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March 10, 2021

Before the U.S. House of Representatives Financial Services Committee
Justice for All: Achieving Racial Equity Through Fair Access to Housing and Financial Services

Introduction

Good morning, my name is Paulina Gonzalez-Brito. I'm the Executive Director of the California Reinvestment Coalition. I am purepecha, mestiza, chicana, my people come from the original people of Michoacan and Zacatecas, Mexico. My grandfather repatriated to the US after being deported from Arizona, even as a US citizen in the 1930s. He was then lucky enough to buy a home in South East Los Angeles, only after my mother and my aunts and uncles were old enough to work and help pay the down payment and mortgage. The neighborhood where he was going to buy the house was designated in the HUD redlining maps as yellow. The legend on the map described this yellow area as "under threat of infiltration by Mexicans." We were the Mexicans they were worried about.

Serial Wealth Extraction and Denial of Opportunity Set in Policies, Practices, and Ideology of the US Banking System

The US banking system has failed to serve Black, Indigenous, and People of Color. This failure is not an accident, but a deliberate structural and systemic design baked in white supremacy and fully backed by the US government. Through housing, lending, and financial product policies bolstered by practices of exclusion, anti-Black ideology, and extraction from Black people first and foremost and People of Color generally, the US has profited from our labor while denying us wealth.

Disparities in wealth by race and ethnicity are stark and point to their origins in historical policies and practices. The most recent data from the Federal Reserve Consumer Data Survey shows that white families have a median household wealth of $184,000, while a Black family has $23,000 and a Latinx family has $38,000. The Federal Reserve recognizes that this disparity for Black families has resulted from historical barriers that include the Homestead Act, the Social Security Act of 1935, the GI Bill of 1944, redlining, and discrimination in the criminal justice system. The Social Security Act, as an example, excluded domestic workers and farmworkers; these jobs were often held by Black men and women. The Social Security Act, like the National Labor Relations Act, still excludes domestic workers and farmworkers, continuing the exclusion of many Black and Latinx women and men.

The murder of George Floyd, and the murder of countless Black men and women before and after him, and the Movement for Black Lives has forced a reckoning with racism and white supremacy. The financial system is not immune to this call to action.

To finally achieve equity and true justice for all in housing and financial services, we must dismantle white supremacy throughout the banking system, recognize past harms, and acknowledge that these harmful and racist policies continue to this day and contribute to compounding harm. This will require bold and targeted policies with or without federal reparation policies, noted Angela Glover-Blackwell and Michael McAfee in their New York Times Op-Ed in June of 2020. The two continued, “This will require more than taking a knee, it will require taking a stand.”[1]

A Housing Market Built to Extract and Deny

HUD redlining maps are an example of the nation’s federal housing policy that declared that Black, Mexican, and “foreign” residents were “high risk.” Standards were written for lending that favored those who were deemed “less risky,” and deprived homeownership and wealth-building opportunities to Black and Brown Americans. This is what we think of when we think of racism, a relic of the past that no longer impacts the economic opportunities of Black and Brown Americans today. But, the practices put in place within the housing market set the stage for predetermining the socio-economic status of BIPOC for years to come, and these policies and practices within the housing market continue to compound the harm from generations past.

For example, Latinx households experienced a 44.3 percent loss of wealth from the foreclosure crisis of 2008. Black households saw a 47.6 percent loss of wealth during that time period, while white households saw just a 26.2 percent loss of wealth.[2] That massive extraction of wealth continues through the policies the housing industry practices to this day.

[1] https://www.nytimes.com/2020/06/26/opinion/sunday/banks-reparations-racism-inequality.html
[2] https://nonprofitquarterly.org/why-recovery-from-the-great-recession-favored-the-wealthy-the-role-of-public-policy/

Corporate landlords quickly swooped in and bought foreclosed properties from banks in the wake of the 2008 foreclosure crisis, completing the greatest wealth transfer in history. The compounding harm continues.

The largest corporate landlords today control more than two million apartment units across the US.[3] These corporations, which are often owned or led by white[4] male mega-millionaires and billionaires, have amassed $300 billion for pandemic-hit real estate[5] and have filed to evict more than 16,000 people in the first two months of 2021, even with a nationwide eviction moratorium ordered by the Centers for Disease Control and Prevention in place.[6]

We are concerned investors are stockpiling cash, as they did during the last economic crisis, to once again increase their holdings,[7] while raising rents[8] and evicting tenants in distress.[9]

Invitation Homes Inc., the country's largest rental-home owner, recently disclosed a joint venture that will result in more than $1 billion for the landlord's ongoing house hunt. Invitation Homes, which owns about 80,000 houses, has been buying at a clip of roughly $200 million a quarter since a pause at the onset of the pandemic. It sold $448 million of new shares in June to fuel its expansion, and the agreement will add enough cash to buy about 3,500 more homes. Landlords including Invitation Homes and American Homes 4 Rent have reported record occupancy and rising rents despite widespread job loss and economic upheaval.[10] According to the Action Center on Race and the Economy (ACRE), real estate investment funds have amassed $142

