



## **ACKNOWLEDGEMENTS**

The author thanks all of the people and organizations that helped with this report, including the Surdna Foundation, Ford Foundation, Citi, Fifth Third Bank, and Northern Trust, and the partners in this project, California Reinvestment Coalition, Main Street Alliance, People's Action Institute, and Woodstock Institute. I greatly appreciate the time and effort that numerous readers, including Brent Adams, Beverly Berryhill, Dory Rand, Kevin Stein, and Michelle Sternthal, put into reviewing drafts and offering suggestions which have substantially improved this report, as well as the time they spent explaining their reasoning.

Pictured on the cover is ReShonda Young, owner of Popcorn Heaven and member of the Main Street Alliance Executive Committee.

Woodstock Institute is grateful for the funders listed above for support of this work. The content of this report reflects the views of Woodstock Institute and does not necessarily represent the views of our funders.

## **EXECUTIVE SUMMARY**

Small, local businesses create economic opportunity within neighborhoods, increase local employment opportunities, and generate higher levels of income growth within neighborhoods. For small neighborhood businesses to grow, they need access to capital. Bank loans to businesses are an important element for success because businesses that have access to adequate levels of capital grow more rapidly, hire more workers, and make more investments than businesses that do not have access. Since the Great Recession, mainstream financial institutions have reduced their small businesses lending, leading some businesses to resort to alternative, non-bank financial technology (fintech) lenders for needed capital. While small businesses could potentially benefit from having an additional source of capital that fintech lenders provide, many of those new lenders only provide loans with exceedingly high interest rates, onerous terms, and relatively poor customer service.

This report examines bank lending to businesses in the Buffalo, New York, and New Brunswick, New Jersey, regions. The purpose is to determine the extent to which banks are meeting the credit needs of businesses throughout those two regions. The focus of the report is on the smaller value loans under \$100,000 that are most likely to support smaller, local businesses that provide employment and wealth-building opportunities for local residents.

### **Findings:**

- Small business lending nationally grew rapidly between 2001 and 2007, dropped dramatically between 2007 and 2010, and then increased slowly through 2014 according to data reported under the Community Reinvestment Act (CRA). Overall, the total number of loans in 2014 was down nearly 60 percent from the peak in 2007 and down by 10 percent since 2001, while the dollar amount of loans decreased by nearly 37 percent between 2007 and 2014 and is still six percent lower than in 2001.
- The number of CRA-reported loans under \$100,000 nationally in 2014 remained 61 percent lower than in 2007 and nine percent lower than in 2001, while the total dollar amount of those loans decreased nearly 52 percent from its peak in 2007 but rose by five percent, from \$67.0 billion to \$70.3 billion, between 2001 and 2014.
- The number of CRA-reported loans nationally to small firms with gross revenues under \$1 million was just under five percent lower in 2014 than in 2001, and 51 percent lower than the peak in 2007, while the total dollar amount of those loans in 2014 was down nearly 47 percent from the amount in 2007 and down over 28 percent since 2001.
- Between 2008 and 2014, the number of CRA-reported loans under \$100,000 to businesses in both the Buffalo and New Brunswick regions dropped by over 50 percent, while the total dollar amount of those loans dropped by 46 percent in the Buffalo region and 27 percent in the New Brunswick region.
- Nationally, businesses in low-income census tracts comprised an average of 9.3 percent of all businesses for the period 2012-2014, but they received only 4.7 percent of CRA-reported bank loans under \$100,000 and only 4.9 percent of the total dollar amount of those loans. If

those businesses had received loans in proportion to their share of businesses overall, they would have received over 687,600 more loans totaling over \$8.8 billion more than they actually received between 2012 and 2014.

- In the Buffalo region, businesses in low-income census tracts constituted an average of 14.7 percent of all businesses in the region between 2012 and 2014, but they received only 6.3 percent of CRA-reported bank loans under \$100,000 and 6.3 percent of the total dollar amount of those loans during that period. If those businesses had received the loans in proportion to their share of all businesses in the Buffalo region, they would have received nearly 3,300 more loans totaling nearly \$43 million more than they received between 2012 and 2014.
- In the New Brunswick region, businesses in low-income census tracts constituted an average of 8.3 percent of all businesses in the region between 2012 and 2014, but they received only 3.4 percent of the number of CRA-reported bank loans under \$100,000 and 3.2 percent of the dollar amount of those loans during that period. If those businesses had received the loans in proportion to their share of all businesses, they would have received over 8,400 more loans totaling over \$133.6 million more than they received between 2012 and 2014.
- In the Buffalo region, businesses in predominantly minority census tracts constituted an average of 6.5 percent of businesses in the region between 2012 and 2014, but they received only 3.3 percent of the number of CRA-reported loans under \$100,000 and only 3.0 percent of the total dollar amount of those loans during that period. If those businesses had received the loans in proportion to their share of businesses overall, they would have received more than 1,200 additional loans totaling over \$17.9 million more than they received between 2012 and 2014.
- In the New Brunswick region, businesses in predominantly minority census tracts constituted an average of 12.0 percent of businesses in the region between 2012 and 2014, but they received only 6.7 percent of the number of CRA-reported loans under \$100,000 and only 6.3 percent of the total dollar amount of those loans during that period. If those businesses had received the loans in proportion to their share of businesses overall, they would have received more than 8,900 additional loans totaling over \$165 million more than they received between 2012 and 2014.
- In the New Brunswick region, businesses in census tracts with a majority Hispanic/Latino population constituted 7.7 percent of all businesses in the region between 2012 and 2014, but those businesses received only 4.2 percent of the number of CRA-reported loans under \$100,000 and only 3.7 percent of the total dollar amount of those loans during that period. If those businesses in census tracts with a majority Hispanic/Latino population in the New Brunswick region had received the loans in proportion to their overall share of businesses, they would have received nearly 6,000 more loans totaling over \$12.5 million more than they received between 2012 and 2014.<sup>1</sup>

---

<sup>1</sup> Buffalo has too small a Hispanic/Latino population to reach a conclusive finding with respect to the lending disparities in that region.

## **Policy Recommendations:**

- **Make CRA examinations more rigorous.** CRA examiners need to be more stringent in the scoring of performance with respect to all types of lending, including small business loans, as well as mortgages and other personal loans. Examiners also need to consider the type of small business loans banks offer, rather than aggregating term loans, lines of credit, and credit cards, into a single category. In addition to the lending test, regulators should be more critical in enforcement of the service test and should exercise their authority to require banks to obtain non-objection letters from their regulator whenever seeking to close branches in low- and moderate-income neighborhoods.
- **Promulgate rules under Section 1071 of the Dodd-Frank Act to require small business lenders to report loan data to the Consumer Financial Protection Bureau (CFPB).** In the rules, the CFPB should require small business lenders to report the type of lender, loan amount requested, the type of loan requested (e.g., term loan, credit card, or merchant cash advance), the action taken on the application, the amount loaned, the Annual Percentage Rate on the loan, whether the loan is payable by ACH debit, and the lender's default rates, in addition to any borrower demographics and business attributes necessary for fair lending analysis. If the Office of the Comptroller of the Currency (OCC) grants a special purpose charter to any fintech lender, the OCC should require the lender to report these same data.
- **Investigate potential violations of fair lending statutes by business lenders, and, if violations are evident, take appropriate remedial action.** The disparities revealed in this report, in the earlier report on lending in the Chicago and Los Angeles-San Diego regions, and other research on business lending, suggest the need for further investigation to determine whether business lenders are complying with the Equal Credit Opportunity Act and providing credit on a non-discriminatory basis to applicants. If the further analysis show violations, both the CFPB and Department of Justice (DOJ) should act to remedy those violations.
- **Incorporate the equivalent of CRA requirements for investment in low- and moderate-income census tracts, fair lending, consumer protection, and safety and soundness oversight similar to those for banks in any federal charter for fintech lenders; the charter should also explicitly avoid preemption of state laws conferring greater protection on business borrowers.** A federal charter will provide significant benefits to the emerging fintech industry, and, in exchange for those benefits, the federal charter for fintech lenders must have financial inclusion requirements and regular opportunities for review and community input, strong protections to reduce the chances that lenders can make predatory loans, and provide the same level of oversight for fintech lenders as for the banks with which they compete or partner.
- **Support and increase funding for Community Development Financial Institutions (CDFIs) and the New Markets Tax Credit (NMTC) Program.** Both CDFIs and the NMTC program are important sources of business capital in low-income neighborhoods and communities of color and need to be expanded to increase the level of investment they bring to their service areas.

- **Use responsible banking ordinances to reward banks that lend to businesses in low- and moderate-income neighborhoods and communities of color.** Local governments should use responsible banking ordinances that link government bank deposits to community reinvestment performance to encourage financial institutions to make more small loans to businesses in low- and moderate-income neighborhoods and communities of color.
- **Require strong Community Benefits Agreements (CBAs) with community input and enforceable goals for approval of mergers and acquisitions.** Mergers and acquisitions present good opportunities for the prudential regulators to use their authority under the CRA to require banks to fully meet their obligations to invest in low- and moderate-income census tracts. Recently negotiated CBAs with banks seeking regulatory approval for mergers or acquisitions can serve as performance models for the future.
- **Extend consumer protections to small business loans.** Business borrowers, most of whom assume personal liability for repayment of loans to their businesses, should receive the same types of protections for small business loans as they would receive were the loans for personal use. Lenders should be required to disclose the loan terms clearly, in a way that enables the borrower to understand the cost of the loan and repayment terms, to determine the borrower's ability to repay the loan without additional borrowing, and be prohibited from engaging in abusive collection practices.

#### **Recommendations for Banks:**

- **Require compliance and fair lending teams to actively take steps to ensure consistency in the delivery of small business products and services.** The disparities in lending to borrowers in communities of color identified in this series of reports, and the evidence of small business loan officer discrimination against and discouragement of small business loan applicants from protected classes highlighted in other research reports, raise serious fair lending concerns. Bank training of small business loan officers should emphasize consistent and fair treatment of all loan applicants including, for example, how loan officers offer business cards and assistance or make referrals. Banks should also conduct periodic internal mystery shopping using testers of various backgrounds and protected classes, such as race, ethnicity, national origin, gender, and marital status, to ensure that applicants of different backgrounds receive the same levels of products, services, and assistance.
- **Support nonprofit organizations that conduct fair lending training and testing, or fair lending research and advocacy.** The disparities in lending to borrowers in low- and moderate-income communities identified in this series of reports raise concerns about the extent to which banks are meeting their obligations under the CRA to serve the credit needs of low- and moderate-income people and communities, consistent with safety and soundness. To the extent that bank grants or investments in fair lending training, testing, research, and advocacy primarily benefit low- and moderate-income persons and communities, banks can receive favorable consideration under the CRA investment or community development tests.

**Introduction** – Small, local businesses create economic opportunity within neighborhoods. Local businesses can increase local employment opportunities, and that can, in turn, produce higher levels of income growth within the neighborhood. In addition to employment and income, local businesses generate sales tax revenue, provide access to goods and services for local residents, and can attract new residents to neighborhoods.<sup>2</sup> Local businesses also generate more local economic impact than national chains. “For example, a study by the Maine Center for Economic Policy found that every \$100 spent at locally owned businesses generates \$58 in local impact, while the same amount spent at a national chain store generates only \$33 in local impact.”<sup>3</sup> A study of the Opportunity Fund’s small business microloan program found that it generated nearly \$2 of economic activity for every \$1 loaned, including about \$0.56 in additional wages for the workers at the businesses that received a loan.<sup>4</sup>

Local businesses can also provide residents with a means of wealth building: entrepreneurship. “[S]mall business ownership provides an opportunity for minorities, women, and immigrants to increase their income and independence and to move into the economic mainstream of the American economy.”<sup>5</sup> While people of color and women are still under-represented as a percentage of business owners, they did become a larger share of all business owners between 2007 and 2012.<sup>6</sup> “Data from the Kauffman Foundation’s Index of Startup Activity indicates that in 2015, 39.3 percent of new entrepreneurs were non-white, compared with 22.8 percent in 1996.”<sup>7</sup>

For small neighborhood businesses to grow, they need to be able to access capital. Some business owners have personal assets, such as home equity or investments, or personal lines of credit that they can tap to meet the needs of their businesses. Over 90 percent of small employer firms<sup>8</sup> use the owner’s personal credit score when applying for financing, and over two-thirds provide a personal guarantee to secure their debt.<sup>9</sup> Others may be able to borrow from family or

---

<sup>2</sup> Bahn, Kate, Regina Willensky, and Annie McGrew, 2016. *A Progressive Agenda for Inclusive and Diverse Entrepreneurship*. Center for American Progress. Downloaded October 15, 2016, from <https://www.americanprogress.org/issues/economy/report/2016/10/13/146019/a-progressive-agenda-for-inclusive-and-diverse-entrepreneurship/>

<sup>3</sup> Ibid., at p. 5, citing Amar Patel and Garrett Martin, “Going Local: Quantifying the Economic Impacts of Buying from Locally Owned Businesses in Portland, Maine” (Augusta, ME: Maine Center for Economic Policy).

<sup>4</sup> TXP, Inc., 2016. *Ripple Effect: The Macroeconomic Impact of Small Business Lending, A case study of Opportunity Fund’s Small Business Microloan Program from 1995 to 2015*. Downloaded October 17, 2016, from [https://www.opportunityfund.org/assets/docs/Ripple%20Effect\\_The%20Macroeconomic%20Impact%20of%20Small%20Business%20Lending\\_Opportunity%20Fund\\_2016.pdf](https://www.opportunityfund.org/assets/docs/Ripple%20Effect_The%20Macroeconomic%20Impact%20of%20Small%20Business%20Lending_Opportunity%20Fund_2016.pdf).

<sup>5</sup> Dilger, Robert Jay, 2013. *Small Business Administration and Job Creation*. Congressional Research Service 7-5700, [www.crs.gov](http://www.crs.gov).

<sup>6</sup> Bahn et al., 2016, p. 10.

<sup>7</sup> Klein, Joyce A., 2017. *Bridging the Divide: How Business Ownership Can Help Close the Racial Wealth Gap*, Washington, DC: The Aspen Institute, p. 7.

<sup>8</sup> Small employer firms are those with at least one employee other than the owner, fewer than 500 employees, and with annual revenue of less than \$1 million.

<sup>9</sup> *2016 Small Business Credit Survey: Report on Employer Firms*. 2017. Downloaded April 12, 2017, from [https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf?utm\\_source=Atlanta+Fed+E-mail+Subscriptions&utm\\_campaign=2c795a9689-small-business-survey-2017-04-12&utm\\_medium=email&utm\\_term=0\\_b7a27f0b85-2c795a9689-258652333](https://www.newyorkfed.org/medialibrary/media/smallbusiness/2016/SBCS-Report-EmployerFirms-2016.pdf?utm_source=Atlanta+Fed+E-mail+Subscriptions&utm_campaign=2c795a9689-small-business-survey-2017-04-12&utm_medium=email&utm_term=0_b7a27f0b85-2c795a9689-258652333). The survey was conducted by the Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis, and San Francisco.

friends. Those personal sources of capital, however, may not be able to provide the amount of capital needed for entrepreneurs in low- and moderate-income neighborhoods or communities of color because they are less likely to have significant equity in their homes or other assets that can be used to support a business.<sup>10</sup> The downturn in the housing market due to the Great Recession and lack of recovery in some lower-income neighborhoods and communities of color have exacerbated the situation by leaving many homeowners underwater, with negative equity in their homes,<sup>11</sup> depriving them of the equity they may have accumulated before the crash that could have been used to support a business.

