

# National Children's Facilities Network

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August 5, 2022

Board of Governors of the Federal Reserve System  
Federal Deposit Insurance Corporation  
Office of the Comptroller of the Currency

Re: Docket ID OCC-2022-0002; Docket No. R-1769; RIN 7100-AG29; RIN 3064-AF81

To Whom It May Concern:

The National Children's Facilities Network (NCFN) is pleased to respond to the proposed rule on the Community Reinvestment Act (CRA) issued by the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Board), and the Office of the Comptroller of the Currency (OCC) (together, 'the agencies').

NCFN is a coalition of more than 70 nonprofit financial and technical assistance intermediaries and other interested stakeholders involved in planning, developing, and financing for high-quality early childhood care and education (ECE) facilities and business models particularly in areas that have the least access to high-quality ECE and the highest concentrations of poverty. The members of the Network increase supply and help improve the quality of ECE by providing technical assistance and financing to address capital needs. NCFN also works to generate public, private, and philanthropic resources that support the development and improvement of early childhood facilities in underserved communities nationwide and collaborates with other children's advocacy leaders concerned with addressing the supply and quality of early childhood facilities across the country.

Access to high-quality, affordable ECE is a major challenge across the country and is recognized as a community development priority. However, CRA has historically placed very little emphasis on the ECE sector, despite it cutting across multiple levels of impact: many ECE providers are small businesses that lack access to capital, making bank support particularly impactful for a sector with limited financial options; parents that have access to quality child care options are better able to gain and maintain employment, which is a stated goal throughout the proposed CRA rule; and children who have access to quality ECE opportunities have improved socioemotional development and higher lifetime earnings, a clear metric of success for revitalization activities.

NCFN members have a unique vantage point as experts across both the financial services industry and the ECE sector. We strongly believe that there are tremendous opportunities to further strengthen CRA's ability to support the capital and business capacity needs of ECE providers, many of whom are low- or moderate-income (LMI) themselves. Research from the Federal Reserve Bank of Minneapolis also suggests that CRA presents an opportunity to strengthen the connection between ECE providers and banks.<sup>1</sup> We are pleased to offer our perspective on this proposed rule and share tangible suggestions to meaningfully enhance CRA's focus on an underserved yet tremendously valuable and impactful sector.

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<sup>1</sup> Rob Grunewald and Ben Horowitz, January 2021, *How early care and education intersects with the CRA*, <https://www.minneapolisfed.org/article/2021/how-early-care-and-education-intersects-with-the-cra>

## The Connection Between CRA and ECE

The absence of bank support within the ECE sector is disappointing, particularly given the numerous overlapping benefits between ECE and CRA. The ECE sector is unique in that it overlaps between both the small business and the community development components of CRA. The fact that there is so much opportunity for community impact makes it even more disappointing that banks have largely been absent from the ECE sector. Fortunately, the proposed CRA rule is an opportunity to address this blind spot in current CRA regulations and motivate more bank activity in partnership with the ECE sector.

### Small Business

Traditional financial institutions rarely invest directly in child care businesses. Research commissioned by NCFN and published in January 2022 found that most child care providers are small businesses, with 41% having fewer than five employees and many establishments organized as sole proprietorships.<sup>2</sup> Many small businesses face challenges during the startup and growth phase – including raising startup capital – and these challenges are magnified for ECE businesses due to the difficult economics of the child care industry. Operating an ECE program is expensive – it is a labor-intensive sector with numerous regulations to protect children and longer hours than traditional workplaces and infrastructure needs that are greater than most businesses and unique to serving young children. As a result, ECE providers tend to operate at exceptionally thin margins, leaving very little room to concurrently pay for program expenses, support debt on the property, compensate teachers at a livable wage, or acquire, develop, or renovate facilities. Even ECE providers that access government contracts operate on unsustainable margins since these subsidies do not cover the full cost of caring for children.