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[3] https://www.nmhc.org/research-insight/the-nmhc-50/top-50-lists/2020-top-owners-list/

[4] Roughly 75% of landlords across the U.S. are white, according to a survey by Foremost Insurance Group. https://time.com/5940505/housing-crisis-2021/?utm_medium=email&utm_source=sfmc&utm_campaign=newsletter+brief+default+ac&utm_content=+++20210221+++body&et_rid=148224826

[5] Private Equity Has $300 Billion for Pandemic-Hit Real Estate (Bloomberg 3/1/21)

[6] https://pestakeholder.org/despite-cdc-moratorium-private-equity-firms-and-other-large-landlords-have-filed-to-evict-more-than-16000-people-in-first-two-months-of-2021/. This figure is conservative in that it is based on eviction data for only six states.

[7] https://www.wsj.com/articles/invitation-rockpoint-forge-1-billion-rental-home-venture-11602067500 "Real-estate investors have a mountain of money looking for a home. Lately a lot of it is ending up in suburban single-family houses."

[8] But there is another side to the amount of money coming into housing, as Coleman pointed out. "The money people are putting into these acquisitions is making it so expensive that the rents they need to earn are pricing out a lot of people," he said. https://www.globest.com/2021/03/05/a-flood-of-capital-is-chasing-rental-housing/?kw=A%20Flood%20of%20Capital%20is%20Chasing%20Rental%20Housing&utm_source=email&utm_medium=enl&utm_campaign=multifamilyalert&utm_content=20210305&utm_term=rem

[9] https://pestakeholder.org/despite-cdc-moratorium-private-equity-firms-and-other-large-landlords-have-filed-to-evict-more-than-16000-people-in-first-two-months-of-2021/

[10] https://www.wsj.com/articles/invitation-rockpoint-forge-1-billion-rental-home-venture-11602067500

billion that it is ready to spend on distressed and opportunistic real estate investments,[11] all the while having profited to the tune of $470 billion from federal tax breaks[12] and while exerting undue influence on state and local politics to further their extractive agendas.[13]

While Wall Street profits from the pandemic, homeowners of color and first-time homebuyers are facing racism in home appraisals as well as other unfair practices that carry potentially huge implications for closing the racial wealth gap. California Reinvestment Coalition members are reporting deflated home appraisals for borrowers of color, which depletes hard-earned wealth. Working-class families, too, are being asked to waive appraisal contingencies in order to place competitive bids in tight markets, like Los Angeles.

Low-ball appraisals deprive homeowners of color of the full benefits of homeownership, requiring them to take out higher rate loans or preventing them from accessing the entire equity in their homes to make home repairs, start a business, or put a child through school. They can even frustrate home sales if a buyer's deflated appraisal comes in below the negotiated sales price, resulting in a buyer's loan falling through, requiring buyers to come up cash to fill the gaps, and possibly forcing the seller to accept less to sell the home. This translates directly into less wealth to pass on to the next generation. One study found that the difference in average home appraisals between majority-white neighborhoods and those that are majority-Black/Latinx has doubled since 1980.[14]

At the same time, homeownership remains out of reach for many people of color. The National Community Reinvestment Coalition reports that in the past 15 years, Black homeownership has seen the most dramatic drop of any racial or ethnic group, and the Black homeownership rate in 2019 had descended to nearly as low as it was when discrimination was legal.[15] Currently, the average Black homeowner likely owes more in

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[11] Putzier, Konrad and Peter Grant. "Real-Estate Investors Eye Potential Bonanza in Distressed Sales" The Wall Street Journal. April 7, 2020. https://www.wsj.com/articles/real-estate-investors-eye-potentialbonanza-in-distressed-sales-11586260801

[12] https://acrecampaigns.org/wp-content/uploads/2020/05/Make-Them-Pay-May-2020.pdf

[13] https://acrecampaigns.org/wp-content/uploads/2020/04/LevelingthePlayingField-Apr2019.pdf

[14] https://www.bloomberg.com/news/articles/2021-03-03/appraisers-acknowledge-bias-in-home-valuations?mc_cid=7f4b0e8b91&mc_eid=aedce0e2e8 which discusses a study conducted by Junia Howell, of the University of Pittsburgh, and Elizabeth Korver-Glenn, of the University of New Mexico. "Reparations are central," Howell told CityLab. "However, we can't go forward with just reparations because then we still have a broken system, and we also can't go forward by just trying to fix the system and pretend history didn't happen."

[15] https://ncrc.org/60-black-homeownership-a-radical-goal-for-black-wealth-development/?mc_cid=0396e4156c&mc_eid=aedce0e2e8 (citing FSC Majority Staff (2019, May 8). A Review of the State of and Barriers to Minority Homeownership. [Memorandum] p. 3. United States House of Representatives Committee on Financial Services. Retrieved from https://financialservices.house.gov/uploadedfiles/hhrg-116-ba04-20190508-sd002_-_memo.pdf)

mortgage debt than their white counterparts on a house with less value.[16] This represents yet another example of compounding racial harm, where inequity builds upon inequity.