Apart from personal wealth, common sources of capital for small businesses are loans, lines of credit, and business credit cards issued by banks and other financial institutions.<sup>12</sup> Bank loans to businesses are an important element for success because businesses that have access to adequate levels of capital grow more rapidly, hire more workers, and make more investments than businesses that do not have access.<sup>13</sup> Conversely, a decline in the availability of bank loans for businesses, especially smaller businesses, has been a serious impediment to the recovery of lower-income neighborhoods and communities of color, which were most adversely affected by the Great Recession.<sup>14</sup> Although some economists question the impact of bank loans on the net long-term growth of jobs throughout the national economy,<sup>15</sup> bank loans can have important local benefits, which is why they are frequently seen as a tool to promote the local job growth necessary for neighborhood recovery and prosperity.

Since the Great Recession, mainstream financial institutions have been reluctant to make small loans to businesses.<sup>16</sup> In response to the difficulty of accessing capital from banks, businesses have increasingly been resorting to alternative, non-bank financial technology (fintech) lenders for needed capital, especially smaller businesses. Twenty-six percent of small employer firms reported applying for capital from a fintech lender, compared with only 12 percent of larger employer firms.<sup>17</sup> The business models for fintech lenders vary, from direct providers of capital

---

<sup>10</sup> Ibid. See also Fairlie, Robert W., and Alicia M. Robb, 2010. *Disparities in Capital Access between Minority and Non-Minority-Owned Businesses: The Troubling Reality of Capital Limitations Faced by MBEs*. Washington, DC: U.S. Department of Commerce, Minority Business Development Agency, 2010. Downloaded December 13, 2016, from <http://www.mdba.gov/sites/default/files/DisparitiesinCapitalAccessReport.pdf>. See also Robb, Alicia, 2013. *Access to Capital among Young Firms, Minority-owned Firms, Women-owned Firms, and High-tech Firms*. Washington, DC: Small Business Administration, 2013. Downloaded December 13, 2016, from [https://www.sba.gov/sites/default/files/files/rs403tot\(2\).pdf](https://www.sba.gov/sites/default/files/files/rs403tot(2).pdf).

<sup>11</sup> Cowan, Spencer and Katie Buitrago. *Struggling to Stay Afloat: Negative Equity in Communities of Color in the Chicago Six County Region*. Woodstock Institute, March 2012.

<sup>12</sup> Business loans, lines of credit, and business credit cards are collectively reported to the Federal Financial Institutions Examination Council (FFIEC), which oversees financial institution reporting to regulatory agencies, as “loans.” For consistency, this report will, therefore, use the term “loan” to refer to extensions of credit to businesses that would be reported as a loan to the FFIEC.

<sup>13</sup> Cole, Rebel A., 2012. *How Did the Financial Crisis Affect Small Business Lending in the United States? A report prepared for the Small Business Administration, Office of Advocacy*. Downloaded April 11, 2014, from [www.sba.gov/advocacy](http://www.sba.gov/advocacy).

<sup>14</sup> Mills, Karen G., and Brayden McCarthy, 2014. *The State of Small Business Lending: Credit Access During the Recovery and How Technology May Change the Game*. Harvard Business School Working Paper, No. 15-004, July 2014. See also Cowan and Buitrago, 2012, and Fairlie and Robb, 2010.

<sup>15</sup> Dilger, 2013.

<sup>16</sup> Mills and McCarthy, 2014.

<sup>17</sup> *2016 Small Business Credit Survey: Report on Employer Firms*.



to intermediaries (or “marketplace lenders”) that connect borrowers with lenders, and include both online lenders and merchant cash advance companies.<sup>18</sup> A California Department of Business Oversight survey of 13 online lenders found that their total business lending nationally increased from 12,868 loans totaling \$403 million in 2010 to 240,277 loans totaling \$2.94 billion in 2014, an increase of over 1,700 percent in the number and about 630 percent in the total amount of loans.<sup>19</sup> The amount of loans the 13 alternative lenders made nationally in 2014 was 29 percent more than the Small Business Administration made in loans of under \$150,000 in FY 2015 through its 7(A) program.<sup>20</sup> Another report stated that marketplace lenders in the United States originated 60 percent more in loans in 2015 than they did in 2014.<sup>21</sup>

While small businesses could potentially benefit from having an additional source of capital from fintech lenders, many of those new lenders only provide loans with high interest rates, onerous terms, and relatively poor customer service. Woodstock Institute’s analysis of 15 loans found interest rates ranging from 26 to nearly 368 percent. Every loan with a repayment term of under 250 days, or eight months, had an effective interest rate of over 100 percent, and every loan with a repayment period of less than 150 days, or five months, had an effective rate of over 200 percent.<sup>22</sup> The Opportunity Fund study of 150 fintech loans taken out by 104 businesses in California coming to it to refinance those loans had similar findings; the average interest rate on the loans it analyzed was 94 percent, with a high of 358 percent.<sup>23</sup> Moreover, the Opportunity Fund analysis showed that the average monthly payment on the loans was 178 percent of the net income of the borrower available to pay the loans. As the report states, “. . . every month these borrowers owed more to the lender than they had available from both business and personal net income.”<sup>24</sup>

The loans that Woodstock analyzed came with fees that amounted to as much as 14 percent of the gross loan amount. For example, the origination fee on most of the loans was around \$300, with a high of \$2,800. Other fees included a fee, commonly around \$395, for setting up the

---

<sup>18</sup> A merchant cash advance differs from a traditional business loan in the way it is repaid. With a merchant cash advance, the business borrower assigns a percentage of its receipts to the lender instead of making periodic payments of a fixed amount. For example, a business might agree to pay 15 percent of its credit card receipts, up to a total of \$56,000, for a cash advance of \$38,830, with the payments made every business day until the lender received the full \$56,000.

<sup>19</sup> *Survey of Online Consumer and Small Business Financing Companies – 01/01/2010 through 06/30/2015: Summary Report of Aggregate Transaction Data*, available at [www.dbo.ca.gov/Press/press\\_releases/default.asp](http://www.dbo.ca.gov/Press/press_releases/default.asp), under the headline California Online Lending Grows by More Than 930% Over Five Years, dated April 8, 2016.

<sup>20</sup> The data are from [www.sba.gov/content/sba-lending-statistics-major-programs-09-30-2015](http://www.sba.gov/content/sba-lending-statistics-major-programs-09-30-2015), reported on the federal fiscal year. FY 2015 ran from October 1, 2014 to September 30, 2015.

<sup>21</sup> Bulling, Jim, and Michelle Chasser, 2016. *Regulators notice small business loans are big business*. Downloaded October 17, 2016, from <https://www.fintechlawblog.com/2016/07/regulators-notice-small-business-loans-are-big-business/>.

<sup>22</sup> The small sample size, 15 loans, and the fact that the loans were not a random sample from a larger population, mean that the data provide only descriptive statistics of the specific sample and are not generalizable to the larger field of fintech loans as a whole.

<sup>23</sup> Weaver, Eric, Gwendy Donaker Brown, Caitlin McShane, and Tim St. Louis, 2016. *Unaffordable and Unsustainable: The New Business Lending on Main Street*. Opportunity Fund. Downloaded October 17, 2016, from [http://www.opportunityfund.org/assets/docs/Unaffordable%20and%20Unsustainable-The%20New%20Business%20Lending%20on%20Main%20Street\\_Opportunity%20Fund%20Research%20Report\\_May%202016.pdf](http://www.opportunityfund.org/assets/docs/Unaffordable%20and%20Unsustainable-The%20New%20Business%20Lending%20on%20Main%20Street_Opportunity%20Fund%20Research%20Report_May%202016.pdf).

<sup>24</sup> *Ibid.*, at p. 7.

Automated Clearing House (ACH) debit for payment, and a fee of between \$100 and \$200 for releasing any lien filed under the Uniform Commercial Code.

Two common features of the fintech loans Woodstock Institute analyzed are associated with high levels of dissatisfaction among businesses that received loans, the high interest rates noted earlier and onerous repayment terms.<sup>25</sup> All but one of the loans analyzed required automatic ACH payments daily (every business day). That requirement means that the business owner has no ability to prioritize payment of the fintech loan among the range of financial obligations that small businesses have, such as payments for payroll, taxes, suppliers, and the rent or mortgage. The fintech loan automatically is paid ahead of any other obligation, directly out of cash flow or retained earnings.

In a survey of businesses by several banks in the Federal Reserve System,<sup>26</sup> businesses that received fintech loans expressed exceptionally high levels of dissatisfaction with the interest rate and repayment terms compared with loans from small or large banks. For example, 70 percent of survey respondents reported dissatisfaction with the high interest rates on fintech loans, compared with 15 percent for loans from small banks and 18 percent for loans from large banks, while 51 percent were dissatisfied with the fintech loan repayment terms, compared with 15 percent for small bank loans and 16 percent for large bank loans.<sup>27</sup>

This report examines bank lending to businesses in the Buffalo, New York, and the New Brunswick, New Jersey, regions.<sup>28</sup> One of the purposes of this report is to determine the extent to which banks are meeting the credit needs of businesses throughout those two regions. Another purpose is to see whether the disparities found in access to credit for businesses in the Chicago and Los Angeles-San Diego regions<sup>29</sup> for the period between 2012 and 2014 are also evident in the Buffalo and New Brunswick regions. As with the earlier report on small business lending in the Chicago and Los Angeles-San Diego regions, this report focuses on the smaller value loans most likely to support smaller, local businesses that provide employment and wealth-building opportunities for local residents. The third purpose is to see if the disparities in access to capital in the Buffalo and New Brunswick regions between 2012 and 2014, a period of slow economic growth, are consistent with those revealed in a report on small business lending in the Chicago region<sup>30</sup> during the period from 2008 to 2012, when bank lending contracted dramatically.

---

<sup>25</sup> *2016 Small Business Credit Survey: Report on Employer Firms*. See also, *2015 Small Business Credit Survey: Report on Employer Firms*, 2016. Downloaded on October 15, 2016, from <https://www.clevelandfed.org/community-development/small-business/about-the-joint-small-business-credit-survey/2015-joint-small-business-credit-survey.aspx>.

<sup>26</sup> The Federal Reserve Banks in Atlanta, Boston, Cleveland, New York, Philadelphia, Richmond, and St. Louis participated in the survey and report.

<sup>27</sup> *2015 Small Business Credit Survey: Report on Employer Firms*, 2016.

<sup>28</sup> For purposes of this report, the Buffalo region is defined as Erie and Niagara counties. The New Brunswick region includes Mercer, Middlesex, Monmouth, Somerset, and Union counties.

<sup>29</sup> Cowan, Spencer M., 2017. *Patterns of Disparity: Small Business Lending in the Chicago and Los-Angeles-San Diego Regions*, Woodstock Institute, January 2017. For that report, the Chicago region was defined as Cook, DuPage, Kendall, McHenry, and Will counties, and the Los-Angeles-San Diego region was defined as Los Angeles, Orange, and San Diego counties.

<sup>30</sup> Cowan, Spencer M., 2012. *Discredited: Disparate Access to Credit for Businesses in the Chicago Six County Region*. Woodstock Institute, August 2014. For that earlier report, the Chicago region was defined as Cook, DuPage, Kane, Lake, McHenry, and Will counties.

## Background and Context for the Analysis of Lending Patterns

One consequence of the Great Recession was reduced access to credit, especially for businesses needing small loans. Senior Loan Officers and business owners agreed that credit contracted dramatically between 2008 and 2010, with differing opinions for more recent years. Loan officers thought conditions had improved, with credit more readily available, while business owners felt that conditions had not improved significantly.<sup>31</sup> Data on business lending show that both are true; business lending has increased since 2010 but has, for the most part, remained well below the levels of the years leading up to the Great Recession.

The primary source of data on small loans to businesses<sup>32</sup> at the neighborhood level is from reports that large financial institutions insured by the Federal Deposit Insurance Corporation (banks) must submit to the Federal Financial Institutions Examination Council (FFIEC) under the Community Reinvestment Act (CRA).<sup>33</sup> The banks report on the number and amount of loans they make, broken down by three loan amount ranges (less than \$100,000, \$100,000 to \$249,999, and \$250,000 to \$1,000,000) and by the census tract in which the business is located. In addition, the banks report the number and dollar amount of small loans they make to businesses with gross revenue of under \$1 million, also at the census tract level. For purposes of reporting, banks generally aggregate any extension of credit, including traditional loans, lines of credit, and credit cards, in the amount reported as loans.<sup>34</sup> They also aggregate all extensions of credit to a single business in the reported loans, and so the number of loans is roughly equal to the number of businesses receiving loans.<sup>35</sup>

---

<sup>31</sup> Mills, Karen Gordon, and Brayden McCarthy, 2016. *The State of Small Business Lending: Innovation and Technology and the Implications for Regulation*. Downloaded November 30, 2016, from [http://www.hbs.edu/faculty/Publication%20Files/17-042\\_30393d52-3c61-41cb-a78a-ebbe3e040e55.pdf](http://www.hbs.edu/faculty/Publication%20Files/17-042_30393d52-3c61-41cb-a78a-ebbe3e040e55.pdf). NFIB Research Foundation, 2012. See also *Small Business, Credit Access, and a Lingering Recession*. Downloaded March 25, 2014, from [www.NFIB.com](http://www.NFIB.com).

<sup>32</sup> Small loans to businesses are more commonly referred to as “small business loans.” That terminology frequently causes confusion, however, because some people think that “small” modifies “business,” and so they think that the term refers to loans made to businesses below a certain size. The adjective “small” modifies “loans,” not “business,” which means that the loans are in amounts of less than \$1 million and may be made to any size business. When we talk in this report about small business loans, we do in fact mean loans to small businesses. Small businesses are more vulnerable and are an important source of jobs, which makes them worthy of increased regulatory protection.

<sup>33</sup> While only large financial institutions are required to report to the FFIEC under the CRA, some smaller lenders report voluntarily. In 2014, a total of 603 commercial banks and 164 savings institutions reported, with 503 required to report and 264 voluntarily reporting. The threshold for reporting in 2014 was \$1.202 billion in assets. Together, they provided 88.4 percent of the number and 69.3 percent of the dollar amount of all small loans to businesses. Downloaded October 24, 2016, from <https://www.ffiec.gov/hmcpr/cra15tables1-5.pdf#table1>. For simplicity, the reporting financial institutions will be referred to as “banks” regardless of their technical, legal status.