In addition to the financial barriers, there are institutional barriers unique to women entrepreneurs and people of color that also impede greater bank attention towards the ECE sector. Today, more than 96.5% of child care business owners are women and more than half of child care businesses are BIPOC-owned.<sup>3</sup> The employees of ECE businesses reflect the demographics of their owners and are directly affected by under-resourcing. These entrepreneurs are incredibly innovative and industrious despite facing decades of systemic underinvestment and discrimination that has left many ECE professionals at a disadvantage, with limited resources for business operations, and systemic barriers to accessing traditional financing support from lenders.

As a result, many child care businesses do not satisfy traditional underwriting criteria, resulting in mounting capital needs. CRA rules can and should motivate the financial sector to respond to the pressing business capital needs within the ECE industry. For example, the agencies could classify bank support for ECE small businesses – such as lines of capital or working credit – as activities that are particularly responsive to community needs within the proposed Retail Products and Services Test. Grant support to ECE businesses should be considered especially responsive to these business' credit needs given the deep inequities already impacting this sector.

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<sup>2</sup> Jacob Rosch et al., January 2022, “Capitalizing Child Care: The National Landscape of Grants, Loans, and Community Development Capital in Early Childhood Education,” <https://www.ncfn.org/capitalizing-child-care>

<sup>3</sup> Heather Boushey, Lisa Barrow, Gopi Shah Goda, Victoria Lee, Anna Pasnau, and Sarah Wheaton, “Care Businesses: A Model that Doesn’t Work for Providers, Workers, or Families,” April 8, 2022, <https://www.whitehouse.gov/cea/written-materials/2022/04/08/care-businesses-a-model-that-doesnt-work-for-providers-workers-or-families>

### Community Development Activities

Child care also plays an essential role in the community development sector. Nearly half of center-based child care programs are nonprofits or affiliated with schools or other government entities, making them ineligible for federal small business lending programs. These nonprofit and affiliated models also struggle to access capital to support program expenses, rent or lease payments, and workforce compensation. Many ECE operators instead rely on support from mission-oriented lenders like CDFIs for financial support. CDFIs can offer products and services that are not otherwise available to child care providers, such as flexible financing -- i.e., no-interest or forgivable loans -- that allow providers to grow their business and serve more families. CDFIs also have experience administering capital dollars efficiently and effectively and can leverage additional funding to amplify the impact of any federal dollars invested in child care facilities.

There are many opportunities for CRA to better emphasize ECE as an essential element of the community development finance ecosystem and incorporate ECE as a meaningful component of a bank's CRA examination. For example, the agencies could add activities that support increasing the supply of high-quality, affordable ECE facilities as an impact review factor, and incorporate affordable housing that co-locates onsite ECE programs as an eligible revitalization activity. CDFIs should be key partners in this effort given our track record serving the ECE sector and our knowledge of the opportunities and challenges that many ECE providers face.

### **Supporting ECE in the Proposed CRA Rule**

As noted above, there are several important opportunities to embed ECE more directly across CRA. However, the success of those efforts is dependent on an overall CRA rating structure that incentivizes community development activities as an important part of the overall test, as well as retains a strong emphasis on equity investments and grant contributions. The proposed rule makes a major structural shift by combining community development loans (debt) and investments (equity) under one Community Development Financing Test. This removes the longstanding precedent where equity investments comprise 25% of a bank's overall CRA rating. Equity investments can be costlier and more time-consuming activities than loans but are also a critical form of capital in the community development finance ecosystem that must be intentionally retained.

NCFN members are concerned that the absence of an investment test means there is no mandate for banks to engage in community development equity investments. This includes grants, which are critical to the ECE sector since the majority of providers rely on relatively small grants that are tailored specifically to their needs and significant technical assistance from CDFIs or other community partners to access capital. It also includes community development tax credits like the NMTC and LIHTC, which have demonstrated promising benefits for ECE providers -- NMTC as a direct source of support for ECE facilities and LIHTC as an avenue to encourage co-location of affordable housing and child care.

Recognizing the major structural shift that the agencies are proposing by eliminating the existing investment test, NCFN recommends that the agencies evenly weight the community development and retail portions at 50% each of a bank's overall exam, and that the new Community Development Test incorporate a minimum requirement for equity investments to ensure ongoing support at a level at least commensurate with historical amounts.