The pandemic has layered housing insecurity on top of a protracted and only partial recovery from the financial crisis for BIPOC communities where government and health mandates require families to stay safely at home. According to the Consumer Financial Protection Bureau (CFPB or Bureau), as of December 2020, more than 11 million households were overdue on their rent or mortgage payments, placing them at heightened risk of losing their homes to foreclosure or eviction. Of these households, the Bureau noted that Black and Latinx households bear a disproportionate financial burden and were more than twice as likely to report being behind on housing payments than white families.[17] Households of color were twice as likely to be behind on rent than white households, according to the Joint Center for Housing Studies of Harvard, which found nearly 23 percent of Black, 20 percent of Latinx and 19 percent of Asian renter households reported they were behind on rent, compared with only 9.8 percent of white households.[18] Eighty-six percent (86%) of participating families in CRC's Economic Health Promotora program, mostly Latinx families, reported difficulty making rental payments.

"No Blacks and Mexicans Allowed?" Yet Extractive Products Abound

Black and Brown consumers continue to be shut out of mainstream banking and forced to rely on high-cost payday lenders, pawnshops, Merchant Cash Advance lenders, and check cashers. Nearly one-third of Latinx families are unbanked or underbanked, and the figure is an astounding 46 percent of African American households that are without a bank account or that have a bank account but use alternative and higher cost financial services.[19] Due to a legacy of discrimination and redlining, banks are often seen as hostile and unwelcoming by communities. They often do not have leadership or staff that look like or speak the languages of their customers, and many have policies in place to exclude and deny. According to a McKinsey study in August of 2019, "... banks in predominantly black neighborhoods require higher minimum balances ($871) than banks in white neighborhoods do ($626). Unsurprisingly, 30 percent of black families are underserved by

[16] https://ncrc.org/60-black-homeownership-a-radical-goal-for-black-wealth-development/?mc_cid=0396e4156c&mc_eid=aedce0e2e8

[17] https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf Additional statistics include: (i) 2.1 million households are more than 90 days behind on their payments; (ii) roughly 263,000 families noted as being "seriously behind" on their mortgages (and not enrolled in forbearance plans) will have limited options to avoid foreclosure once relief programs end; and (iii) an estimated 8.8 million tenant households are behind on their rent, with 9 percent of renters reporting that they are likely to be evicted in the next two months.

[18] https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic

[19] https://www.federalreserve.gov/publications/2020-economic-well-being-of-us-households-in-2019-banking-and-credit.htm

their banks, and 17 percent are completely disconnected from the mainstream banking system because of a lack of assets and a lack of trust in financial institutions."[20] In addition, there aren't enough banks in neighborhoods of color. On average, there are 41 financial institutions in majority-white counties for every 100,000 people, compared to 27 in non-white majority neighborhoods.[21]

CRC's Promotora program works with hundreds of predominantly Latinx families. Responding to a survey from CRC, nearly all families reported taking out payday loans, which can carry Annual Percentage Rates (APRs) of 400 percent in California. Likewise, several respondents said they are afraid to open bank accounts or feel that banks treat them differently because they speak Spanish.[22]

While banks avoid serving communities of color in an act of modern-day redlining, high-cost lenders have targeted our communities in a predation model centered on selling cycles of debt and/or aggressive and possibly illegal debt collection practices. A report by the Lawyers Committee for Civil Rights on the geographic locations of high-cost loans in several states found evidence of higher concentrations of high-cost lenders in communities with high concentrations of low-income individuals/households, Black, Latinx, immigrants, and other people less likely to speak English.[23]

This model of aggressive debt collection practices, made worse by the pandemic, is exemplified by consumer finance lender Oportun. Oportun, which focuses its higher-cost lending products in Latinx and Latinx immigrant communities, has been the subject of media coverage for its **aggressive and abusive debt collection practices**,[24] as well as a recent CFPB Civil Investigative Demand.[25] The targeting of higher-cost products in Latinx communities is troubling and raises fair lending concerns. Late last year, Oportun applied for a national bank charter. CRC, along with its members and allies, joined the Center for Responsible Lending, to oppose this application.[26]

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[20] https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap

[21] https://www.reuters.com/article/us-usa-banks-race/african-americans-underserved-by-u-s-banks-study-idUSKCN1V3081

[22] California Reinvestment Coalition's Economic Health Promotora Program, internal survey on file, forthcoming.