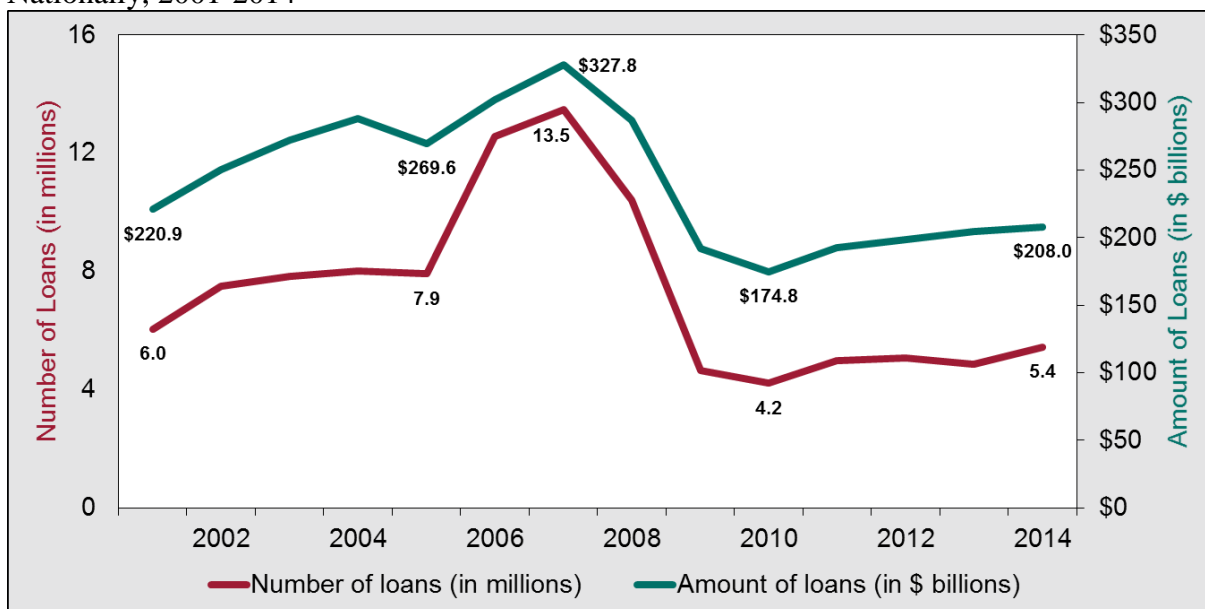
<sup>34</sup> The aggregation of different kinds of credit – credit cards, lines of credit, and term loans – obscures an important distinction among those different forms of credit. In general, credit cards can provide flexible access to short-term capital for small purchases and to manage cash flow, while term loans would be more appropriate for major capital expenditures, such as for purchasing new equipment, that may require a longer-term repayment option. Some advocates have expressed concerns that too many of the loans are in the form of credit cards and not enough as term loans which might better suit the borrowers’ needs or the purposes for which the loans are intended.

<sup>35</sup> The number of loans and businesses receiving loans may not be exactly the same because some businesses may receive loans from more than one reporting bank, and, under some circumstances, banks may report multiple loans to one business without aggregating them.

### Longer-term Trends in CRA-reported Small Loans to Businesses, Nationally

After extraordinary growth in CRA-reported small business lending between 2001 and 2007, the total number and amount of all CRA-reported small loans to businesses nationally dropped dramatically between 2007 and 2010, and then increased slowly through 2014 (Chart 1). The total number of loans increased by 123 percent between 2001 and 2007, decreased by 69 percent between 2007 and 2010, and then rebounded by about 29 percent between 2010 and 2014, leaving the total number of CRA-reported small loans down by nearly 60 percent overall from the peak in 2007 and down by 10 percent since 2001. The total dollar amount of CRA-reported small business loans increased by 48 percent between 2001 and 2007, decreased by 47 percent between 2007 and 2010, and then increased by 19 percent through 2014. Overall, the total dollar amount of CRA-reported small loans decreased by nearly 37 percent between 2007 and 2014 and is still six percent less than the amount in 2001.

Chart 1: Total Number and Dollar Amount of CRA-reported Small Loans to Businesses Nationally, 2001-2014



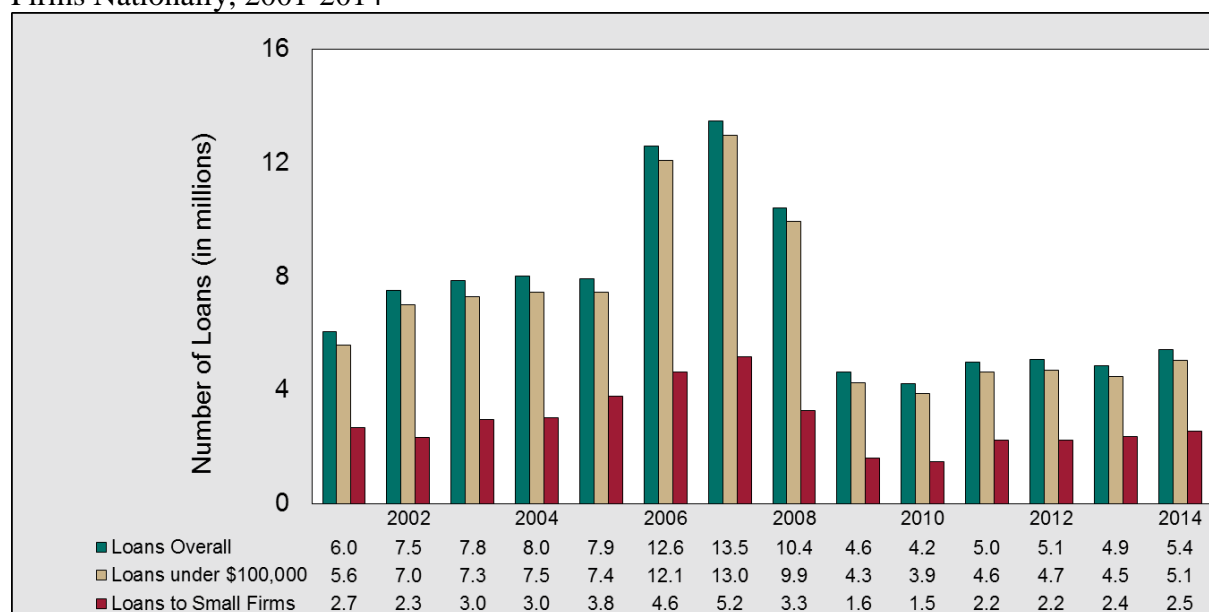
Source: FFIEC CRA Nationwide Summary Statistics, 2001-2014, Table 2.

Loans under \$100,000, the amount of capital that the smallest businesses are most likely to seek, constitute the vast majority of the total number of loans reported under the CRA, consistently over 92 percent of all loans nationally (Chart 2). “The reality is that for most banks, lending to small businesses, especially below \$100,000, is costly and risky. But it is these lower dollar loans that actually are most important to startups and small businesses that are critical to accelerating the current recovery.”<sup>36</sup> The data for CRA-reported loans in amounts under \$100,000 nationally follow a pattern similar to that for CRA-reported small business loans overall, with an increase of 132 percent between 2001 and 2007, a rapid decrease of 70 percent between 2007 and 2010, followed by a modest, slow recovery of 30 percent through 2014. The number of loans under \$100,000 that CRA-reporting banks originated in 2014 remained

<sup>36</sup> Mills and McCarthy, 2014, p. 23.

61percent lower than in 2007 and nine percent lower than the number of loans under \$100,000 originated by CRA-reporting banks in 2001. Because those banks aggregate extensions of credit to individual businesses, the decline in the number of reported loans indicates that many fewer businesses received credit, especially in the form of small loans most critical for the smallest businesses, from the banks reporting under the CRA.

Chart 2: Total Number of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms Nationally, 2001-2014

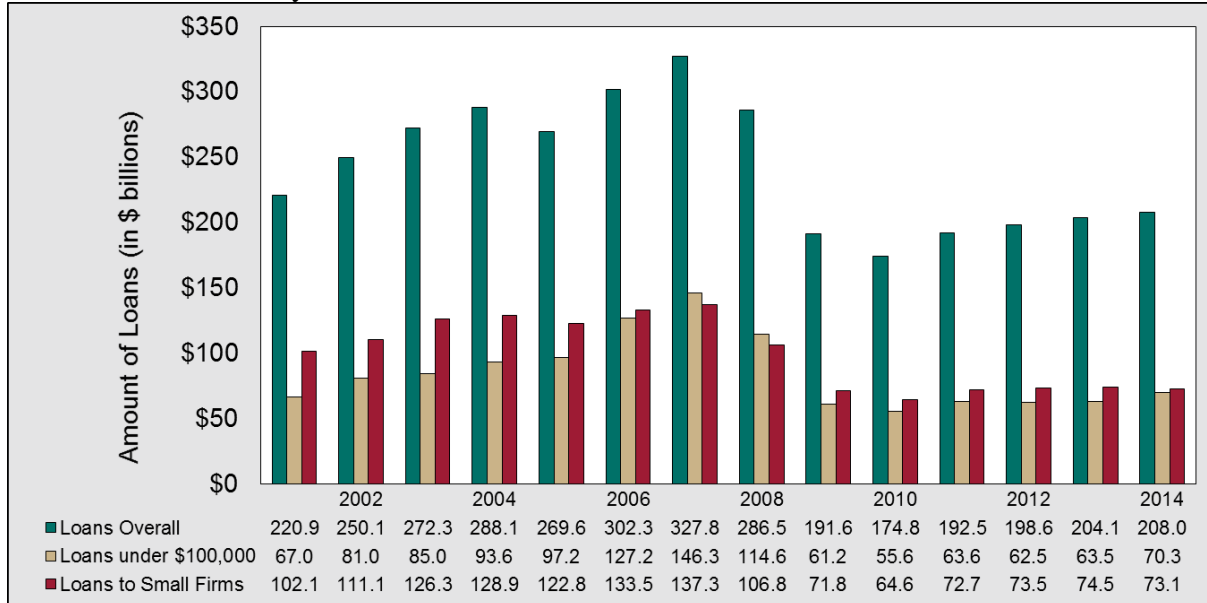


Source: FFIEC CRA Nationwide Summary Statistics, 2001-2014, Table 2.

The number of CRA-reported loans to small firms, those with gross revenues under \$1 million, followed a similar pattern of increasing rapidly between 2001 and 2007, up by 94 percent, followed by a collapse through 2010, and then a modest recovery into 2014, although the recovery in the number of loans was a little stronger than for either loans overall or loans under \$100,000. Between 2007 and 2010, the number of CRA-reported loans to small firms fell by over 71 percent, followed by an increase of 70 percent in the number of loans through 2014. The number of loans to small firms was just under five percent lower in 2014 than in 2001, and 51 percent lower than the peak in 2007.

The pattern for the total dollar amount of CRA-reported small loans to businesses overall was slightly different than the pattern for the total number of loans. The increase in the dollar amount of CRA-reported loans, from \$220.9 billion in 2001 to \$327.8 billion in 2007, or 48 percent, was not as dramatic as the 123 percent increase in the number of loans (Chart 3). The total dollar amount of CRA-reported loans then dropped by 47 percent between 2007 and 2010, followed by an increase of 19 percent through 2014. The total dollar amount of small loans to businesses from CRA-reporting banks is down just under 37 percent since 2007 and nearly six percent since 2001.

Chart 3: Total Dollar Amount of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms Nationally, 2001-2014



Source: FFIEC CRA Nationwide Summary Statistics, 2001-2014, Table 2.

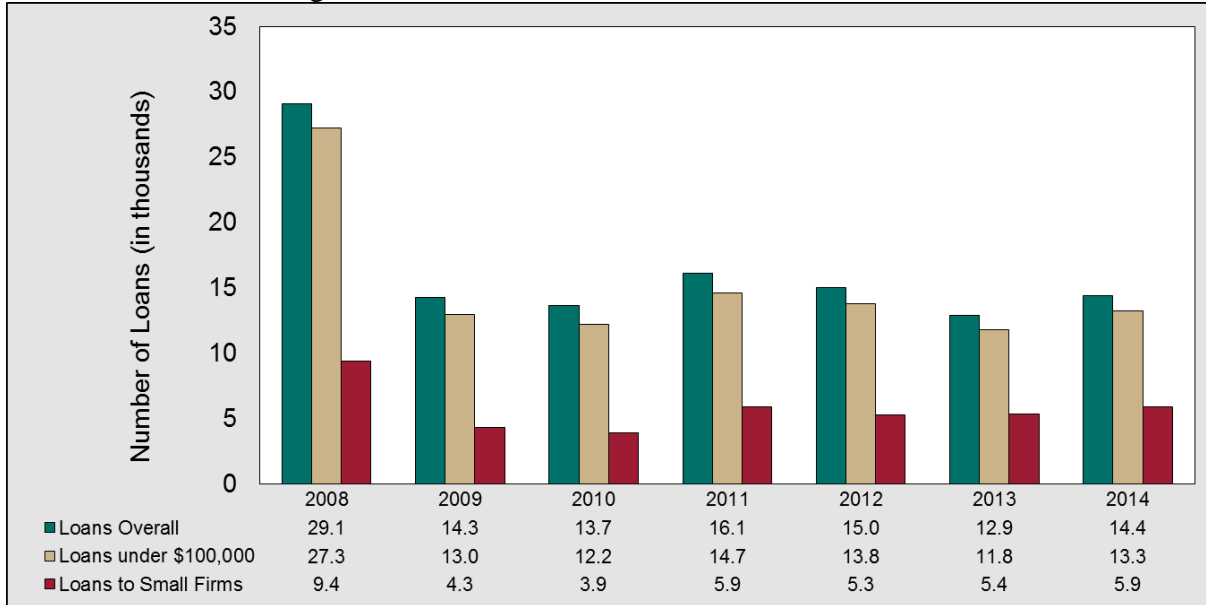
The changes in the total dollar amount of CRA-reported loans under \$100,000 more closely paralleled changes in the number of loans, increasing by 119 percent between 2001 and 2007, then contracting by 62 percent between 2007 and 2010, increasing by 26 percent through 2014. The total dollar amount of CRA-reported loans under \$100,000 decreased nearly 52 percent from its peak in 2007, but it is up by five percent, from \$67.0 billion to \$70.3 billion, since 2001.

The total dollar amount of CRA-reported loans to small firms showed much more modest changes than either the amount of loans overall or loans under \$100,000 between 2001 and 2007, increasing by only 34 percent. The decline in the amount of loans to small firms between 2007 and 2010, however, was similar in magnitude, 53 percent, to the decline in the amount of loans overall, and the recovery was weaker, with the amount up only 13 percent between 2010 and 2014. As a result, the total dollar amount of CRA-reported loans to small firms is down nearly 47 percent from the amount in 2007 and over 28 percent since 2001.

#### *Longer-term Trends in CRA-reported Small Loans to Businesses in the Buffalo and New Brunswick Regions*

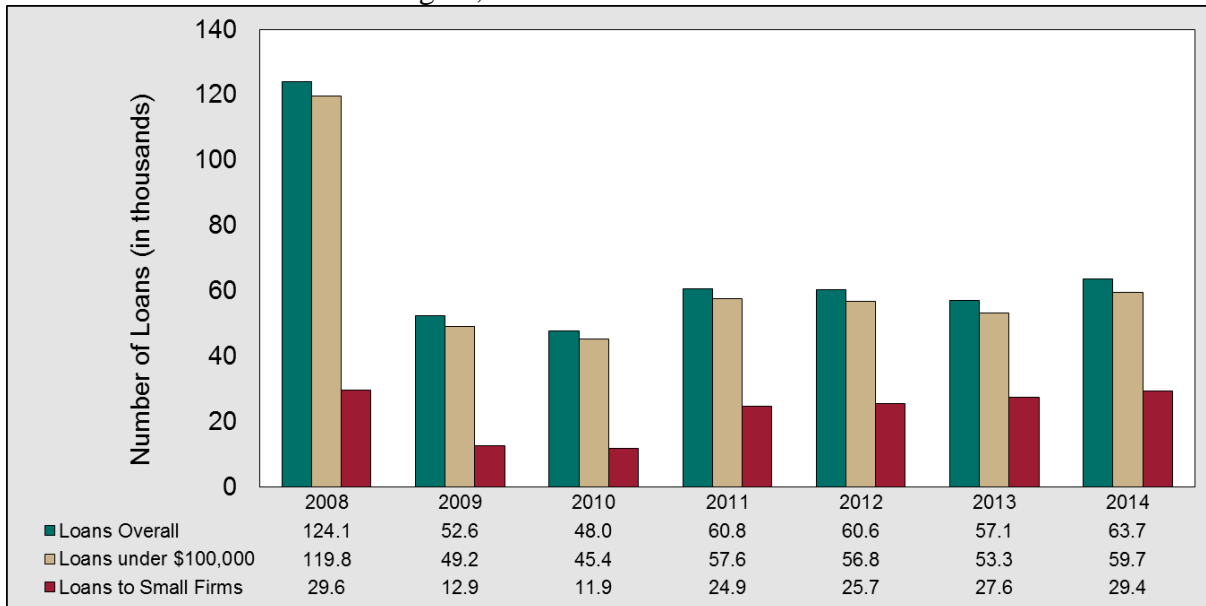
Data on the number and amount of CRA-reported small loans to businesses for the Buffalo and New Brunswick regions for the period from 2008 to 2014 show trends similar to the national data. The total number of all CRA-reported small loans to businesses, loans under \$100,000, and loans to small firms declined sharply between 2008 and 2010, followed by a slow, partial recovery through 2014 (Chart 4 for the Buffalo region and Chart 5 for the New Brunswick region).