## NCFN Comments

***Question 15.** How should the proposals for place-based definitions focus on benefitting residents in targeted census tracts and also ensure that the activities benefit low- or moderate- income residents? How should considerations about whether an activity would displace or exclude low- or moderate-income residents be reflected in the proposed definitions?*

NCFN recommends that the agencies ensure high-quality early care and education (ECE) facilities are incorporated as an essential element of place-based activities. Access to affordable child care allows parents to reliably participate in the workforce, improves child health and development, and can foster a gathering place where neighborhood families build community. However, across the country there is a severe shortage of affordable, accessible, and high-quality places for families to access reliable care – with low-income families being disproportionately likely to live in an area without access to child care.<sup>4</sup> Increasing low- and moderate-income residents’ access to affordable child care should be a core element of place-based activities.

***QUESTION 16.** Should the agencies include certain housing activities as eligible revitalization activities? If so, should housing activities be considered in all, or only certain, targeted geographies, and should there be additional eligibility requirements for these activities?*

NCFN encourages the agencies to include housing developments that have onsite or co-located early care and education programs as eligible revitalization activities in all geographies. High housing and child care costs are two of the primary challenges facing today’s working parents and impeding access to stability and opportunity, but these issues are often approached from separate silos. Providing these two resources in the same location has a host of benefits for the community and can help put families on a path to multigenerational economic mobility by improving socioemotional development for children and increasing workforce participation for parents who have reliable care for their children while at work.<sup>5</sup>

***QUESTION 34.** For the proposed impact review factors for activities serving geographic areas with high community development needs, should the agencies include persistent poverty counties, high poverty census tracts, or areas with low levels of community development financing? Should all geographic designations be included or some combination? What considerations should the agencies take in defining these categories and updating a list of geographies for these categories?*

NCFN supports the impact review factors and believes they will be essential to the proposed rule’s overall effectiveness. We particularly support the proposed factor emphasizing grant contributions, which are essential to supporting the ECE sector.

NCFN members recommend adding a specific impact review factor for activities that support increasing the supply of high-quality, affordable ECE facilities – both center-based and home-based ECE programs. There is a severe shortage of affordable child care spaces across the country, which has compounding

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<sup>4</sup> Center for American Progress, “U.S. Child Care Deserts,” <https://childcaresdeserts.org/>

<sup>5</sup> Scott, Marnagee, “In Their Own Words: How Co-location Strategies Support High-Quality Child Care and Strong Communities,” November 3, 2021, <https://www.liifund.org/justgoodcapital/2021/11/03/how-co-location-strategies-support-strong-communities/>

consequences for family stability, parent economic opportunity, and child health and development.<sup>6</sup> Communities cannot thrive without access to affordable ECE options, and banks have an important role to help finance this important community asset.

NCFN members also recommend adding an impact review factor for community development equity investments, which have proven to be an important and growing source of support for the ECE sector. For example, the New Markets Tax Credit (NMTC) has been used to directly support the development and operation of child care facilities and programs, and the Low Income Housing Tax Credit has been used to co-locate child care in affordable housing developments, a promising model that combines two critical community assets.

***QUESTION 35.*** *For the proposed factor focused on activities supporting MDIs, WDIs, LICUs, and Treasury Department-certified CDFIs, should the factor exclude placements of short-term deposits, and should any other activities be excluded? Should the criterion specifically emphasize equity investments, long-term debt financing, donations, and services, and should other activities be emphasized?*

NCFN supports the proposed factor focused on activities supporting MDIs, WDIs, LICUs, and Treasury Department-certified CDFIs. We do not believe any activities should be excluded from receiving credit, but we do support identifying highly impactful forms of financial support – like equity investments, long-term debt financing, and grant contributions – as particularly responsive to the needs of MDIs, WDIs, LICUs, and CDFIs. NCFN also recommends that the agencies include any wholly owned subsidiaries of CDFIs, MDIs, WDIs and LICUs, as well as LLPs and other funds managed by these entities, in this definition.