[23] https://lawyerscommittee.org/wp-content/uploads/2019/05/Report-reviewing-research-on-payday-vehicle-title-and-high-cost-installment-loans.pdf

[24] https://www.propublica.org/article/how-we-found-out-how-many-debt-collection-lawsuits-oportun-inc-filed-during-the-pandemic and https://www.theguardian.com/us-news/2020/aug/02/oportun-loans-lawsuits-latino-small-claims-california

[25] https://investor.oportun.com/static-files/964d5453-0d80-48f8-acee-d2963ef78013

[26] https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/comment-occ-oportun-nationalbankcharter-22dec2020.pdf

Big Banks Doing Less while Making More

At the same time that financial institutions are failing to help customers in distress and engaging in abusive practices, they are also failing to lend to homeowners, small businesses, and consumers in need of credit. The biggest U.S. banks reduced the portion of their collective balance sheets dedicated to loans to a new low, extending a trend that's seen the largest lenders committing fewer resources to everyday borrowers. In 2020, loans from the country's 25 largest banks decreased over 1% from this time last year, and the share of total assets devoted to loans is the lowest in 36 years.[27] These loans include those backed by the US Small Business Administration. As Americans struggle to pay rent and mortgages, put food on the table, and face record high unemployment—all of which was especially true for BIPOC communities—banks were granting fewer loans to help small businesses and households.

Wealth Absorbs Harm: The Disproportionate Impact of COVID19

As noted wealth disparities amongst Black, Latinx, and white households have resulted from policies and practices that have predetermined our socio-economic status through generations. As our communities have lost income as the economy shut down in an attempt to save lives, the wealth disparities have caused devastating health and economic impacts. When a family member loses their job, they may be able to draw upon wealth from savings or equity in a home—if they have the ability to do so—in order to weather the financial storm. If they do not have wealth, the family may lose its home, forcing it to move in with another family or become homeless. In the middle of a pandemic, these are potentially devastating decisions and consequences.

Latinx people are suffering huge losses in employment due to COVID-19. We are two times more likely to contract COVID-19 than whites, and nearly three times more likely to die from it.[28] Latinx households, along with other communities of color, have also been disproportionately harmed by the economic fallout. We accounted for 23 percent of the initial job loss. Latinx women, in particular, have seen disproportionate economic impacts. Women accounted for 100 percent of U.S. job losses in December, with Hispanic or Latina

[27] https://www.bloomberg.com/news/articles/2021-02-08/biggest-u-s-banks-keep-lending-less-and-less-of-their-money

[28] The vaccination rate for Black Americans is half that of white people, and the gap for Hispanic people is even larger, according to a New York Times analysis of state-reported race and ethnicity information.https://www.nytimes.com/interactive/2021/03/05/us/vaccine-racial-disparities.html?campaign_id=57&emc=edit_ne_20210305&instance_id=27786&nl=evening-briefing&regi_id=67725718&segment_id=52894&te=1&user_id=07e15a8a40c0a0fa1e312f98282b9719

women alone accounting for 45 percent of that job loss.[29] An astonishing 92 percent of CRC Promotora participants have lost income or jobs due to the pandemic.[30] Black and Latinx renter households have been particularly and disproportionately impacted by the pandemic downturn, with 59 percent of Latinx and 53 percent of Black renter households reporting income losses since mid-March 2020—far higher than the 45 percent of white households.[31]

As COVID-19 disproportionately impacts Blacks and Latinx communities, banks are failing to help those in economic distress. A joint report by CRC and the San Francisco Office of Financial Empowerment, based on separate surveys of bank COVID-19 responses, found that banking relief was inconsistent, insufficiently transparent, and inadequate. After the release of our report, we called on banks and credit unions to work with local governments and consumer advocates and take bolder action to support account-holders, borrowers and their communities as a whole.[32]

Black and Latinx Small Businesses, Past Inequities Compound Harm

Small Business Majority reports that Black and Latinx small businesses are more likely to close their small businesses permanently over the next few months than white-owned small businesses (18 percent compared to 14 percent), and Black, Latinx, and Asian owned small businesses (32, 29, and 25 percent respectively) are more likely to lay off employees permanently than white-owned small businesses (14 percent). [33]

If wealth absorbs harm in preventing eviction and foreclosure, it also absorbs harm for small business owners in preventing business closures. Access to capital is the form in which a small business's ability to withstand a crisis is measured. BIPOC-owned small businesses have less capital due to historical inequities related to structural barriers put in place that have prevented homeownership for BIPOC for generations. Without equity to pull from an owned home, little savings or collateral, BIPOC small businesses are especially vulnerable. In addition, white businesses not only have five times the amount of equity as Black businesses, they also have 10 times the income.[34]

[29] https://www.americanprogress.org/issues/economy/reports/2021/03/05/496733/latinos-face-disproportionate-health-economic-impacts-covid-19/
[30] California Reinvestment Coalition's Economic Health Promotora Program, internal survey on file, forthcoming.
[31] https://www.jchs.harvard.edu/blog/black-and-hispanic-renters-face-greatest-threat-eviction-pandemic
[32] https://calreinvest.org/wp-content/uploads/2020/08/CRC-Banking-Relief-Report_Final.pdf
[33] https://smallbusinessmajority.org/our-research/small-businesses-continue-face-closures-2021
[34] https://www.yesmagazine.org/economy/2021/03/04/pandemic-black-hispanic-small-business/