Chart 4: Total Number of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms in the Buffalo Region, 2008-2014



Sources: FFIEC CRA data for Erie and Niagara counties; Author's calculations.

Chart 5: Total Number of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms in the New Brunswick Region, 2008-2014



Sources: FFIEC CRA data for Mercer, Middlesex, Monmouth, Somerset, and Union counties; Author's calculations.

The differences between the two regions and the national trends are relatively minor with respect to the number of CRA-reported loans in all three categories for the period from 2008 to 2010 (Table 1). In all three geographies, the total number of loans, loans under \$100,000, and loans to small firms dropped by well over 50 percent, with the largest declines in the New Brunswick region. The Buffalo region, however, had a much weaker recovery between 2010 and 2014 than the nation as a whole, while the New Brunswick region had a slightly stronger recovery. With respect to loans overall and loans under \$100,000, both the Buffalo and New Brunswick regions show about a 50 percent decline in the number of loans between 2008 and 2014, which means that only about half as many firms received loans in 2014 as received loans in 2008. For small firms, those with gross revenues of \$1 million or less, the recovery in Buffalo lagged the national average, leaving the number of loans to small firms down by over 37 percent between 2008 and 2014, compared with down 22 percent nationally. In the New Brunswick region, the recovery was dramatically stronger, with the number of CRA-reported loans to small firms between 2008 and 2014 almost back to the level reached in 2008.

Table 1: Change in the Number of Small Loans to Businesses, Loans under \$100,000, and Loans to Small Firms, Nationally and in the Buffalo and New Brunswick Regions

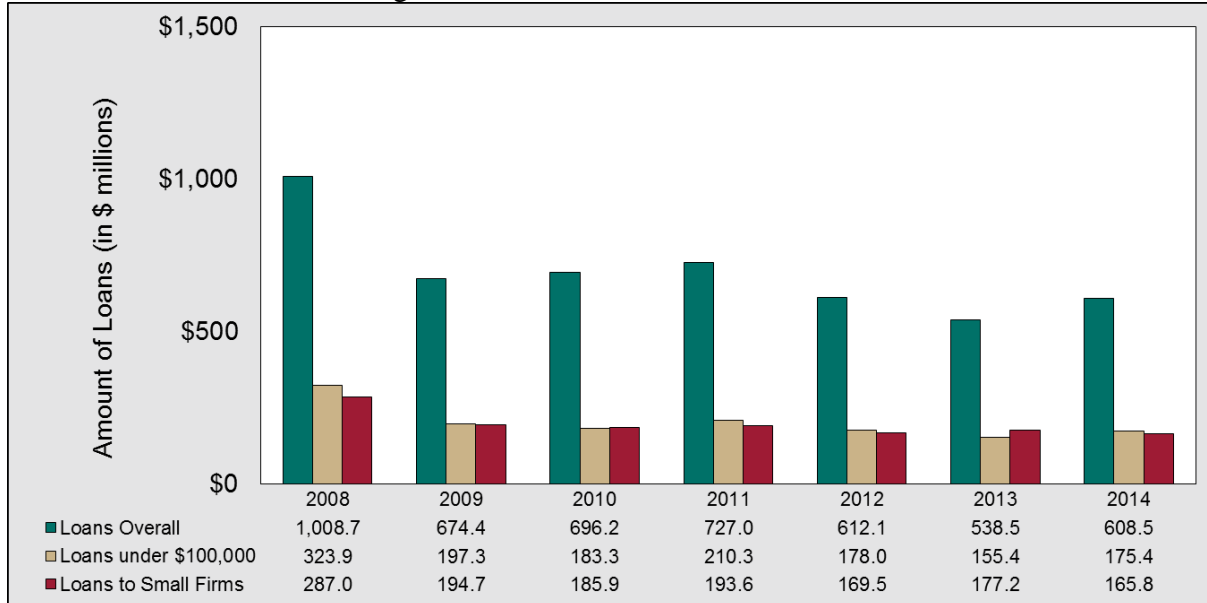
|                       |                      | 2008-2010 | 2010-2014 | 2008-2014 |
|-----------------------|----------------------|-----------|-----------|-----------|
| Total Number of Loans | National             | -59.5%    | 29.0%     | -47.8%    |
|                       | Buffalo Region       | -53.1%    | 5.5%      | -50.5%    |
|                       | New Brunswick Region | -61.4%    | 32.8%     | -48.7%    |
| Loans under \$100,000 | National             | -60.9%    | 30.2%     | -49.1%    |
|                       | Buffalo Region       | -55.2%    | 8.6%      | -51.3%    |
|                       | New Brunswick Region | -62.1%    | 31.5%     | -50.1%    |
| Loans to Small Firms  | National             | -54.5%    | 70.4%     | -22.4%    |
|                       | Buffalo Region       | -58.4%    | 50.9%     | -37.2%    |
|                       | New Brunswick Region | -59.8%    | 146.3%    | - 0.9%    |

Sources: FFIEC CRA data for Erie and Niagara counties for the Buffalo region and Mercer, Middlesex, Monmouth, Somerset, and Union counties for the New Brunswick region; Author's calculations.

Data on the total dollar amount of CRA-reported small bank loans to businesses for both the Buffalo and New Brunswick regions for the period from 2008 to 2014 show strong differences between the two regions (Chart 6 for the Buffalo region and Chart 7 for the New Brunswick region). The total dollar amount of CRA-reported loans overall actually increased in the Buffalo region between 2009 and 2010 and again between 2010 and 2011, bucking the national trend. The dollar amount of loans overall in the Buffalo region then declined from the total in 2011 to a low of \$538.5 million in 2013, with a slight uptick in 2014. In the New Brunswick region, the pattern followed the national trend more closely. The total dollar amount dropped in 2009 and 2010, reaching a low of \$1.52 billion in 2010, followed by increases in each succeeding year after that.

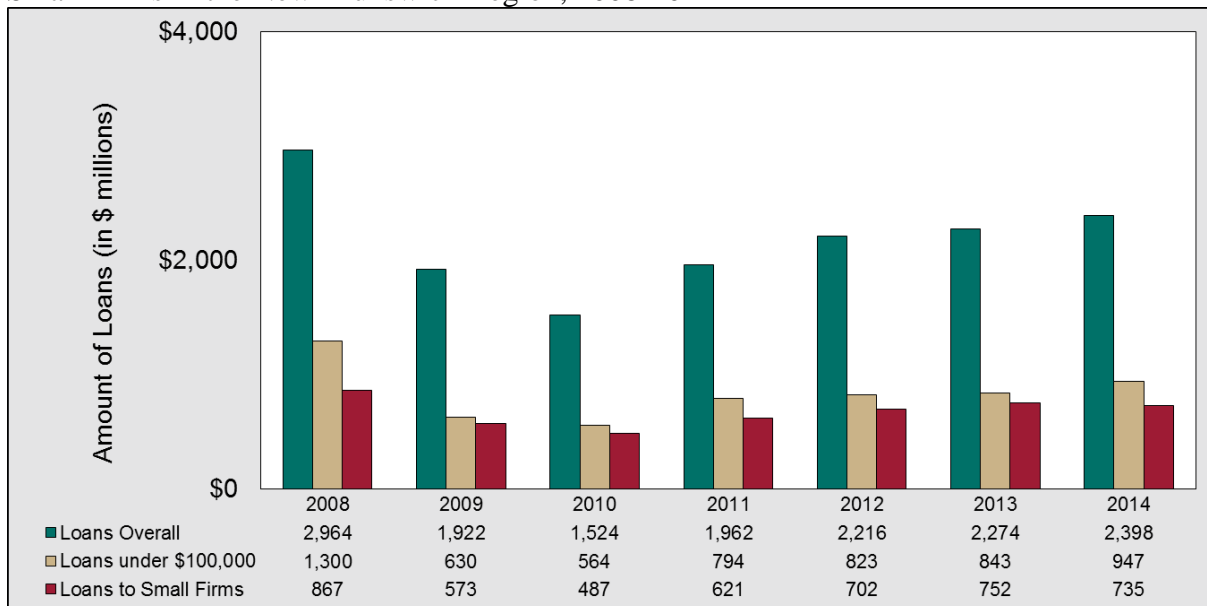


Chart 6: Total Dollar Amount of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms in the Buffalo Region, 2008-2014



Sources: FFIEC CRA data for Erie and Niagara counties; Author's calculations.

Chart 7: Total Dollar Amount of CRA-reported Loans, Loans under \$100,000, and Loans to Small Firms in the New Brunswick Region, 2008-2014



Sources: FFIEC CRA data for Mercer, Middlesex, Monmouth, Somerset, and Union counties; Author's calculations.

Although the decrease in the amount of CRA-reported loans was smaller in the Buffalo region than in the nation as a whole, the total dollar amount of loans continued to decline in the Buffalo region between 2010 and 2014, leaving the amount of loans down substantially more between 2008 and 2014 than the national average (Table 2). The opposite was true in the New Brunswick region. New Brunswick saw larger than the national average decreases in the dollar amount of

CRA-reported loans, loans under \$100,000, and loans to small firms between 2008 and 2010, followed by a stronger recovery between 2010 and 2014. While still below the total amount of CRA-reported loans for 2008 in all three categories, New Brunswick was closer in 2014 to regaining that level than the nation as a whole.

Table 2: Change in the Dollar Amount of Small Loans to Businesses, Loans under \$100,000, and Loans to Small Firms, Nationally and in the Buffalo and New Brunswick Regions

|                       |                      | 2008-2010 | 2010-2014 | 2008-2014 |
|-----------------------|----------------------|-----------|-----------|-----------|
| Total Number of Loans | National             | -39.0%    | 19.0%     | -27.4%    |
|                       | Buffalo Region       | -31.0%    | -12.6%    | -39.7%    |
|                       | New Brunswick Region | -48.6%    | 57.3%     | -19.1%    |
| Loans under \$100,000 | National             | -51.4%    | 26.4%     | -38.6%    |
|                       | Buffalo Region       | -43.4%    | - 4.3%    | -45.9%    |
|                       | New Brunswick Region | -56.6%    | 68.0%     | -27.1%    |
| Loans to Small Firms  | National             | -39.5%    | 13.3%     | -31.5%    |
|                       | Buffalo Region       | -35.2%    | -10.8%    | -42.2%    |
|                       | New Brunswick Region | -43.8%    | 51.0%     | -15.2%    |

Sources: FFIEC CRA data for Erie and Niagara counties for the Buffalo region and Mercer, Middlesex, Monmouth, Somerset, and Union counties for the New Brunswick region; Author's calculations.

Comparing the percentage change in the number and total dollar amount of CRA-reported bank loans shows that fewer businesses were receiving loans in 2014 than received loans in 2008 across all three categories, except for small firms in the New Brunswick region. For loans overall and loans under \$100,000, the smaller decrease in total dollar amount of CRA-reported bank loans between 2008 and 2014 suggests that the businesses receiving loans may have received, on average, somewhat larger loans in 2014 than they did in 2008. For example, the number of CRA-reported bank loans was down by over 50 percent in the Buffalo region between 2008 and 2014, but the total dollar amount of those loans was down by only about 40 percent. In 2014, about half as many businesses in the Buffalo region received a total of about three-fifths of the total loan amount, compared with 2008.

The situation was different for small firms in both regions. Fewer small firms received loans in 2014 than in 2008, and the loans appear to be for smaller average amounts based on the larger decrease in total loan amounts than in the number of loans between 2008 and 2014. In the New Brunswick region, for example, virtually the same number of small firms received CRA-reported loans in 2014 as did in 2008, but the total dollar amount of those loans was down by just over 15 percent. In 2014, the same number of small firms split 85 percent of the total dollar amount of CRA-reported bank loans, compared with 2008.<sup>37</sup>

<sup>37</sup> Not only were loans of all types not readily available for small firms, they also appeared to be more highly dependent on a credit cards as the principal form for the loans they received than businesses generally. For example, in 2014 American Express, FSB, which essentially provides only credit cards for business customers, accounted for 23.8 percent of loans to small firms in the Buffalo region and 39.1 percent of loans to small firms in the New Brunswick region, compared with 15.6 percent of all loans in the Buffalo region and 28.8 percent of all loans in the

## **Methodology for Analysis of Lending Patterns by Income, Race, and Ethnicity**

This report focuses on the segment of CRA-reported lending by banks that is most crucial for neighborhood businesses, loans under \$100,000. They constitute over 92 percent of all CRA-reported small business loans, and 70 percent of small employer firms that sought financing applied for less than \$100,000.<sup>38</sup> As noted earlier, those are the loans that are “most important to startups and small businesses” and are also the bulk of loans that the rapidly growing fintech lenders are providing. For example, the average loan size that online lenders responding to the California Department of Business Oversight survey reported for 2014 was \$12,236.<sup>39</sup>

In order to analyze the extent to which financial institutions reporting under the CRA requirements are meeting the credit needs of businesses in low- and moderate-income census tracts and in communities of color, the CRA-reported data provide only one part of the necessary information. The CRA reports include only loans that the reporting banks made, with no data on the number of applications or dollar amount of loans applied for; they do not, therefore, have data on the level of demand for bank loans from businesses.

Data on aggregate demand for business loans suggest that many businesses rely on banks for their financing but, at the same time, have difficulty in accessing capital from banks. A 2012 survey of businesses found that 85 percent relied on either a major bank or a regional or community bank as their main financial partner.<sup>40</sup>

Based on regional survey data from the Federal Reserve Bank of New York, about 37 percent of all small businesses applied for credit in the fall of 2013. About 45 percent did not apply, presumably because they did not need credit, but about 20 percent did not apply because they were discouraged from doing so, either because they felt that they would not qualify or because they thought the process would be too arduous to justify the time commitment. Of businesses that did apply, over 40 percent either received no capital at all or received less than the amount that they requested.<sup>41</sup>

While the data aggregated for the nation as a whole present one type of estimate for demand, the national averages do not necessarily reflect what is happening within any given metropolitan area or at the neighborhood or census tract level.<sup>42</sup> The Department of Housing and Urban

---

New Brunswick region. Those percentages represent a lower limit on the extent to which businesses are receiving loans in the form of credit cards because other banks, such as Bank of America, Chase, Citibank, and Wells Fargo, also offer credit cards in addition to traditional term loans. While many businesses may want and need loans for the purposes for which credit cards are well-suited, such as short-term cash flow management or for routine expenditures, others may have needs, such as major equipment purchases, better met by more conventional term loans.

