutions:

Update business models to monetize client success. Banks and financial institutions should create new business models that refocus on customers' success.

- Reduce or remove initial deposit requirements, minimum-balance requirements, and high fees that deter LMI consumers.
- Create innovative loan products that work for LMI consumers, including short-term, small-dollar loans, and loans designed to build credit.

- Offer products that are sensitive to religious or cultural restrictions, outside of what is traditionally offered, particularly with savings products. This generates revenue for banks.
- Design products to meet clients where they are and help them move from “pre-prime” to prime credit status. This can help establish a healthy financial ecosystem of widely available supports, resources, tools, and products that work for people at every income level.

Increase language access. Financial providers should partner with effective language service providers to co-design and offer the full suite of products, services, and written materials for all common languages spoken within the banking footprint.

- Example: Offer remote translation services in banks where multilingual staff are not available.
- Partner with community-based organizations working with clients who are not predominantly English-speaking to develop fintech models.

Accept alternative identification. Banks and financial institutions should accept matricula consular and municipal identification cards, and Individual Taxpayer Identification Numbers (ITIN), and ensure consistent identification rules are transparent, enforceable, and made publicly available to all potential customers, staff, and community residents within the banking footprint.

- Conduct public awareness campaigns in target markets to inform the public of acceptable forms of identification, new developments toward language accessibility, and product offerings. Invite recommendations for product/service innovations that work for LMI users to attract them to the banking system in a safe, sustainable manner.
- Provide updated training to bank staff and customer service representatives to ensure that they have accurate information on bank policies guiding the acceptance of alternative forms of identification.



Government – Federal Policy and Regulations*

Reform policies and regulations to create meaningful access for LMI consumers

Problem: LMI people of color are excluded from the consumer credit and banking systems partially due to reporting systems practices, limited use of data, and a lack of consumer understanding of how to engage reporting systems and standards. Additional channels are needed to properly protect against fraud, and to assess creditworthiness, and federal consumer protections must set the standards for how all LMI consumers are protected under the law.

* The focus of this report is on federal reforms and needed protections that can be uniform across all U.S. vulnerable populations and jurisdictions.

Solutions:

Reward inclusive finance models. Federal regulators and policymakers should create a system of formal, public recognition and incentives for financial institutions that successfully serve LMI clients' financial needs and maintain branches in LMI communities.

- Metrics should be based on financial outcomes that are tied to enhanced economic mobility and financial capability. For instance, financial institutions may be recognized for offering a wide range of products that meet the needs of people from all wealth and income levels, and for successfully helping people to matriculate and graduate from starter checking accounts with no fees, to prime consumer or business loans.
- Credit bureaus should allow the reporting of credit activity by ITIN holders and clarify this in guidance to lenders.

Require transparency and access to checking account reporting systems. Oversight agencies should develop regulations to make the checking account reporting system more transparent to consumers, and actively encourage the industry to raise awareness about how to properly address concerns or discrepancies that exclude potential customers from banks.

- ChexSystems and Early Warning Services should be required to offer full, plain-language disclosures, similar to time-to-repayment tables that are required of credit card companies.
- Regulators should establish a clear process for resolving consumer disputes that require an agency response and provide public channels for consumers to report abuses.

Require review of alternative credit data. Credit reporting agencies should be required to explore the potential net benefits and consequences of adding alternative data sources to credit scoring algorithms.

- The long-term goal should be to reduce the number of credit invisibles and unscorables from 45 million²⁴ to zero.
- Government should consider the short- and long-term effects of credit bureau data collection to produce a uniform metric that is more inclusive for all segments of U.S. borrowers and potential borrowers.
- Alternative data considerations should include information such as on-time rent payments to corporate landlords, telecommunication services, and utilities.
- Policymakers should review this industry study to provide guidance on how to achieve the greatest benefit for all consumer segments, including underserved LMI users.

Expand the Community Reinvestment Act (CRA). Policymakers should update the CRA to include credit unions, non-bank mortgage originators, and fintechs within CRA jurisdiction, and maintain a focus that ensures access for underserved populations and communities.

- Representatives of some fintech products have argued that they exist to plug financial sector gaps in consumer lending and retail banking products. Thus, they should be subject to similar CRA obligations as other consumer retail banks.

Enhance federal consumer protections. The federal government (including all federal bank regulators such as Federal Deposit Insurance Corporation (FDIC), OCC, and CFPB) should recommit to protecting consumers and informing them of their rights.