Although federal recovery efforts were meant to help small business owners weather the economic impacts of COVID-19, they replicated past disparities by relying on a banking system that has yet to rectify the structural racism baked into its system. As a result, the Paycheck Protection Program (PPP), run primarily through banks, prioritized existing customers, which, as noted earlier, leaves a large part of the Black and Latinx population unbanked and underbanked. In the critical first round of loans, the PPP program reinforced the redlining patterns that have plagued past lending programs. The result was Black-owned small businesses received only 2 percent of PPP loans and Latino-owned businesses received 7 percent of PPP loans.[35]

The Brookings Institute found other devastating disparities in its analysis of US Treasury PPP lending data. On average, it took 31 days for small businesses with paid employees in majority-Black ZIP codes to receive a PPP loan, 7 days longer than small businesses in majority-white neighborhoods. For self-employed businesses, the loan delay between majority-Black and majority-white neighborhoods was nearly three weeks.[36] As a result of the lack of access to big banks, BIPOC-owned small businesses had to rely on online and fintech lenders, which often have less favorable repayment terms and interest rates and may be unregulated.

Similar disparities were found amongst Latinx owned small businesses. The UCLA Latino Policy & Politics Initiative and the Center for Neighborhood Knowledge study on disparities in PPP lending released in March of this year found that in LA County, predominantly Latino neighborhoods got $367 in PPP loan money per resident, compared to $666 per resident in white neighborhoods.[37] The same study found that although the Latinx population is the largest ethnic group in California, none of the majority-Latinx congressional districts in the state were in the top quintile of districts that received the greatest amount of PPP loan dollars.[38]

Some might ask what factors might result in these disparities. In addition to the lack of banks in communities of color, the resulting high rates of unbanked and underbanked in Black and Latinx communities, and the impact of generations of barriers to homeownership drive the disparities. And, there is discrimination. Matched-paired testing by NCRC found discrimination in lending in the PPP program also led to fewer loans being made to Black small business owners. They found significant disparities between Black and white small business borrowers with similar credit profiles. Findings included: Black borrowers experienced a difference in

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[35] https://www.businessofbusiness.com/articles/black-owned-businesses-received-less-than-2-of-ppp-loans-while-whites-received-83/

[36] https://www.brookings.edu/research/new-data-shows-small-businesses-in-communities-of-color-had-unequal-access-to-federal-covid-19-relief/

[37] https://www.latimes.com/california/story/2021-03-03/majority-white-areas-got-more-ppp-business-loan-money-than-latino-areas-ucla-study

[38] https://latino.ucla.edu/wp-content/uploads/2021/02/LPPI_PPP-Congressional-Analysis-Report_03.03.21.pdf

levels of encouragement in applying for a loan, a difference in the products offered, and a difference in the information provided by the bank representative.[39]

Dismantling White Supremacy: Changing Policies and Practices

We urge Congress, financial institutions, and regulators to aggressively pursue the following five anti-racist strategies:

1. Racial equity and sedition audits
2. Race conscious remedies and Special Purpose Credit Programs
3. A strong Community Reinvestment Act (CRA)
4. Housing security
5. Increased BIPOC small business ownership

1. Racial Equity Audits

We believe all financial institutions should be subject to periodic racial equity audits, given their ignoble and devastating history of systemic racism and the profound impact this has had on intergenerational wealth building for BIPOC communities. In this, we acknowledge, appreciate and hope to build on the great work of Color of Change, SEIU Change to Win[40], the National Community Reinvestment Coalition[41], and others.

Just as no investor, partner, regulator or customer would want to evaluate a financial institution without the benefit of relying on a financial audit, we believe the time has come for all bank stakeholders to demand and rely upon a racial equity audit to evaluate whether a bank is, in fact, doing more than just engaging in symbolic gestures like “taking a knee” and is actually “taking a stand” to right past wrongs.

Banks should be subject to scrutiny as to their policies and practices relating to:

- Board, executive leadership, management and staff diversity
- Contracting with BIPOC, women, veteran, disabled, and LGBTQ+ owned businesses
- The volume and impact of CRA lending and investment in neighborhoods of color
- The mitigation and reparation for discrimination and harm that has a disproportionate impact Black, Indigenous, and People of Color

[39] https://www.ncrc.org/lending-discrimination-within-the-paycheck-protection-program/
[40] https://ctwinvestmentgroup.com/racial-equity-audit#:~:text=In%20light%20of%20the%20protests,practices%20on%20non%2Dwhite%20stakeholders
[41] https://ncrc.org/wp-content/uploads/dlm_uploads/2020/09/RERI_FullFramework_FINAL-v6.pdf

- Policy matters, such as lobbying efforts at the federal, state, and local levels. Do banks' practices in their lobbying efforts advance racial equity or do they continue to widen the racial wealth gap? Are banks financing, doing business with, or supporting the political fortunes of those who encourage and give comfort to white supremacists.