<sup>38</sup> *2016 Small Business Credit Survey: Report on Employer Firms.*

<sup>39</sup> *Survey of Online Consumer and Small Business Financing Companies – 01/01/2010 through 06/30/2015: Summary Report of Aggregate Transaction Data.*

<sup>40</sup> NFIB Research Foundation, 2012.

<sup>41</sup> Mills and McCarthy, 2014, p. 23.

<sup>42</sup> The lack of data on the demand for small business loans was addressed in Section 1071 of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, which gave the Consumer Financial Protection Bureau (CFPB) the authority to require lenders to collect and report business loan application data, including the type and purpose of the credit applied for, the race and gender of the principal owners of the business, and the gross annual

Development (HUD) aggregates United States Postal Service (USPS) census tract address data (HUD/USPS Vacancy Data), including the total number of business addresses and the number of vacant business addresses, and the difference represents the number of active business addresses for each census tract. The number of active business addresses can serve as a proxy for the level of demand for business loans assuming that the demand for loans is roughly proportional to the number of businesses.

The CRA-reported data show the number and dollar amount of small loans to businesses; the HUD/USPS Vacancy Data provide a proxy measure for the level of business loan demand, and census data from the FFIEC have the income level of each census tract relative to the median family income of the metropolitan area of which it is a part and the percentage of the census tract population that are minorities. By combining the three datasets, it is possible to compare the relative level of access to business capital from banks reporting under CRA requirements for businesses in census tracts with different income or population demographics.<sup>43</sup>

For purposes of analyzing the data by income level, this report uses the standard definitions of low-, moderate-, middle-, and upper-income that the FFIEC uses:

- A low-income census tract has a median family income less than 50 percent of the Area Median Family Income;
- A moderate-income census tract has a median family income from 50 percent to less than 80 percent of the Area Median Family Income;
- A middle-income census tract has a median family income from 80 to less than 120 percent of the Area Median Family Income; and
- An upper-income census tract has a median family income 120 percent or more of the Area Median Family Income.

### **Findings by the Income Level of the Census Tract**

Businesses in low- and moderate-income census tracts received a smaller percentage of CRA-reported bank loans under \$100,000, both by the number of loans and the dollar amount of loans, than their respective shares of active business addresses nationally and in both the Buffalo and

---

revenue of the business. The CFPB has not yet promulgated the rules for collection of those data; it is in the pre-rule phase as of April of 2017.

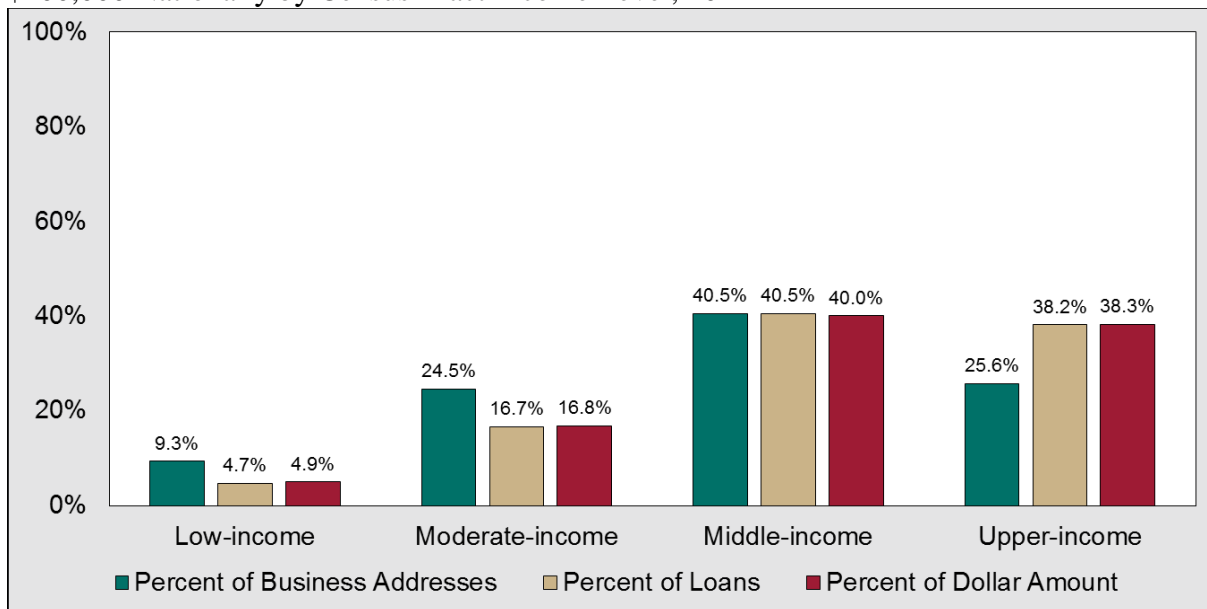
<sup>43</sup> This report examines lending to businesses in census tracts with different demographic characteristics, which is not the same as ownership of the business. Businesses in predominantly Hispanic census tracts, for example, could have a non-Hispanic owner. One consistent source of data on access to loans by the race or ethnicity of the business owner is from the SBA, which provides a relatively small percentage of business loans overall. Fisher, Alan, 2013. *Small Business Access to Credit: The Little Engine that Could: If Banks Helped*. Downloaded January 5, 2017, from <http://www.calreinvest.org/publications/california-reinvestment-coalition-research>, published by the California Reinvestment Coalition, is a study of small business lending using SBA data to examine disparities in access to loans to minority- or Hispanic/Latino-owned businesses. It found that the number of SBA loans by the five leading banks in California declined by 58.8 percent between 2007 and 2013, while the number of those loans to African American-owned businesses declined by 93 percent and the number to Hispanic/Latino-owned businesses declined by 73 percent.

Bates, Timothy, and Alicia Robb, 2016, "Impacts of Owner Race and Geographic Context on Access to Small-Business Financing" in *Economic Development Quarterly*, 30(2) 159-170, used data from the Kauffman Firm Survey and found that minority-owned businesses are heavily concentrated in minority neighborhoods, that firms with an African American owner were significantly less likely to apply for loans, and that they received smaller loans than firms with owners who were not African American received.

New Brunswick regions. Nationally, businesses in low-income census tracts comprised an average of 9.3 percent of all businesses for the period 2012-2014,<sup>44</sup> but they received only 4.7 percent of loans and only 4.9 percent of the total dollar amount of loans (Chart 8). In other words, they received 50.1 percent of the number of loans, and 53.1 percent of the dollar amount of loans, that their share of businesses represent. If businesses in low-income census tracts had received CRA-reported loans under \$100,000 in proportion to their share of business addresses overall, they would have received over 687,600 more loans totaling over \$8.8 billion more than they actually received between 2012 and 2014.

Businesses in moderate-income census tracts comprised an average 24.5 percent of all businesses, but they received only 16.7 percent of CRA-reported bank loans under \$100,000, and 16.8 percent of the total dollar amount of those loans, nationally between 2012 and 2014. They received 67.9 percent of the number, and 68.3 percent of the dollar amount, of loans under \$100,000 that their share of businesses represent. If businesses in moderate-income census tracts had received CRA-reported loans under \$100,000 in proportion to their share of business addresses overall, they would have received nearly 1.2 million more loans totaling over \$15.7 billion more than they actually received in the period from 2012 to 2014.

Chart 8: Percent of Businesses, Loans, and Dollar Amounts for CRA-reported Bank Loans under \$100,000 Nationally by Census Tract Income Level, 2012-14



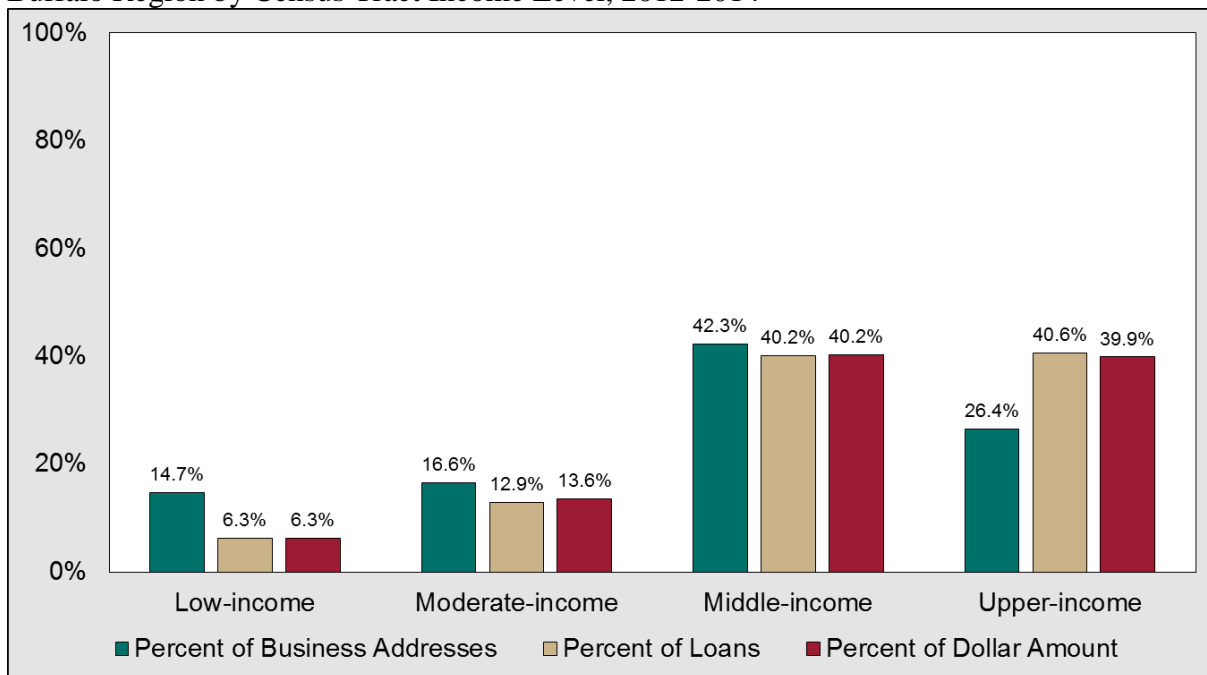
Sources: FFIEC CRA Nationwide Summary Statistics, Tables 4.1 and 4.2; FFIEC Median Family Income Percent data 2013; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

In the Buffalo and New Brunswick regions, similar patterns are evident, with businesses in low- and moderate-income census tracts receiving fewer CRA-reported bank loans under \$100,000 and less in total loan amounts than their respective share of businesses represent. For example, businesses in low-income census tracts in the Buffalo region comprised an average of 14.7

<sup>44</sup> For CRA reporting purposes, the census tract boundaries changed from the 2000 Decennial Census boundaries to the 2010 Decennial Census boundaries in 2012. The decision to analyze the census tract level data for the period between 2012 and 2014 was to keep the census tract geographies consistent for the entire period.

percent of all businesses in the region, but they received only 6.3 percent of the total number and 6.3 percent of the total dollar amount of those loans between 2012 and 2014 (Chart 9). That is, businesses in low-income census tracts in that region received under 43 percent of the number and dollar amount of loans under \$100,000 that their share of businesses represent. If businesses in low-income census tracts in the Buffalo region had received CRA-reported bank loans under \$100,000 in proportion to their share of all businesses in the region, they would have received nearly 3,300 more loans under \$100,000 totaling nearly \$43 million more than they received between 2012 and 2014.

Chart 9: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the Buffalo Region by Census Tract Income Level, 2012-2014



Sources: FFIEC CRA data for Erie and Niagara counties, 2012-2014; FFIEC Median Family Income Percent data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

For businesses in low-income census tracts in the New Brunswick region, the disparity between the percentage of businesses they represent and the number and dollar amount of CRA-reported bank loans under \$100,000 is even worse than the disparity in the Buffalo region. Businesses in low-income census tracts in the New Brunswick region comprised an average of 8.3 percent of all businesses in the region, but they received only 3.4 percent of CRA-reported bank loans and 3.2 percent of the total dollar amount of those loans between 2012 and 2014 (Chart 10).

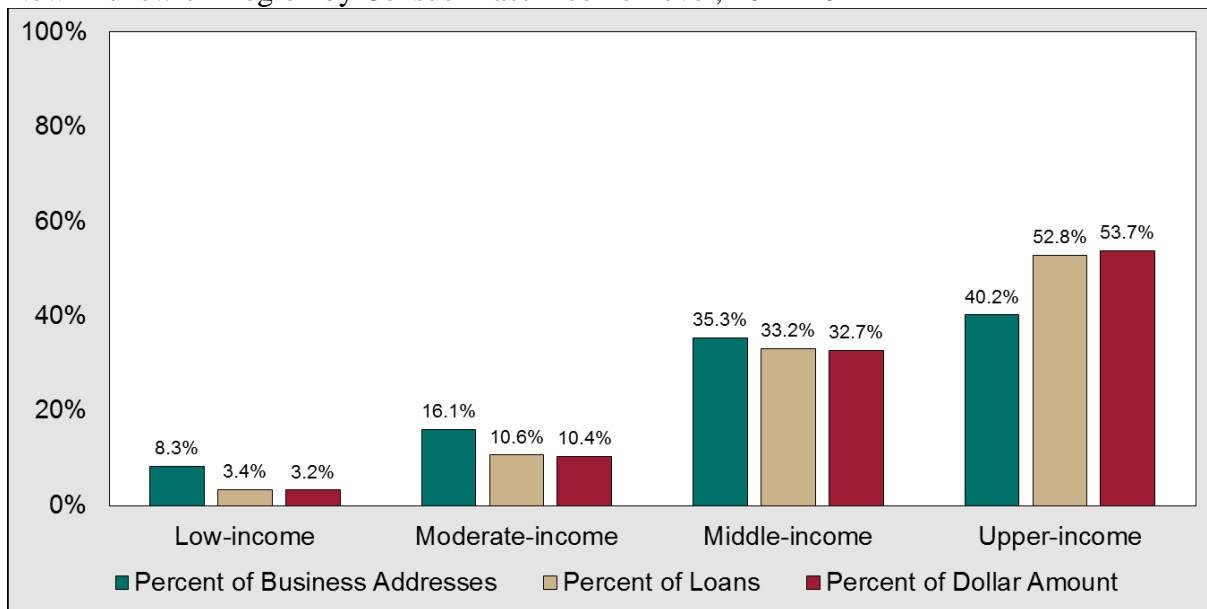
Businesses in those census tracts received about 40.7 percent of the number, and only 38.7 percent of the dollar amount, of CRA-reported banks loans under \$100,000 that their share of businesses represent. If businesses in low-income census tracts in the New Brunswick region had received loans in proportion to their share of all businesses, they would have received over 8,400 more loans under \$100,000 totaling over \$133.6 million more than they received between 2012 and 2014.

While not as stark as the disparities for businesses in low-income census tracts, businesses in moderate-income census tracts in both the Buffalo and New Brunswick regions also received a

smaller percentage of CRA-reported bank loans, both with respect to the number and dollar amount of loans, than their overall share of businesses. Businesses in moderate-income census tracts in the Buffalo region received 77.9 percent of the number, and 82.0 percent of the dollar amount, of loans under \$100,000 that their share of businesses represent. If businesses in moderate-income census tracts in the Buffalo region had received CRA-reported bank loans in proportion to their share of business addresses overall, they would have received over 1,400 more loans totaling over \$15.1 million more than they actually received in the period from 2012 to 2014.

