Hearing Title:

Modern-Day Redlining: The Burden on Underbanked and Excluded Communities in New York

Written Testimony

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Mr. Chairman, Ranking Member, and Honorable Members of the Subcommittee, thank you for the opportunity to provide this written testimony on the topic of modern-day redlining.

My name is Noel Andrés Poyo. I am the Executive Director of NALCAB – National Association for Latino Community Asset Builders. I have more than twenty years of experience in residential real estate and neighborhood economic development. I have played diverse roles in the implementation of projects valued over $1 billion. From 2015-2017, I advised Chair Yellen and the Board of Governors of the Federal Reserve as one of fifteen members of the Fed's Community Advisory Council. I currently advise executive leadership at some of nation's largest banks as a member of their respective Community Advisory Boards. I am also proud to serve on the Board of Directors of the Center for Responsible Lending, the nation's leading research and advocacy organization focused on combating predatory lending.

NALCAB is a national non-profit organization with a mission to strengthen the economy by advancing economic mobility in Latino communities. NALCAB is the hub of a network of more than 120 mission-driven organizations, in both urban and rural communities, in 40 states and DC that build affordable housing, address gentrification, support small business growth, and provide financial counseling on issues such as credit building and homeownership. Our vision is to dramatically scale the flow of public and private sector capital that responsibly meets the asset building needs and opportunities in the communities and families we serve. Stated another way, we seek to reverse redlining. As a grant maker and a US Treasury CDFI certified lender, we achieve our mission and vision by strengthening and coordinating the capacity of our Network members to leverage and deploy capital; and, by informing investors and policy makers with research, advocacy and technical advice.

Redlining is systemic, place-based discrimination in lending that limits the asset building opportunities, and ultimately economic mobility, of people of color. While we typically talk about redlining as it has been practiced in the mortgage lending and insurance markets, redlining can be seen in business lending, auto and consumer lending and the location of bank branches. The practice of redlining has a long history in our nation and it continues today. These facts are well established by the expert testimony of my colleagues on this panel, by the outstanding journalism from the Center for Investigative Reporting and Newsday highlighted by this hearing, by an enormous body of other extant journalism and research and by the evidence I receive, all too regularly, from the national NALCAB Network. I would therefore like to use my time before you today to offer a perspective on how to best understand the impact of redlining and to discuss solutions.

To fully understand redlining, we must examine individual instances of discrimination, we must analyze patterns across metro areas and regions and we must also consider the macroeconomic implications. It is this broadest perspective that I would like to unpack for a moment.

It is important for us to recognize that the future strength and competitiveness of the US economy relies on achieving far broader financial inclusion. Consider that Hispanics have significantly fewer assets, lower income and strikingly less access to credit than the non-Hispanic White population, but Hispanics make up 18% of the population and are projected by the Census to make up 28% of the

US population in 2060. It is a pressing macroeconomic concern that such a large, fast growing and young segment of our nation's population is struggling to rebuild wealth in the post-recession era. This is the same reality for African Americans, for significant segments of the Asian Pacific-American population, for many working class Whites and for many residents of rural and tribal communities, among others. Failure to address this challenge across diverse demographic segments and geographic regions will cost the United States in terms of economic growth and global economic competitiveness. This is not a Latino thing, or rural thing, or an African American thing, this is about the future of US economy. We are all in this together.

The solution to this pressing macroeconomic challenge can be found in the very communities that are not well served by our financial system today. Black business owners… Latino homebuyers… a kid from a working class rural community pursuing a college education… our people are good investments and they represent the economic future of our nation. NALCAB highlights this idea with the hashtag #LatinoEconomicEngine. In order to make good on this opportunity, to make our nation's economic engine truly hum, we need a financial system that provides fair access to responsible capital that can fuel asset building opportunities in our diverse communities.

An inclusive financial system is particularly necessary for the rest of our economy to function properly. When people do not have fair access to mainstream financial products and services, they tend to be less economically productive and experience less economic mobility. Said another way, they are less likely to share in the American Dream. Redlining and other forms of financial discrimination are market distortions, an insidious form of financial inefficiency, that threaten this nation's economic future.

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So what do we need to ensure an inclusive financial services marketplace? Any discussion of a financial system that works for everyone, must begin with issues of safety and soundness. As we saw in the foreclosure crisis that led to the Great Recession, when the financial system has a major shock, it is low income people and people of color who are hit first and hardest. That being recognized, I will leave aside our regulatory structure for ensuring the safety and soundness of our financial system for another hearing on another day.

I would like to focus on four key principles for an inclusive financial services marketplace that directly relate to policy issues that are currently being considered by federal agencies.

- ***Ensure transparency***: Transparency can be a powerful antidote to discrimination. Investigations by federal agencies such as the Consumer Financial Protection Bureau (CFPB), the Securities and Exchange Commission (SEC) and US Department of Housing and Urban Development (US HUD) shed sunshine on discriminatory behavior in financial and real estate markets. In the absence of vigorous investigation by federal agencies, investigative journalism like that highlighted by this hearing reveals unsavory practices that would have otherwise gone unnoticed. In addition to investigations, it is critical to have publicly available data on lending markets so that analysis can be conducted to determine where there may be insufficient access to capital and/or discriminatory practices. A national data set on mortgage applications and loans is collected by the CFPB as required by the Home Mortgage Disclosure Act of 1975. Recently, NALCAB joined Democracy Forward and the California Reinvestment Coalition in taking action in federal court to compel the CFPB to implement the directive of Congress, established in Section 1071 of the Dodd Frank Act, to collect data on small business lending in order to provide greater transparency into that market. On a separate matter, it is deeply concerning that attacks on the doctrine of disparate impact are designed to undermine our ability to demonstrate in the courts how discriminatory behavior impacts the marketplace. Limiting the availability of data about the market and the accepted methods for analyzing that data amounts to closing our eyes and plugging our ears and shouting that there is no discrimination because we cannot see or hear it. In the end, transparency is not useful if bad actors can get away with irresponsible behavior in broad daylight – which brings me to the second principle.