2. *Race Conscious Remedies and Special Purpose Credit Programs*

To remedy race-conscious discrimination, redlining and abuse, we need race-conscious remedies. One important vehicle for doing so is the Special Purpose Credit Program, or SPCP. The Equal Credit Opportunity Act identifies SPCPs as a way to protect a broad array of programs "specifically designed to prefer members of economically disadvantaged classes" and "to increase access to the credit market by persons previously foreclosed from it."[42]

In December of 2020, the CFPB issued a helpful advisory opinion to clarify the requirements for SPCPs. It noted that, "in designing a special purpose credit program, a for-profit organization must determine that the program will benefit a class of persons who would otherwise be denied credit or would receive it on less favorable terms …For example, if need is determined in accordance with (the rule), a for-profit organization's written plan might identify a class of persons as minority residents of low-to moderate-income census tracts, residents of majority-Black census tracts, operators of small farms in rural counties, minority- or woman-owned small business owners, consumers with limited English proficiency, or residents living on tribal lands.[43] SPCPs related to housing can play an essential role in reducing discrimination and promoting residential integration,"[44] and can advance wealth building through the promotion of small business ownership in underserved communities of color.

Just this year, CRC was pleased to join NCRC in negotiating a $16 billion Community Benefits Agreement with First Citizens Bank as it seeks to acquire CIT Bank. First Citizens Bank agreed to honor the fair lending[45] and reinvestment commitments[46] made by CIT. In addition, First Citizens Bank agreed to additional measures, including a $5 million fund to subsidize BIPOC homeownership and to target these efforts, possibly through a

[42] Equal Credit Opportunity (Regulation B); Special Purpose Credit Programs (consumerfinance.gov) (citing S. Rept. 94-589, 94th Cong., 2nd Sess., at 7, reprinted in 1976 U.S.C.C.A.N. 403, 409. 6 See id.)
[43] Equal Credit Opportunity (Regulation B); Special Purpose Credit Programs (consumerfinance.gov)
[44] https://www.nclc.org/images/pdf/credit_reports/IB_SPCP_Credit_Scores.pdf.
[45] https://calreinvest.org/wp-content/uploads/2019/11/Community-Benefits-Plan-20191030-Rev-4.0.pdf
[46] https://calreinvest.org/wp-content/uploads/2019/11/Community-Benefits-Plan-20191030-Rev-4.0.pdf

special purpose credit program.[47] All banks should look to develop SPCPs to target needed products to underserved groups, including homeowners, small businesses and consumers of color.

3. *A Strong Community Reinvestment Act (CRA)*

We need a strong CRA to ensure people and communities have access to the financial mainstream and pathways to economic stability and wealth building. This impacts both housing security and small business ownership for BIPOC communities. In recent years, the Office of the Comptroller of the Currency has moved recklessly yet deliberately to gut the CRA rules. CRC joined NCRC and Democracy Forward in challenging that rulemaking process as arbitrary and contrary to law.[48] Whether through litigation or policy changes from the new Administration, the OCC CRA rule must go. We look forward to a new Comptroller being confirmed soon, and we support Chair Waters' proposed House Resolution of Disapproval on the OCC's Community Reinvestment Act Final Rule.

We appreciate that the Federal Reserve Board did not join the OCC in adopting its harmful rule, and we are hopeful that the Board's rulemaking process, begun with the recent Advanced Notice of Proposed Rulemaking, will allow the three banking regulatory agencies to come together in a unified way. But we urge the regulators to be more ambitious with the rulemaking to ensure that banks will begin to right the wrongs of the past and to provide redress. To that end, a strong CRA rule must adhere to the following principles:[49]

- Enshrine Race-conscious CRA[50]
- End CRA grade inflation and ensure greater reinvestment.
- Impose consequences for discrimination, displacement and harm caused.
- Expand scrutiny of financial services such as branches and bank accounts.
- Increase community participation, scrutiny of bank merger applications, and incentives for banks to enter into Community Benefits Agreements.
- Tie reinvestment obligations to bank presence and where banks seek to profit.
- Encourage reinvestment in poorly served areas like rural and Native American communities and investigate any failure to serve tribal lands for possible fair housing or fair lending violations.