Businesses in moderate-income census tracts in the New Brunswick region had larger disparities with respect to the number and dollar amount of loans than their counterparts in the Buffalo region. In the New Brunswick region, businesses in moderate-income census tracts received 66.1 percent of the number, and 64.4 percent of the dollar amount, of CRA-reported bank loans under \$100,000 that their share of businesses represent. If businesses in moderate-income census tracts in the New Brunswick region had received CRA-reported bank loans in proportion to their share of businesses overall, they would have received nearly 9,300 more loans totaling over \$149 million more than they actually received in the period from 2012 to 2014.

Chart 10: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the New Brunswick Region by Census Tract Income Level, 2012-2014



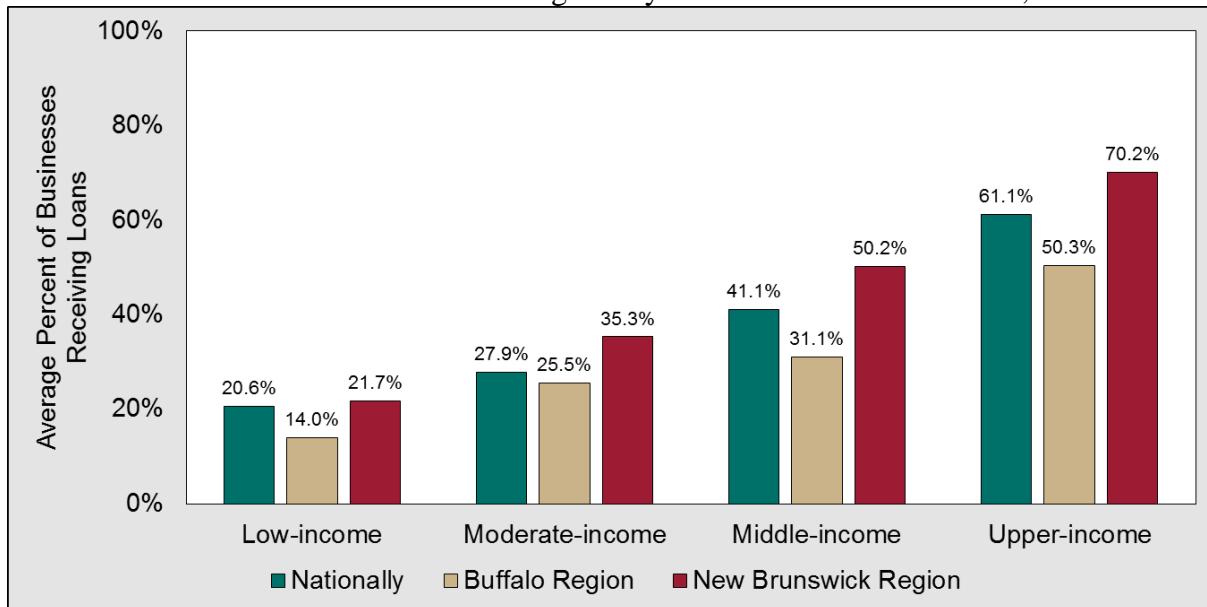
Sources: FFIEC CRA data for Mercer, Middlesex, Monmouth, Somerset, and Union counties, 2012-2014; FFIEC Median Family Income Percent data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

Nationally and in both the Buffalo and New Brunswick regions, businesses in lower-income census tracts were less likely to have received CRA-reported bank loans between 2012 and 2014 than businesses in higher-income census tracts (Chart 11). An average of one business in five, 20.6 percent, in a low-income census tract received a loan under \$100,000 during that period nationally, compared with more than three out of five businesses, 61.1 percent, in upper-income census tracts. In the Buffalo region, the degree of disparity was even greater than in the nation as

a whole. Less than one business in seven, 14.0 percent, in low-income census tracts received CRA-reported bank loans under \$100,000, compared with just over half of businesses, 50.3 percent, in upper-income census tracts. In the New Brunswick region, a higher percentage of businesses received loans than nationally, but the same pattern of disparity was evident. Slightly over one in five businesses, 21.7 percent, in low-income census tracts received CRA-reported bank loans under \$100,000, compared with just over seven out of 10 businesses, 70.2 percent, in upper-income census tracts.

Nationally, businesses in upper-income census tracts were about three times as likely to have received a CRA-reported bank loan under \$100,000 as businesses in low-income census tracts. In both the Buffalo and New Brunswick regions, businesses in upper-income census tracts were about three and a half times as likely to have received loans as businesses in low-income census tracts.

Chart 11: Average Percent of Businesses Receiving Loans under \$100,000 Annually Nationally and in the Buffalo and New Brunswick Regions by Census Tract Income Level, 2012-2014

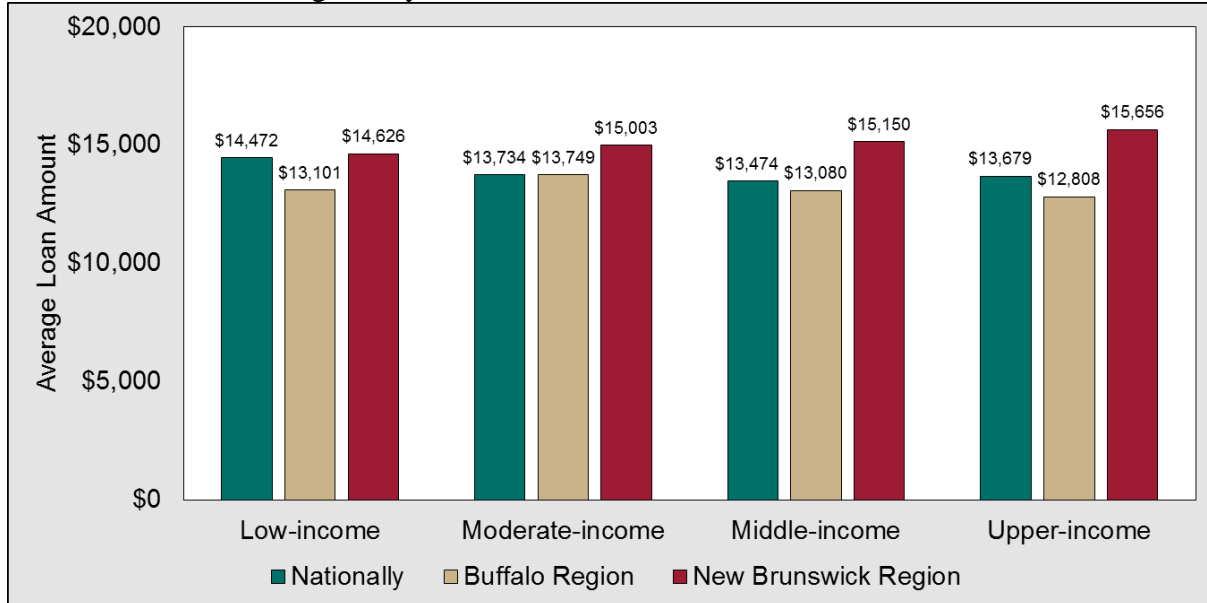


Sources: FFIEC CRA data for Erie and Niagara counties for the Buffalo region and Mercer, Middlesex, Monmouth, Somerset, and Union counties for the New Brunswick region, 2012-2014; FFIEC Median Family Income Percent data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author’s calculations.

While the probability of a business receiving a CRA-reported loan under \$100,000 increases as the income level of the census tract increases, nationally and in both the Buffalo and New Brunswick regions, the average loan amount does not, at least not nationally and in the Buffalo region (Chart 12). The average loan amount for loans under \$100,000 was actually 5.5 percent, or \$793, higher in low-income census tracts nationally, and 2.2 percent, or \$293 higher, in low-income tracts in the Buffalo region, than in upper-income census tracts, respectively. In the New Brunswick region, however, the average loan amount increased as the income of the census tract increased. The average loan amount in low-income census tracts was 7.0 percent, or nearly \$1,030, lower than the average loan amount in upper-income census tracts in the New Brunswick region.



Chart 12: Average Loan Dollar Amount for Loans under \$100,000 Nationally and in the Buffalo and New Brunswick Regions by Census Tract Income Level, 2012-2014



Sources: FFIEC CRA data for Erie and Niagara counties for the Buffalo region and Mercer, Middlesex, Monmouth, Somerset, and Union counties for the New Brunswick region, 2012-2014; FFIEC Median Family Income Percent data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author’s calculations.

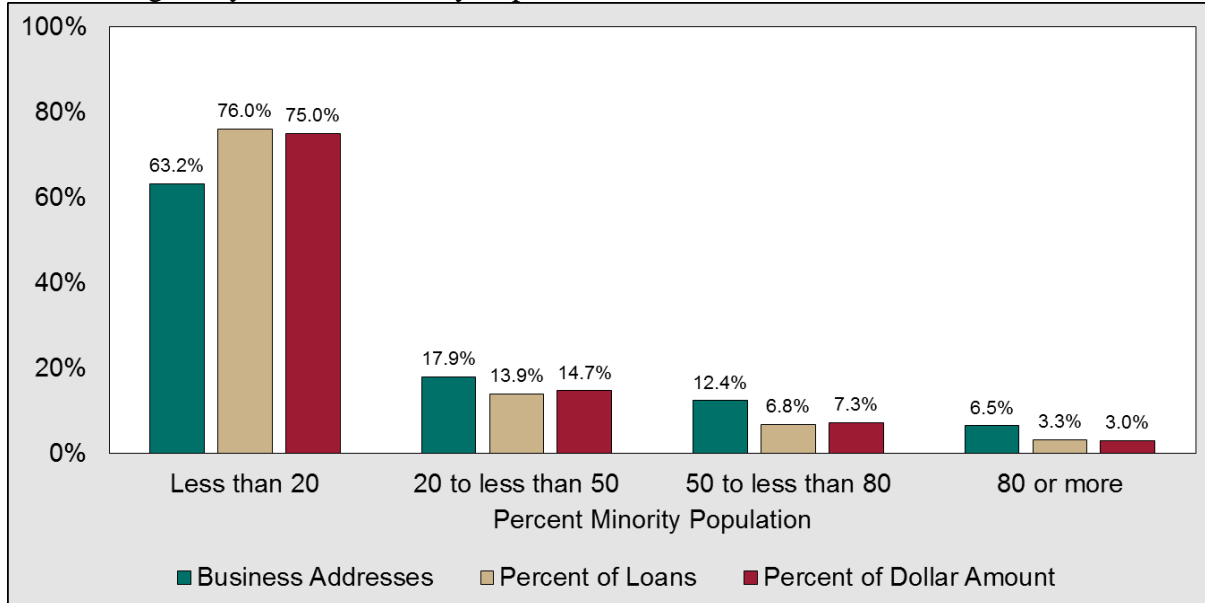
### Findings by the Percent Minority or Hispanic/Latino Population<sup>45</sup>

#### *Percent Minority Population*

Businesses in predominantly minority census tracts in the Buffalo region received a smaller percentage of CRA-reported loans under \$100,000, both by the number and dollar amount of loans, than their respective share of businesses in the region. They constituted an average of 6.5 percent of businesses, but they received only 3.3 percent of the number of loans and only 3.0 percent of the total dollar amount of such loans (Chart 13). That is, they received 50.1 percent of the number, and 45.7 percent of the dollar amount, of CRA-reported loans under \$100,000 that their share of businesses represent. If businesses in predominantly minority census tracts in the Buffalo region had received CRA-reported loans under \$100,000 in proportion to their share of businesses overall, they would have received more than 1,200 additional loans totaling over \$17.9 million more than they actually received between 2012 and 2014.

<sup>45</sup> “Minority” includes all of the non-white population in the census tract, based on the FFIEC census data. For simplicity and ease of reading, this report will use the following terminology: census tracts that were 20 percent or less minority or Hispanic/Latino will be “predominantly white” or “predominantly non-Hispanic;” census tracts that were 20 to less than 50 percent minority or Hispanic/Latino will be “majority white” or “majority non-Hispanic;” census tracts that were 50 to less than 80 percent minority or Hispanic/Latino will be “majority minority” or “majority Hispanic,” and census tracts that were 80 percent or more minority or Hispanic/Latino will be “predominantly minority” or “predominantly Hispanic.”

Chart 13: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the Buffalo Region by Percent Minority Population, 2012-2014

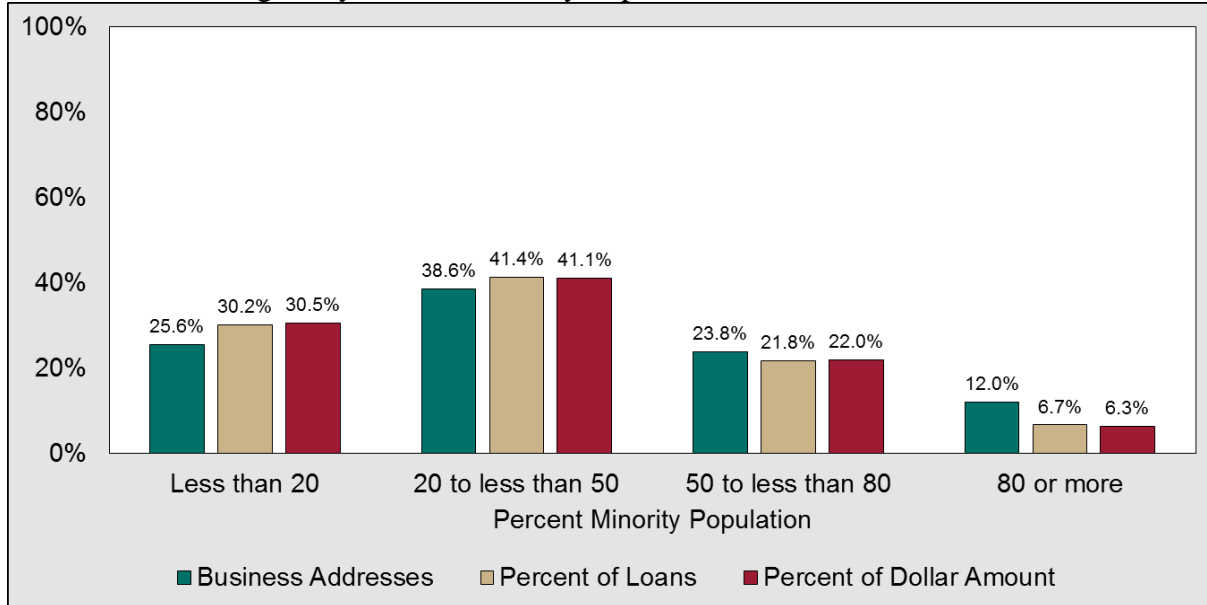


Sources: FFIEC CRA data for Erie and Niagara counties, 2012-2014; FFIEC Percent Minority Population data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author’s calculations.

For businesses in majority minority census tracts in the Buffalo region, the situation was not much better. They comprised 12.4 percent of businesses in the region, but they received 6.8 percent of CRA-reported loans under \$100,000, and 7.3 percent of the total dollar amount of those loans. In other words, they received 55.1 percent of the number of loans and 58.8 percent of the dollar amount of loans that their share of total businesses represent. If businesses in majority minority census tracts had received loans in proportion to their share of businesses, they would have received over 2,100 more loans, totaling more than \$25.9 million, than they actually received between 2012 and 2014.