- *Establish and enforce clear norms for responsible lending*: Predatory lenders typically take advantage of low and moderate income consumers that have limited information about what is available in the market, or who are faced with an emergency. Predatory loan products are designed to strip income and assets from the consumer with hidden fees and debt traps. Predatory lending is often discriminatory because the loan shark offers higher rates and worse terms based on race, ethnicity, gender, and language among other factors. While we appropriately think of payday and auto title loans as predatory products, it is important to remember that overdraft fees and other practices that are widely deployed in the mainstream banking industry also constitute predatory lending.

  I am a great believer in the power of free markets to do good. Too often, however, the idea of a free market is confused with the idea of a market without rules or regulations. Predatory lending is often more profitable because it involves cutting corners and gouging consumers. The absence of reasonable regulation that sets a floor on unfair lending practices creates financial pressure on all lenders in the market to race to the lowest common denominator. When we allow predatory behavior to be a "competitive advantage" in banking and financial services, we allow unscrupulous market actors to set the norms and lead the market, creating pressure on otherwise responsible lenders to cut corners in order to remain financially competitive.

  To this end, it is deeply disturbing that the CFPB is in the process of rolling back the payday and auto title rule that was put in place in 2017 to curb the worst behavior in that market. Further, just as the Credit Card Act helped to clean up the worst practices in credit card lending, we need to address overdraft and a range of predatory practices in mainstream banking. We also need increased scrutiny on the most egregious marketing practices that aim to deceive and confuse consumers.

- *Support innovation and recognize responsible lending*: Shaping an efficient and dynamic financial services marketplace requires more than investigations and policing. We must support innovation and laud responsible lending. Supporting innovation can reasonably include creating limited regulatory safe harbors in which products and lending algorithms can be piloted and analyzed before they are deployed widely. It is a false narrative, however, to blur the lines between market innovation and predatory lending.

Public report cards are important for helping consumers to differentiate between responsible lenders and the sharks in the water, including those developed by government agencies as well as by reputable, independent, non-governmental organizations that are not funded by industry.

I believe that there are still many honorable bankers who want to strengthen our economy by responsibly supporting greater inclusion in our financial system. We need to hear more from them. We also need to do more to define and strengthen business ethics in financial services companies and in business schools. A system built on the idea that "anything goes" to achieve the highest quarterly profits is a system doomed to collapse.

- *Invest in robust systems for community development and impact investing*: One size does not fit all when it comes to effective solutions for expanding financial inclusion in the diverse communities of our nation. We need institutions that can implement local and culturally relevant solutions, including Community Development Financial Institutions (CDFIs) and Minority Depository Institutions as well as community and economic development entities that develop affordable housing and support small business growth. Our nation's community development movement serves as an on ramp to the highway of our mainstream economy. As a part of the banking industry's overall efforts to meet credit needs in the communities they serve, they should invest in community development organizations and MDIs that support low and moderate income consumers to fully participate in, and benefit from, our financial system - be it by securing a mortgage or a business loan or by building savings.

  It should also be a priority to continue to develop the regulatory framework for incentivizing socially motivated impact investing. A highest level focus should be placed on developing standards that differentiate between investments that achieve a legitimate social purpose and those that are deceptively marketed as "socially motivated."

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The single most important policy related to this discussion is the Community Reinvestment Act (CRA). The CRA is the centerpiece of our nation's regulatory framework for ensuring an inclusive financial services marketplace. It was established as a direct response to redlining. In an economy that is characterized by enormous disparities in wealth that correlate strongly to race, ethnicity and geography, and in the wake of a tax reform that produced windfall profits for banks and their high wealth investors, the CRA is needed more than ever.

The CRA implements the principles that I have just described. It provides transparency by requiring standardized reporting of data, which is then made available to the public. It sets clear norms for responsible banking. The CRA is, primarily, an incentive based regulation, which recognizes banks for strong performance. Only the most irresponsible actors suffer any real business consequences under the current CRA structure. The CRA encourages investment in community development activities and it is the backbone of the community development finance system.

Any attempt to undo or undermine the CRA strikes at the very heart of our economic potential as a nation. This is precisely what the proposed rulemaking advanced by the Comptroller of the Currency would do. I submitted written testimony to this Subcommittee in early January in which I detailed the numerous and egregious ways in which this poorly conceived and rushed regulatory proposal will effectively gut the CRA. The overall effect of Mr. Otting's proposal is to lower the bar for banks to meet their community reinvestment obligations. Indeed, it goes so far that recent reporting published in Politico has revealed that responsible leaders in the banking industry are uncomfortable with Mr. Otting's radical approach.

The CRA is working today. Full stop. In a time of such dramatic disparities in wealth and access to capital, we also have the obligation to implement reforms to the CRA that focus on more effectively meeting the credit needs of our nation's diverse communities in the context of today's banking sector. The highest-level principle for CRA modernization must be to put the credit needs of low and moderate income people and communities of color first.

We have a better way forward on CRA modernization. Based on more than a decade of work by Federal Reserve Governors and staff and wide-ranging public input around the concept of CRA reform, Fed Governor Lael Brainard made a speech on January 8, 2020, building on previous speeches, that reflects a balance of input from industry and community-serving organizations. The OCC NPR should be measured against the Federal Reserve's approach as presented by Governor Brainard.

Thank you for the opportunity to present this testimony.

Respectfully submitted.