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[47] https://calreinvest.org/press-release/first-citizens-bank-announces-16-billion-community-benefits-plan-with-ncrc/

[48] https://calreinvest.org/press-release/ruling-federal-court-rejects-trump-admins-effort-to-evade-accountability-for-unlawfully-gutting-anti-redlining-protections/

[49] To see CRC's comment letter on the Board's ANPR, visit: https://www.federalreserve.gov/SECRS/2021/February/20210225/R-1723/R-1723_021621_137935_444235610539_1.pdf

[50] See https://ncrc.org/civil-rights-fair-lending-and-consumer-rights-organizations-urge-a-more-race-conscious-cra/ and https://ncrc.org/the-federal-reserves-proposal-on-the-community-reinvestment-act-cra/

On the issue of a race-conscious CRA, this would seem a no-brainer. CRA came into being to directly address the racist history of redlining, but has been interpreted to focus only on income. To finally address redlining as was intended, CRA must take into account how banks are meeting the needs of their communities by evaluating how they are meeting credit and financial service needs by race and ethnicity, and by incorporating racial equity audits into the analysis.

Given the history of private commercial banks not adequately serving BIPOC communities, it is imperative that we pursue and support bold strategies such as the formation of public banks, including postal banking (Tlaib, Ocasio Cortez)[51], and public bank accounts as an alternative to Wall Street banks.[52]

4. *Strengthen Housing Security*

Financial institutions have always had an outsized influence on housing security, often pushing borrowers of color away from homeownership, and to high-cost lenders that make financial independence and housing stability a challenge. This makes it impossible for families to build intergenerational wealth. But this influence is magnified during the COVID-19 pandemic, when millions are at risk of losing their homes. A multi-pronged policy approach is needed to stabilize and nurture families at this time.

Preserve and Build BIPOC Homeownership

Homeownership remains the primary path to asset building and wealth for American families, and the homeownership gap between white residents and everyone else is a continuing travesty. Housing counseling and preservation funds, and strong loss mitigation protocols are needed to keep families, especially Latinx and BIPOC families, in their homes. All homeowners should have the right to seek forbearance until the pandemic is over, and be subject to reasonable, non-lump sum repayment upon expiration of the health emergency and the return of the economy. It makes no sense and is grossly unfair to condition forbearance protections on whether a borrower's lender sold their loan to the Government Sponsored Entities or the Federal Housing Administration. We know that borrowers of color have less access to mainstream lenders and may therefore be less likely to receive federally backed loans – another example of harm upon harm for BIPOC residents. And even where protections are in place, we must ensure the rules are followed.

[51] https://tlaib.house.gov/tlaib-aoc-public-banking-act

[52] CRC, the California Public Bank Alliance and SEIU are co-sponsoring AB 1177 (Santiago) in the California Legislature, available at: https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1177

During the last crisis, housing counselors in California continually confirmed that loan servicers were not following the rules. Congress should expand, and the CFPB should vigorously enforce, homeowner protections. And we must do more to dramatically expand BIPOC homeownership. CRC supports bills to provide targeted funding for down payment assistance to support first-time homebuyers, especially those historically excluded from homeownership opportunities, as well as bills that would address discrimination in appraisals of homes in communities of color and owned by people of color.

Protect Tenants and Mom and Pop Landlords

As noted above, over eight million renter households are fearful of eviction. This is a national crisis. As families face difficulty making rental payments, large unscrupulous landlords are moving to clear them out whatever it takes, as the ranks of the homeless population grow.

Renters need stronger protections, including a tightening of the CDC eviction "moratorium." The most impactful form of relief Congress can provide is to cancel rent for all who struggle through absolutely no fault of their own. At the same time, mom and pop landlords should be supported as well so they can weather this crisis, including by expanding forbearance and post forbearance protections for them.

Protect Our Neighborhoods from Corporate Speculators

Despite all of the moratoria, evictions and foreclosures are happening and increasing. As with the foreclosure crisis, our priority should be to keep people in their homes. But we cannot ignore the lessons of the past and fail to put in place mechanisms to ensure that the inevitable foreclosures that will occur will not unnecessarily displace tenant occupants or remove properties from community control.

Federal agencies and banks should develop policies that prioritize home preservation, but where foreclosure cannot be avoided, they should favor property donations or discounted sales to Community Land Trusts and nonprofit affordable housing developers. California has created a right to purchase foreclosure properties at auction for tenants and community land trust that match high bids by investors.[53] CRC is also co-sponsoring a bill, AB 1199 (Gipson)[54] that will require Limited Liability Corporations and similar corporate entities to disclose who the beneficial owners of properties are,[55] and impose a tax on large corporate landlords that could

[53] https://calreinvest.org/press-release/governor-newsom-signs-sweeping-housing-foreclosure-bill-prevent-private-equity-firms-from-gobbling-up-foreclosed-properties/
[54] https://calreinvest.org/press-release/ab-1199-creates-opportunities-first-time-homebuyers/
[55] See https://www.latimes.com/opinion/story/2021-02-24/rental-housing-shell-companies-landlord

discourage large investors from snatching homes away from families, as well as support homeownership education and counseling, tenant protection, and affordable housing.[56]

To Fight Discrimination and Redlining, Enhance Transparency

The Home Mortgage Disclosure Act (HMDA) remains a critical tool for fighting mortgage discrimination. Yet Congress and the CFPB under the past Administration[57] rolled back HMDA's coverage, delivering a blow to anti-discrimination efforts as well as rural communities where small lenders can be prominent. HMDA coverage should be expanded back to 2015 reporting thresholds to achieve HMDA's statutory goals of identifying whether discrimination is occurring, identifying housing needs, and helping local governments allocate resources. CRC strongly supports the Home Loan Quality Transparency Act (Velazquez) to reverse the rollback of the Home Mortgage Disclosure Act so that financial institutions provide adequate data on loans to minority borrowers.