***Question 36.*** *Which of the thresholds discussed would be appropriate to classify smaller businesses and farms for the impact review factor relating to community development activities that support smaller businesses and farms: the proposed standard of gross annual revenue of \$250,000 or less, or an alternative gross annual revenue threshold of \$100,000 or less, or \$500,000 or less?*

NCFN supports the proposed standard of \$250,000 in gross annual revenue. Many home-based family child care providers would qualify as a small business under this threshold. These child care providers serve an essential function in their community, providing a safe and nurturing environment for children to learn and grow while their parents have peace of mind that their children are safe and cared for while at work.<sup>7</sup> LIIF supports this proposed threshold since it would incorporate many family child care businesses as an impact review factor, which is warranted given their outsized benefit for families.

***QUESTION 55.*** *The agencies request feedback on the proposed performance context factors in § .21(e). Are there other ways to bring greater clarity to the use of performance context factors as applied to different performance tests?*

NCFN supports the proposed approach to establish a specific mechanism seeking input about needs and conditions across localities. We recommend including specific feedback from the community about the

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<sup>6</sup> Linda Smith, Anubhav Bagley, and Ben Walters, October 26, 2020, “Child Care in 35 States: What we know and don’t know,” <https://bipartisanpolicy.org/report/child-care-gap/>

<sup>7</sup> National Children’s Facilities Network and Mission Driven Finance, “Child Care Next Door: Investing in Child Care Homes as Infrastructure,” 2021, <https://www.ncfn.org/child-care-next-door>

most pressing local needs and the types of financing being provided (or not provided) by banks. This information, which incorporates feedback directly from the public, will help determine the most useful performance context information. NCFN is also pleased that the agencies are contemplating making demographic and economic information about localities available to banks and the public. We recommend that the agencies incorporate a measure of availability and affordability of child care facilities as an important measure of the local context. Child care is one of the primary costs impacting family finances, and the lack of affordability combined with a lack of supply of child care facilities is a major barrier preventing parent workforce participation as well as child health and development.

Performance context data will be particularly relevant when working to meaningfully incorporate impact review factors in a bank's rating. For example, the agencies could look for bank activity that specifically seeks to address one or more of the local priorities illuminated by performance context data, such as financing a new child care facility in a community where parents are unable to access quality care because it is either unavailable or unaffordable. A bank that focuses on one or more of these proven areas of need could receive additional impact review or other qualitative considerations.

***QUESTION 139.** The agencies request feedback on whether it would be more appropriate to weight retail lending activity 60 percent and community development activity 40 percent in deriving the overall rating at the state, multistate MSA or institution level for an intermediate bank in order to maintain the CRA's focus on meeting community credit needs through small business loans, small farm loans, and home mortgage loans.*

NCFN strongly recommends evenly weighting each the Community Development Test and the Retail Lending Test at 50% of the overall rating. The proposed rule suggests that if a bank does not receive an Outstanding conclusion on its Retail Test, the bank cannot receive an Outstanding rating overall. This is a function of the weighting between the Retail Test (60%) and the Community Development Test (40%) and the proposed conclusion and rating point system. However, according to table 9 in the proposed rule (p. 251), none of the 44 largest banks would currently receive an Outstanding conclusion for the Retail Test. If an Outstanding rating is virtually unattainable, it is possible that banks will instead have incentive to only aim for a Satisfactory Retail Test conclusion, and thus a Satisfactory rating overall. As proposed, a bank could achieve a Satisfactory rating with even a Needs to Improve conclusion on the Community Development Test. If a portion – or majority – of banks aim for a Satisfactory rating, the result could be severely diminished appetite to engage in community development for the purpose of the CRA examination. Greater emphasis on the Community Development Test would allow banks one more option for achieving an Outstanding rating and would motivate banks to excel on both tests considering their even impact on the overall rating.

Thank you for the opportunity to comment on this proposed rule. Please feel free to contact Nicole Barcliff, LISC Policy Director and NCFN Co-Chair ([nbarcliff@lisc.org](mailto:nbarcliff@lisc.org), 202-739-9296) or Angie Garling, LIIF Vice President of ECE and NCFN Co-Chair ([agarling@liifund.org](mailto:agarling@liifund.org), 415-489-6116 Ext 316) with any questions.

Sincerely,

National Children's Facilities Network