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Acting Comptroller Michael Hsu
Comptroller of the Currency
400 7th St., SW
Suite 3E-218
Washington, DC 20219

Chair Martin Gruenberg
Federal Deposit Insurance Corporation
550 17th St. NW
Washington, C 20429

Chair Jerome Powell
Board of Governors for the Federal Reserve System
20th Street and Constitution Avenue N.W.,
Washington, DC 20551

Re: Notice of Proposed Rulemaking (NPR) regarding updating the Community Reinvestment Act (CRA)

Dear Comptroller Hsu, Chairman Gruenberg and Chairman Powell,

Thank you for the opportunity to comment on the proposed changes to the Community Reinvestment Act. This NPR represents the most significant changes to the CRA regulation and exams in 27 years. In summary, the proposed rule is a marked improvement, but is far from ambitious.

The Community Economic Development Association of Michigan (CEDAM) is a statewide, nonprofit membership organization with more than 250 members engaged in community-based economic development. This work includes affordable housing, community economic development, economic inclusion, capacity building and more.

The CRA is one of the major civil rights laws that was passed in response to discriminatory policies and practices that locked people of color out of banking, credit, housing, employment and education. It is one of the most important laws we have that hold banks accountable to local communities. CRA has successfully leveraged loans, investments and services. Between 2009 and 2020, banks have made more than \$2.58 trillion in home loans to low- and moderate-income (LMI) borrowers or in LMI census tracts. They made \$856 billion in loans to small businesses with revenues under \$1 million. **We need to build on this progress and address the remaining disparities in lending through CRA reform.**

CRA will be more effective in bolstering bank reinvestment activity in underserved communities the more rigorous CRA exams and ratings are. The agencies proposed important improvements in the CRA regulation including increasing the rigor of the subtests on the CRA exams, expanding geographical areas on CRA exams and collecting more data to scrutinize bank performance. However, they did not sufficiently address racial inequities.

CRA must explicitly consider bank activity by race and ethnicity

Although the CRA statute does not mention race, it required banks to serve all communities, which provides room for the federal bank agencies to incorporate race in CRA exams. Persistent racial disparities in lending should compel the agencies to incorporate race and ethnicity in CRA exams.

Specifically, we ask regulators to:

- Add racial data to the list of factors considered when creating assessment areas.
- Compare lending data by race to peer-banks within assessment areas.
- Formally incorporate HMDA and 1071 data by race into an examination.
- Severely punish banks that are found to have violated civil rights, fair lending, or fair housing laws.
- Add an impact review factor to the community development finance test that considers investments made in historically redlined communities and areas in which the residents are predominantly people of color.

Public input mechanisms: Agencies propose improvements that must be codified

Because CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments regarding the extent to which banks meet local needs. The agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites. Posting comments on agency websites will establish accountability on the part of examiners to consider them.

Enhancements to community development definitions will increase responsiveness of banks to community needs

The agencies proposed refinements to the definitions of affordable housing, economic development, climate resiliency and remediation, community facilities and infrastructure that we believe will more effectively target revitalization activities to communities such as persistent poverty counties and Native American communities. In addition, NPR should further clarify the role of community-based development organizations (CBDOs) in CRA. The NPR sometimes recognizes the important role CDCs and CBDOs play but sometimes doesn't. A currently active federal definition of a CDC is offered in the Office of Community Services within HHS. We ask regulators to adapt and adopt this definition to identify organizations that qualify as a CDC for CRA purposes.

In addition, regulators should give more consideration and acknowledgement to banks that utilize effective, creative, and exemplary local community engagement strategies. In past CRA commenting opportunities, national advocates have been very critical of how little attention regulating agencies have paid to local community engagement strategies banks employ to identify community needs in LMI areas. We propose that exemplary

community engagement strategies in LMI areas be recognized as a standalone impact review factor when regulators are considering CRA credit for an eligible community development activity.

Data improvements will help hold banks accountable but all new data should be publicly available

The agencies correctly proposed to include new data collecting requirements for deposits, community development activities and automobile lending. Some of this data such as deposit and automobile lending would not be publicly available, which limits the extent to which the public can hold banks accountable for reaching underserved communities. We ask the agencies to reconsider this decision and also to expand data collection to all large banks instead of just banks with assets of more than \$10 billion in the case of deposits and automobile lending. Finally, CRA exams should not only analyze access to deposit accounts for LMI communities but also affordability by comparing and refining, if necessary, fee information collected in call report data.

Reclassifying banks as small and intermediate small banks (ISB) would reduce community reinvestment activity

By adjusting asset thresholds for qualifying for various CRA exams, the agencies proposed to reclassify 779 ISB banks as small banks, which would no longer hold these banks accountable for community development finance. In addition, the agencies proposed to reclassify 217 large banks as ISB banks, eliminating their service test and accountability for placing branches in LMI communities. These changes lack justification since these banks have been successfully performing these activities for several years. We urge the agencies to eliminate this aspect of the NPR because it would reduce reinvestment activity. Research from NCRC estimates that well over \$1B in community development financing could be lost as a result. If that estimate proves to be anywhere close to accurate, it would be a significant failure for the regulating agencies.

We encourage regulators to begin thinking *now* about how to roll out a new rule to stakeholders, in addition to banks.

Few people in the community development field remember how the last set of CRA changes were implemented more than 25 years ago. Regulators must make a significant effort to reach community-based development nonprofit organizations and other stakeholders. The Federal Reserve Bank System, for example, has a dedicated function to CRA education that has served the field well for years. However, we fear that that function (and related functions in the other regulating entities) will provide woefully insufficient levels of education to the field. This is particularly important because this process has become so complicated and technical that many community-based organizations currently feel ill-equipped to meaningfully participate.

Conclusion

The NPR is a good start and promises to make parts of CRA exams more rigorous, but we urge the agencies to extend the rigor of the large bank lending test to the other tests. We also ask the agencies to incorporate race in CRA exams, to expand the public reporting of their data collection proposals, to bolster their assessment area proposal to

make sure that smaller communities are not left out, and to refrain from reducing reinvestment requirements for any segment of banks. If CRA is improved while maintaining public input and accountability, we believe the proposed rule could help reduce inequalities, disinvestment and other disadvantages in America's overlooked communities.

Lastly, and most importantly, whenever possible, the agencies should use plain language in these publications to make the information accessible to community members. This information would benefit all stakeholders – fellow regulators, financial institutions, and community advocates.

Thank you for your attention to our comments.

Sincerely,

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