Protect Immigrant and LEP Families

California is home to millions of immigrant families. And these families are often the most victimized, as predators take advantage of limited English proficiency to scam working families by promising one thing in one language, and delivering another in English only contracts. All manner of hardships are more acutely felt by LEP consumers. CRC strongly supports any bill to promote language access in mortgage servicing by requiring federal housing agencies to put forward requirements for mortgage servicers to identify borrowers who need language assistance. CRC also strongly supports the LEP Data Acquisition in Mortgage Lending Act (Green) that would require Fannie Mae and Freddie Mac to include a preferred language question in the Uniform Residential Loan Application.

Fair Housing and Fair Lending

To fight discrimination effectively, we need strong fair housing and fair lending enforcement by CFPB, HUD, DOJ and the banking agencies, utilizing disparate impact analysis. We lament that over the last few years, federal agencies moved to gut anti-discrimination rules, weaken the role of internal fair housing and fair lending enforcement teams, and decreased the number of discrimination-related claims referred and brought. And yet, we know discrimination and redlining have persisted, if not worsened. CRC filed a redlining complaint

[56] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1199

[57] https://ncrc.org/ncrc-local-groups-and-city-of-toledo-sue-cfpb-to-overturn-rule-that-undermines-detection-of-discrimination-in-mortgage-lending/

with HUD in 2017 against OneWest/CIT for failure to locate branches and make mortgages in neighborhoods of color. Over a several-year period, we found that OneWest/CIT was 9x as likely to foreclosure in neighborhoods of color as make a home loan. During this time, OneWest/CIT received Satisfactory CRA ratings. In 2019, we were pleased to settle this case.[58] But, we cannot allow banks to redline communities. And when they do, we certainly cannot then give them passing CRA reinvestment grades.

CRC strongly supports a Resolution of Disapproval on HUD's Disparate Impact Rule (85 FR 60288) to nullify HUD's final Disparate Impact Rule (85 FR 60288) under the Fair Housing Act. . And CRC strongly supports a Resolution of Disapproval on HUD's Preserving Community and Neighborhood Choice Rule (85 FR 47899) to nullify HUD's final Affirmatively Furthering Fair Housing rule (85 FR 47899) under the Fair Housing Act.

Strengthen BIPOC Small Business Ownership

In 2020, CRC settled[59] a lawsuit against the CFPB for failing to implement Section 1071 of the Dodd-Frank Act, which requires the Bureau to collect and disclose data on lending to BIPOC- and women-owned businesses. The settlement will result in the development of a proposed rule this year. The Section 1071 rule should require that CFPB make all data available to the public and:

- Cover all financial institutions (Banks of all sizes, community banks, credit unions, Merchant Cash Advance, credit card banks, non-bank online lenders, etc.)
- Define a small business as one with a maximum of 500 employees for manufacturing and wholesale industries, and a maximum of $8 million in gross annual revenue for all other industries, in order to capture the greatest number of small business credit applications. Note that it is critically important that data fields be created to allow for analysis looking at smaller buckets of small businesses based on gross revenue, number of employees, etc., such as businesses with revenue of $1 million or less or receiving loans of $1 million or less
- Capture all loan sizes and loan types (credit cards, lines of credit, etc.), repayment terms, collateral required,
- Require detailed and disaggregated data collection for factors such as pricing (APR) credit score (FICO) and underwriting (Reasons for Denial)
- Disaggregate race and ethnicity data for Asian and Latinx borrowers, as with HMDA

[58] https://calreinvest.org/wp-content/uploads/2019/07/CRC-v-CIT-CONCILIATION-AGREEMENT-07.26.19.pdf
[59] https://calreinvest.org/press-release/breaking-lawsuit-compels-trump-administration-to-commit-to-finalizing-protections-against-lending-discrimination/

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- Include actions taken, such as applications, denials, originations, applications withdrawn, etc., by race and ethnicity

Conclusion

In conclusion, BIPOC communities have long been victimized by the exclusionary, exploitative and discriminatory practices of our financial system. I have seen firsthand the devastation wrought by both financial abuse and neglect. The struggle for financial security has been worsened by this pandemic. Even with the rollout of a vaccine that promises recovery, BIPOC communities know distribution will be uneven and that it will be just a matter of time before we once again bear the brunt of the harm. We must end the cycle of compounding racial harm perpetuated by the financial system where every indignity and offense exacerbates pre-existing indignities and offenses. It's time to take a stand.

Thank you for this invitation and your consideration of my views.