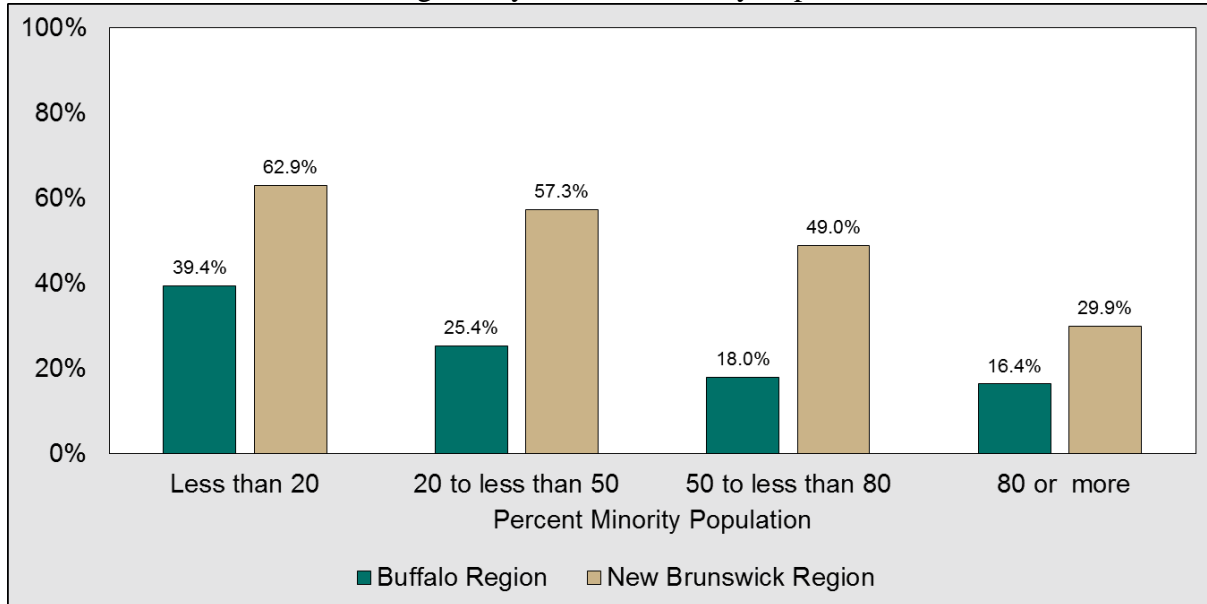
The disparities with respect to the number and total dollar amount of CRA-reported loans under \$100,000 for businesses in predominantly minority census tracts in the New Brunswick region are somewhat less pronounced than in the Buffalo region. Businesses in predominantly minority census tracts in the New Brunswick region constituted an average of 12.0 percent of businesses, but they received only 6.7 percent of the number of loans and only 6.3 percent of the total dollar amount of such loans (Chart 14). That means they received 55.9 percent of the number, and 52.8 percent of the dollar amount, of CRA-reported loans under \$100,000 that their share of businesses represent. If businesses in predominantly minority census tracts in the New Brunswick region had received CRA-reported loans under \$100,000 in proportion to their share of businesses overall, they would have received more than 8,900 additional loans totaling over \$165 million more than they actually received between 2012 and 2014.

Chart 14: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the New Brunswick Region by Percent Minority Population, 2012-2014



Sources: FFIEC CRA data for Mercer, Middlesex, Monmouth, Somerset, and Union counties, 2012-2014; FFIEC Percent Minority Population data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

Chart 15: Average Percent of Businesses Receiving Loans under \$100,000 Annually in the Buffalo and New Brunswick Regions by Percent Minority Population, 2012-2014



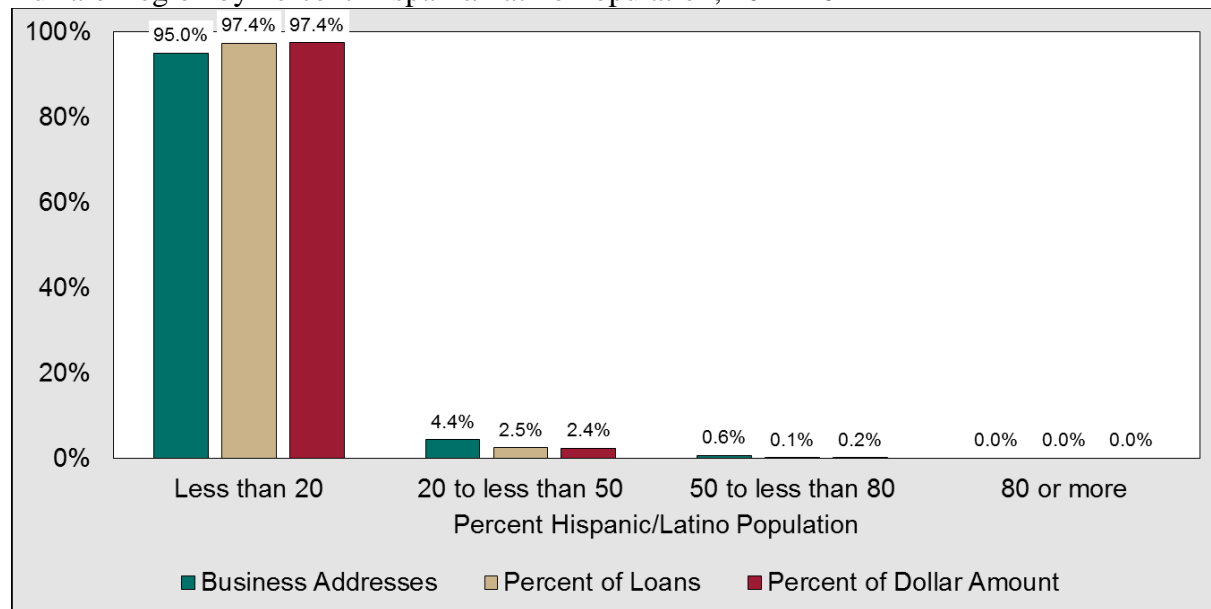
Sources: FFIEC CRA data for Erie and Niagara counties for the Buffalo Region, Mercer, Middlesex, Monmouth, Somerset, and Union counties for the New Brunswick region, 2012-2014; FFIEC Percent Minority Population data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

The pattern of disparities in access to CRA-reported loans under \$100,000 in the Buffalo region is consistent with the pattern of disparities in the New Brunswick region. The higher the percentage of minority population, the lower the percentage of businesses that received loans, especially for businesses in census tracts that are predominantly minority (Chart 15). Although businesses in the Buffalo region were, across the board, less likely to have received loans regardless of the racial composition of the census tract than their counterparts in the New Brunswick region, in both regions businesses in predominantly white census tracts were more than twice as likely to have received CRA-reported loans under \$100,000 than businesses in predominantly minority census tracts.

*Percent Hispanic/Latino Population*

As with the analysis of the distribution of CRA-reported loans under \$100,000 by the racial composition of census tracts, analysis by the percentage Hispanic/Latino population shows that the higher the percentage of Hispanic population, the lower the probability that a business received a loan. In the Buffalo region, however, the percentage of the population that is Hispanic/Latino is relatively small, only about 4.5 percent of the total population, and only 4.3 percent of all census tracts are 20 percent or more Hispanic/Latino, and none is 80 percent or more Hispanic/Latino.<sup>46</sup> Although the data on CRA-reported loans show the same kind of disparities in the Buffalo region as appear elsewhere (Chart 16), the fact that only one census tract is even majority Hispanic/Latino in the entire region suggests that the apparent disparities with respect to access to loans under \$100,000 could be affected significantly by a relatively small shift in lending.

Chart 16: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the Buffalo Region by Percent Hispanic/Latino Population, 2012-2014

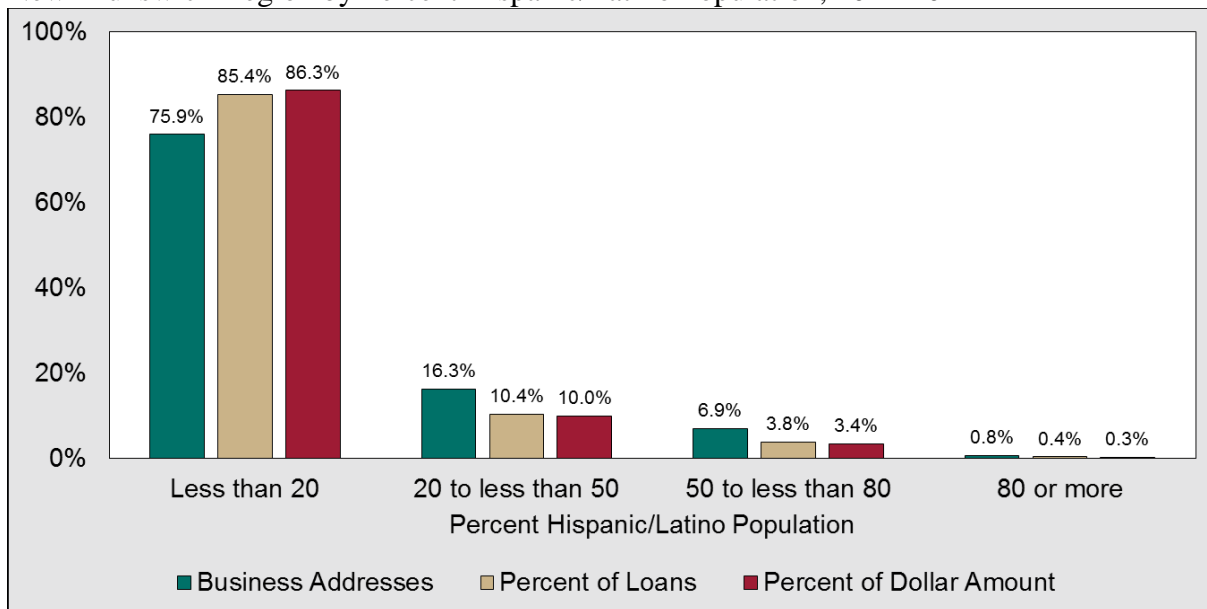


Sources: FFIEC CRA data for Erie and Niagara counties, 2012-2014; FFIEC Hispanic/Latino Population and Population data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author’s calculations.

<sup>46</sup> Based on demographic data from the FFIEC for 2013, of 299 census tracts in the Buffalo region, 282 (94.3%) are less than 20 percent Hispanic, 12 (4.0%) are 20 to less than 50 percent Hispanic, one (0.3%) is 50 to less than 80 percent Hispanic, and four did not have data on the percent Hispanic population.

In the New Brunswick region, Hispanics constitute 18.2 percent of the population, but only 1.0 percent of census tracts are 80 percent or more Hispanic/Latino, and they contain less than 0.8 percent of businesses. Census tracts with a majority Hispanic/Latino population, however, represent nearly 10 percent of all census tracts in the region and contain 7.7 percent of businesses, but they received only 4.2 percent of the number of CRA-reported loans under \$100,000, or 54.4 percent of the number they would have received based on their proportion of businesses (Chart 17). Businesses in census tracts with a majority Hispanic/Latino population received only 3.7 percent of the total dollar amount of loans, or 48.2 percent of their ratable share of the total dollar amount. Had businesses in census tracts with a majority Hispanic/Latino population in the New Brunswick region received loans in proportion to their overall share of businesses, they would have received nearly 6,000 more loans totaling more than \$12.5 million more than they actually received between 2012 and 2014.

Chart 17: Percent of Businesses, Loans, and Dollar Amount for Loans under \$100,000 in the New Brunswick Region by Percent Hispanic/Latino Population, 2012-2014



Sources: FFIEC CRA data for Mercer, Middlesex, Monmouth, Somerset, and Union counties, 2012-2014; FFIEC Hispanic/Latino Population and Population data 2012-2014; HUD/USPS Vacancy Data, Q1-4, 2012-2014; Author's calculations.

### Discussion and Policy Implications

Analysis of CRA-reported business loan data for loans under \$100,000 in the Buffalo and New Brunswick regions shows clear disparities in the origination of loans to active businesses by the income level, racial composition, and percent Hispanic/Latino population of the census tract (in New Brunswick). While earlier research on lending in the Chicago and Los Angeles-San Diego regions<sup>47</sup> showed similar patterns in two large metropolitan areas in different parts of the country for the period from 2012 to 2014 during a period of slow economic growth, the current research shows that the disparities are not simply a phenomenon in large metropolitan areas but are, in fact, found in smaller metropolitan areas and in still other parts of the country. For example, only one business in five in low-income census tracts nationally and in the New Brunswick

<sup>47</sup> Cowan, 2017.

region received CRA-reported loans under \$100,000, and only one in seven businesses in low-income tracts received them in the Buffalo region (Chart 11), compared with one in five in the Chicago region and one in four in the Los Angeles and San Diego regions.<sup>48</sup> Moreover, the pattern is similar to that found in earlier research in the Chicago region for small business lending for the period from 2008 to 2012, during a period of economic contraction from the Great Recession.

Not only were the findings with respect to the income level of the census tract for the Buffalo and New Brunswick regions consistent with the findings from the earlier studies of the Chicago and Los Angeles-San Diego regions from 2012 to 2014 and in the Chicago region from 2008 to 2012, the analysis of lending data also showed a similar degree of disparity with respect to the racial composition of the tract. Businesses in predominantly minority census tracts were less than half as likely to have received loans as businesses in predominantly white census tracts in all four regions. Those findings are also consistent with other studies of lending to minority- or Hispanic-owned businesses, which tend to be located in minority or Hispanic neighborhoods.<sup>49</sup> Because the term “loan” includes lines of credit and business credit cards as well as traditional term loans, that finding shows that more than three out of every four businesses in low-income census tracts, and nearly as high a percentage in predominantly minority or Hispanic census tracts, do not even have a business credit card from any of the major providers, such as Capital One or American Express.

The lack of access to loans from large financial institutions has at least three potentially damaging impacts on businesses in those neighborhoods, with negative spillover effects on residents. First, without access to capital, businesses are less able to expand and hire additional workers, reducing the level of services and economic opportunity in the neighborhood. Second, without credit, businesses are less able to finance inventory and manage cash flow, making them more likely to fail than businesses that have that basic financial tool available. Third, business owners needing loans may have to use alternative lenders, such as InAdvance or Merchant Funding Services, which provide high-cost loans with interest rates as high as 367 percent.<sup>50</sup> The extraordinarily rapid expansion of fintech and other alternative lenders, increasing over 1,700 percent in the number and about 630 percent in the total amount of loans between 2010 and 2014 according to one study,<sup>51</sup> suggests that non-bank lenders are filling the vacuum left by mainstream financial institutions.

The reliance on alternative lenders may be even greater for entrepreneurs from lower-income neighborhoods than for those from higher-income neighborhoods because they are less likely to be able to get loans from banks or to have significant equity in personal assets, such as a house, or personal credit cards with high available credit limits to use as a substitute for business

---

<sup>48</sup> Ibid.

<sup>49</sup> Bates and Robb, 2016; See also Klein, 2017, Fisher, 2013.

<sup>50</sup> Woodstock Institute analysis of 15 alternative loans showed effective annual interest rates from 26.3 percent to 367.7 percent. All of the loans analyzed with repayment periods of less than eight months had effective annual interest rates of over 100 percent.

<sup>51</sup> *Survey of Online Consumer and Small Business Financing Companies – 01/01/2010 through 06/30/2015: Summary Report of Aggregate Transaction Data.*

loans.<sup>52</sup> For a quarter of small employer firms, personal funds are the primary source of capital.<sup>53</sup> The high cost of alternative loans drains capital from the business, reduces growth, and can lead to the same cycle of debt that consumers can be trapped in with payday loans.