- Prevent predatory lending practices: Regulators should renew their commitment to strengthening regulations on alternative financial services (AFS), including limits on fees, and require AFS to report on-time payments to credit bureaus.
- In order to address the decline in available affordable credit, particularly for LMI consumers and consumers of color,^{42,43} regulators should set aside funding to encourage financial institutions to develop innovative loan products aimed at building wealth among LMI consumers, such as mortgage loans that are tied to the completion of financial counseling.
- Expand consumer education and make efforts more visible and accessible, particularly in communities with high concentrations of LMI populations. Information should be included in print and digital media, statement disclosures, written correspondence, and community-wide resources in all areas of consumers' financial lives (e.g., on bank statements, fintech, and financial institution websites; utility bills; etc.) and meet the language needs of non-English speakers.
- Enforce fair lending and anti-discrimination laws to protect against red-lining practices, allowing LMI communities of color to fully access credit.
- Encourage financial institutions to accept various forms of identification and the information necessary to open an account and have a sufficient customer profile.

Regulate and support fintech solutions that work for LMI users. Create a regulatory structure that fosters innovation while protecting consumers from predatory lending practices.

- Ensure products and services are safe, secure, and advance the financial interests of the end-user, particularly LMI users.
- Align fintechs' data security and consumer protections standards to match or exceed traditional banking product regulations under the original intent of the CFPB, regardless of agency jurisdiction (*i.e.*, Office of the Comptroller of the Currency, Federal Depository Institution Corporation, and others that may have different jurisdictional authority).



Community Organizations and Consumers

Raise awareness and encourage reform and innovation

Problem: The financial industry needs community input in product and service development, industry regulations, and corporate practices in order to reach the 63 million unbanked and underbanked adults, improve services for LMI consumers, and build a thriving system for all.

Solutions:

Connect community organizations with financial institutions. Community organizations should continue to seek out relationships with financial institutions in order to forge pathways for ongoing communication and innovation.

Expand community organizations' advocacy for inclusive, affordable financial products and services. Community organizations, which already play a critical role in understanding the financial needs of their members, should continue to listen to clients' needs and amplify their clients' voices in discussions with financial institutions, fintechs, regulators, and policymakers.

- Community organizations can provide simple ways for consumers to share their concerns, frustrations, and ideas.

Raise the voices of individual consumers. Individual consumers, including people struggling with low- and moderate-income, those who are frustrated with the high fees associated with AFS, those who want to become fully banked, and those who have innovative ideas for financial products and services, should share their thoughts with decision makers via community organizations and other advocacy efforts.



CONCLUSION

Low- and moderate-income people continue to face significant barriers to banking with mainstream financial institutions, including identification requirements, the high cost of services, language barriers, credit requirements, checking account reporting, and fewer bank branches in LMI communities. Although fintech holds promise, LMI consumers will still face obstacles to full financial inclusion if reforms, incentives, and careful regulations are not in place. Federal consumer protections are waning, and high-cost AFS remain problematic at wide scale. A comprehensive review and set of reforms are needed to ensure LMI communities will be able to access safe, affordable, and productive financial services and products that empower them to enter the economic mainstream. There is ample room for innovation to ensure that everyone has access to affordable short-term credit, retail banking, and savings for future events like retirement and children's education. Careful collaborations among financial institutions, fintechs, and government can lead to financial inclusion and success for those who are currently underbanked.

As financial services, fintech, policy, and regulation continue to evolve in response to a changing economy, it is essential to continuously focus on the goal of financial inclusion for all. A more equitable economy is possible if LMI consumers of color and others who have historically been excluded are ensured meaningful access to safe and productive financial services that help consumers participate, prosper, and reach their full potential. This report represents only a segment of concerns that were shared by LMI consumers and experts throughout U.S. communities. Government, philanthropy, banks, and fintechs need to hear community voices. Local efforts, state advocates, and national movements are essential to inform and reshape how the financial services industry interacts with the most vulnerable populations.

A financial economy that works for the 63 million unbanked and underbanked will also work for the 96 million living in or near poverty—and thus, for the nation. The nation needs the 63 million unbanked and underbanked as contributors to the mainstream financial economy and enhancing their financial inclusion will directly impact the nation's economic growth. It will support the emerging majority's ability to afford stable housing, build wealth, and to save for the future. The implications cannot be ignored: the future of the nation's economy is dependent on how low-income communities and communities of color are able to advance up the financial and economic ladder.

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