The findings are particularly troublesome in an environment in which deregulation of the financial services sector appears increasingly likely. The disparities in access revealed in the data analysis have occurred within the current regulatory environment, one that provides some incentive under the CRA for banks to invest in low- and moderate-income census tracts within their service areas. Reducing regulatory incentives for banks to lend and invest in low- and moderate-income areas may exacerbate the problems that businesses in lower-income and predominantly minority or Hispanic census tracts have getting loans from banks, leading to even greater reliance on the unregulated, sometimes predatory, non-bank fintech and alternative business lenders. The existing data on the products and practices of virtually unregulated fintech lenders suggest some of the perils that small businesses in a less regulated banking environment could face.

One element of the current trend toward less regulation of the financial services sector is the effort to limit the power and effectiveness of the CFPB. While its jurisdiction over business lending is somewhat limited, the Bureau has achieved a noteworthy measure of success in protecting consumers of financial services from unfair and abusive products and practices. The data it can collect under Section 1071 of the Dodd-Frank Act, for example, could provide valuable insight into business lending patterns and practices, much as the data available under the Home Mortgage Disclosure Act reporting requirements has done for mortgage lending. The CFPB or Department of Justice (DOJ) could then use those data to ensure that business lenders are complying with applicable fair lending requirements.

### **Policy Recommendations**

- **Make CRA examinations more rigorous.** One way to improve the performance of CRA-reporting financial institutions in making small loans to businesses in low- and moderate-income census tracts is for CRA examiners to place more emphasis on the business lending part of the exam than they currently do in determining CRA ratings. The change, however, should not be a zero-sum approach, placing more weight on business lending and diminishing the importance of the other types of lending, such as mortgages, in the lending component of the exam. Instead, examiners need to be more stringent in the scoring of performance with respect to all types of lending.

Examiners also need to consider the type of small business loans banks are offering, rather than aggregating term loans, lines of credit, and credit cards, into a single category. Those different types of loan serve very different purposes and should not be considered fungible in determining whether banks are meeting the credit needs of businesses. The distinction among loan types would not apply to all business lenders because some, such as American Express, FSB, offer only credit cards. Other banks, including Bank of America and Wells Fargo, offer both term loans and credit cards, and CRA examiners should consider the mix of loan types in their assessment of CRA performance. For example, examiners could compare separately for each

---

<sup>52</sup> Robb, 2013. Fairlie and Robb, 2010.

<sup>53</sup> *2016 Small Business Credit Survey: Report on Employer Firms.*

loan type the percentage of small business loans in low- and moderate-income census tracts with the percentage of each loan type in all census tracts within the bank's service areas.

In addition to the lending test, regulators need to be more critical in enforcement of the service test, providing more incentive for banks to maintain brick-and-mortar branches in low- and moderate-income neighborhoods. Bank branches are essential for many low- and moderate-income customers and businesses in low- and moderate-income neighborhoods. Branches provide services that may not be available through Automatic Teller Machines (ATMs), such as help completing loan applications or sending remittances. Some customers, particularly the elderly, may not be comfortable with ATMs or mobile technology and prefer to bank in-person, as they always have. For neighborhood businesses, the local branch is a key source of credit and business loans. Research has shown that local bank branch closings resulted in a 13 percent decline in small business lending that lasts for several years, that the decline is concentrated in low-income and predominantly minority neighborhoods, and that the decline is not affected by the opening of new branches following the closings.<sup>54</sup> Given the importance of maintaining existing branches in low- and moderate income neighborhoods to preserve small business access to bank loans, regulators should exercise their authority to require banks to obtain non-objection letters from their regulator whenever seeking to close branches in low- and moderate income neighborhoods.

According to one analyst, over 96 percent of banks receive a satisfactory CRA rating or better.<sup>55</sup> When only one business out of five in low-income tracts, and one of four in moderate-income tracts, has a loan, line of credit, or credit card from a large financial institution, rating the performance of 96 percent of financial institutions as satisfactory seems to set very low expectations. The significance of more stringent CRA examinations is evident in the recent \$30 billion Community Benefits Agreement (CBA) plan that Fifth Third Bank agreed to with the National Community Reinvestment Coalition to address its "Needs to Improve" CRA rating, without any merger or acquisition pending.<sup>56</sup>

- **Promulgate rules under Section 1071 of the Dodd-Frank Act to require small business lenders to report loan data to the Consumer Financial Protection Bureau (CFPB).** In the rules, the CFPB should require small business lenders to report the type of lender, the loan amount requested, the type of loan requested (term loan, credit card, or merchant cash advance), the action taken on the application, the amount loaned, the Annual Percentage Rate on the loan, whether the loan is payable by ACH debit, and the lender's default rates, in addition to any borrower demographics and business attributes necessary for fair lending analysis. If the Office of the Comptroller of the Currency (OCC) grants a special purpose charter to any fintech lender, the OCC should require the lender to report these same data.

---

<sup>54</sup> Nguyen, Hoai-Luu Q., 2014. *Do Bank Branches Still Matter? The Effect of Closings on Local Economic Outcomes*. Downloaded from <http://economics.mit.edu/files/10143> on November 30, 2016. A later version of this study was published in October, 2015, by the University of California at Berkeley.

<sup>55</sup> Thomas, Kenneth H., *Comptroller Curry: How About Some Real CRA Reform?* in *American Banker*, April 9, 2014.

<sup>56</sup> A one-page summary of the CBA plan can be found at <https://www.53.com/about/in-the-community/53-commitment-plan-summary.pdf>.



Currently, the CRA requires only lenders with assets of over approximately \$1 billion to report small loans to businesses. While CRA-reporting lenders do make the majority of business loans, non-reporting institutions still make about a third of all loans by dollar volume.<sup>57</sup> The CFPB should include small lenders in its database to allow a more comprehensive analysis of how well financial institutions are meeting the credit needs of businesses in low- and moderate-income neighborhoods and communities of color.

In addition to expanding the number of business lenders reporting, the CFPB needs to expand the scope of data that lenders report. Currently, CRA business lending reports do not include some key data that would allow for a more precise estimate of how well, or poorly, the large financial institutions are meeting the goals of the Act, which is to meet the credit needs of the community. The CRA-reported data cover only loans that are actually made, for example, but do not include business loan applications that did not lead to a loan being made. The data, therefore, do not show how many businesses sought credit, but were denied. Nor does the CRA dataset include the amount of the loan applied for, which shows the level of demand for business loans. The CRA data aggregate loans originated into three categories, \$100,000 or less, \$101,000 to \$250,000, and \$250,000 to \$1,000,000, but do not report the actual amount of the loan to allow analysis of the difference between the level of demand and the dollar amount of loans originated. Those changes, including all loan applications, the amount requested, action on the application, and the amount originated, would much more accurately show the level of demand and how well lenders are meeting the demand. In addition, the CFPB should require lenders to report the type of loan applied for, whether it is a term loan, line of credit, or credit card, to show whether lenders are providing the types of credit businesses are seeking.

For fintech lenders, the CFPB should require disclosure of loan originations, the Annual Percentage Rate on loans, whether the loan is a Merchant Cash Advance against future receivables, whether it is payable by ACH debit, and default rates to show how non-bank lenders are providing credit to their business borrowers.<sup>58</sup> The data reporting to CFPB should be in addition to any reporting to the OCC by fintech lenders operating under a federal charter.

• **Investigate potential violations of fair lending statutes by business lenders, and, if violations are evident, take appropriate remedial action.** The Equal Credit Opportunity Act (ECOA) applies to business lending. The disparities revealed in this report, in the earlier report on lending in the Chicago and Los Angeles-San Diego regions, and other research on business lending,<sup>59</sup> found that businesses in census tracts with higher percentages of minority residents or with minority owners are less likely to receive business loans than businesses in census tracts with lower percentages of minority residents or with white owners. Those findings suggest the need for further investigation to determine whether business lenders are complying with ECOA and providing credit on a non-discriminatory basis to applicants. If the data show violations, both the CFPB and DOJ should act to remedy those violations.

---

<sup>57</sup> See footnote 24.

<sup>58</sup> Mills and McCarthy, 2016.

<sup>59</sup> Bates and Robb, 2016. See also Cowan, 2012.

- **Incorporate the equivalent of CRA requirements for investment in low- and moderate-income census tracts, fair lending, consumer protection, and safety and soundness oversight similar to those for banks in any federal charter for fintech lenders; the charter should also explicitly avoid preemption of state laws conferring greater protection on business borrowers.** Fintech lenders are filling the vacuum left by the failure of mainstream banks to make small business loans, and they may serve a valuable role in helping small businesses succeed, but only if the loans they make are beneficial for the businesses. Just as predatory consumer loans can trap borrowers in a cycle of debt and lead to financial ruin, predatory business loans can drain capital from businesses and lead to failures.

The Office of the Comptroller of the Currency (OCC) has proposed a federal charter for fintech lenders.<sup>60</sup> In its paper on innovation in banking,<sup>61</sup> the OCC recognized the role of fintech lenders and addressed some of the concerns it saw with banks working with or adopting the methods of the fintech lenders. The OCC's first guiding principle of understanding and evaluating new offerings was to support responsible innovation. It defined responsible innovation to mean, "the use of new or improved financial products, services, or processes . . . in a manner that is consistent with sound risk management and is aligned with the bank's overall business strategy."<sup>62</sup> That definition completely fails to address the potential for innovative products to have an adverse impact on customers and borrowers.

Because many fintech lenders have provided access to capital with terms and conditions that are predatory and harmful to the borrower, advocates have expressed concerns over any federal charter for fintech lenders. Those concerns include the possibility that the charter will preempt state laws protecting business borrowers, as has happened with national banks in consumer lending. For example, nationally chartered banks are allowed to charge the maximum interest rate on consumer loans permitted in the state in which they are incorporated, even if that rate exceeds the maximum allowed in the borrower's state of residence, effectively gutting state usury laws. The OCC special purpose charter should clearly limit any potential for preemption of more protective state laws.

A federal charter will provide significant benefits to the emerging fintech industry, and, in exchange for those benefits, the federal charter for fintech lenders must include strong protections to reduce the chances that lenders can make predatory loans and to provide the same level of oversight for fintech lenders as for the banks with which they compete or partner. As the OCC observed in its paper, not all innovations are beneficial, and the charter should ensure that the innovations it encourages do not do more harm than good. For example, the charter should include requirements to ensure transparency in loan terms, with disclosures similar to those for consumer loans under the Truth in Lending Act. Most businesses are sole proprietorships and do not have attorneys and financiers to explain complex loan documents and terms.<sup>63</sup>

---

<sup>60</sup> Comptroller Curry made the announcement on December 2, 2016. See <https://www.occ.gov/news-issuances/news-releases/2016/nr-occ-2016-152.html> for a summary of his remarks and links to more information.

<sup>61</sup> Office of the Comptroller of the Currency, 2016. *Supporting Responsible Innovation in the Federal Banking System*. Downloaded from on November 30, 2016.

<sup>62</sup> Office of the Comptroller of the Currency, 2016, p. 5.

<sup>63</sup> Mills and McCarthy, 2016.

- **Support and increase funding for Community Development Financial Institutions (CDFIs) and the New Markets Tax Credit (NMTC) Program.** CDFIs are financial institutions with a mission to serve communities that are traditionally distressed or underserved by mainstream financial institutions. The NMTC Program provides private-sector investors a credit against federal income taxes for investments in Community Development Entities (CDEs), domestic corporations or partnerships that serve as intermediary vehicles to provide investment capital and loans in low-income communities.<sup>64</sup> Both CDFIs and CDEs are important sources of business capital in low-income neighborhoods and communities of color, but they can serve only a small fraction of the need. Community organizations and advocates need to work to support and increase funding for CDFIs and the NMTC Program to enable CDFIs and CDEs to expand the level of investment they bring to their service areas.

- **Use responsible banking ordinances to reward banks that lend to businesses in low- and moderate-income neighborhoods and communities of color.** Local governments should use responsible banking ordinances that link government bank deposits to community reinvestment performance to encourage financial institutions to make more small loans to businesses in low- and moderate-income neighborhoods and communities of color. As part of a revitalization strategy, for example, lenders that do the most to provide credit to businesses in neighborhoods targeted for revitalization could receive preference for municipal deposits and other banking services that the municipality needs. The effect would be to use the deposits and other services to make private capital available to support economic development in the neighborhood. Any responsible banking ordinance, however, must be carefully crafted as an incentive, not a mandate, to avoid having a court rule that it is preempted by federal and state bank regulations, as one court has done. Despite that ruling, other municipal responsible banking ordinances remain in effect.

- **Require strong CBA plans with community input and enforceable goals for approval of mergers and acquisitions.** As the recovery of the financial services sector has proceeded, the number of mergers and acquisitions has increased. These activities present one of the rare opportunities for the prudential regulators to use their authority under the CRA to require banks to fully meet their obligations to invest in low- and moderate-income census tracts. Recently, advocates and community groups have secured negotiated CBAs with banks seeking regulatory approval for mergers or acquisitions, and regulators should use those agreements as performance models for the future, both as to the process through which the agreements are reached and the substantive requirements that the agreements contain. For example, Huntington Bank agreed to a \$16.1 billion CBA as part of the approval process for its acquisition of FirstMerit Bank, and City National Bank agreed to commit a minimum of \$11 billion in CRA-qualified investments, including \$4.2 billion in small business loans, over a five-year period in connection with its merger with the Royal Bank of Canada. Other banks seeking approvals for mergers and acquisitions should be required to make similar, enforceable commitments as a condition of the approval.

---

<sup>64</sup> For more information about CDFIs and the NMTC program, see <https://www.cdfifund.gov/programs-training/Programs/new-markets-tax-credit/Pages/default.aspx>.

- **Extend consumer protections to small business loans.** Business borrowers, many of whom assume personal liability for repayment of loans to their businesses,<sup>65</sup> should receive the same types of protections for small loans as they would receive were the loan for personal use. Lenders should be required to disclose the loan terms clearly, in a way that enables the borrower to understand the cost of the loan and repayment terms, to determine the borrower's ability to repay the loan without additional borrowing, and be prohibited from engaging in abusive collection practices. Not only should the protections be the same for small business loans as for consumer loans, but the CFPB should have authority over small business loans as it does consumer loans, especially for the smallest loans and those for which the business owner assumes personal liability.

### **Recommendations for Banks**

- **Require compliance and fair lending teams to actively take steps to ensure consistency in the delivery of small business products and services.** The disparities in lending to borrowers in communities of color identified in this series of reports, and the evidence of small business loan officer discrimination against and discouragement of small business loan applicants from protected classes highlighted in other research reports,<sup>66</sup> raise serious fair lending concerns. Bank training of small business loan officers should emphasize consistent and fair treatment of all loan applicants including, for example, how loan officers offer business cards and assistance or make referrals. Banks should also conduct periodic internal mystery shopping using testers of various backgrounds and protected classes, such as race, ethnicity, national origin, gender, and marital status, to ensure that applicants of different backgrounds receive the same levels of products, services, and assistance.
- **Support nonprofit organizations that conduct fair lending training and testing, or fair lending research and advocacy.** The disparities in lending to borrowers in low- and moderate-income communities identified in this series of reports raise concerns about the extent to which banks are meeting their obligations under the CRA to serve the credit needs of low- and moderate-income people and communities, consistent with safety and soundness. To the extent that bank grants or investments in fair lending training, testing, research, and advocacy primarily benefit low- and moderate-income persons and communities, banks can receive favorable consideration under the CRA investment or community development tests.

---

<sup>65</sup> According to the Census Bureau, <http://www.census.gov/econ/nonemployer/>, the majority of all business establishments in the United States are nonemployers, that is, self-employed individuals operating unincorporated businesses (known as sole proprietorships). See also Mills and McCarthy, 2016.

<sup>66</sup> See, e.g., Bates and Robb, 2016.