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Re: Joint Proposal to Strengthen and Modernize Community Reinvestment Act Regulations {Docket ID OCC-2022-0002; Regulation BB; Docket No. R-1769}

The National Housing Resource Center appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) regarding the Community Reinvestment Act (CRA). The National Housing Resource Center would like to offer areas of improvement for the NPR.

Recognizing Housing Counseling as a Vital Component of CRA Performance

Housing counseling delivered by HUD approved housing counseling agencies is a critical component in addressing the housing challenges faced by low and moderate-income people and people of color. HUD certified housing counselors work directly with the low and moderate-income populations currently targeted by the CRA and work directly with the Black, Brown, and Asian populations that we are asking regulators to include with this rulemaking. As an example, in FY 2020, 72% of the housing counseling sessions were delivered to low and moderate-income households (80% or less of area median income) and 81% were to people of color (including 44% Black, 22% Hispanic, 10% Mixed Race, 3% Asian, 1% American Indian/Alaskan Native, 1% Native Hawaiian/Pacific Islander), based on the FY 2020 HUD 9902 Reports.

We appreciate the recognition of financial literacy and housing counseling as part of the Community Reinvestment Act process. However, it is important to recognize the unique role and effectiveness of housing counseling. Financial literacy helps inform people about homeownership, homebuying, and financial management. Housing counseling has a much deeper role in helping people meet their financial goals. Housing counseling is a personalized analysis and guidance for people through the complicated, opaque, and intimidating process of purchasing a home. New entrants to the homebuying process are disadvantaged by the intimidating array of challenges of the process, are at risk of being taken advantage of by predatory or discriminatory actors, and can benefit from professional, independent advice from a trusted, HUD certified housing counselor.

HUD certified housing counselors provide several critical services for new entrants to the new home buying market: 1) a clear and plain language evaluation of the household income, debts, household budget, credit report, credit score, employment history, 2) a practical action plan to address any challenges the household has with clear steps on how to cure problems and barriers, 3) assembly of borrower documentation to facilitate loan application and appropriate representation of the financial position of the household, 4) financial information tailored to the situation of the household, 5) guidance on appropriate lender products to consider, and 6) importantly, the role of a trusted advisor who is not only familiar with the complexities of the mortgage process but also is an independent advisor who does not have a financial stake in the transaction and is professionally committed to guiding them responsibly through the process.

> **We recommend that the final rule recognize the important role housing counseling by HUD approved housing counseling agencies provides in addressing income, race, and ethnic barriers in the market place and provide higher value in support for housing counseling in the CRA evaluation process.**

Housing counseling is a proven tool that helps consumers get mortgage-ready through financial education, pre-purchase counseling, reverse mortgage counseling, and credit history counseling. This eligible activity would make a difference for low-moderate income earners. While lenders recognize the value of HUD approved housing counseling agencies in addressing the troubling and persistent gaps in access to homeownership, there is a needed clarification in what form that support can take. Lender fee-for-service payments for housing counseling services are an important avenue for supporting housing counseling and a clear statement in the rule that these fee-for-service payments are considered eligible supports under the CRA will provide the necessary clarity.

> **We recommend that the final rule specifically recognize lender fee-for-service payments for housing counseling services by HUD approved housing counseling agencies as an eligible activity under the Community Reinvestment Act.**

Question 27 asks "Should consideration of financial literacy activities expand to include activities that benefit individuals and families of all income levels, including low- and moderate income, or should consideration be limited to activities that have a primary purpose of benefiting low- or moderate income individuals or families?" We view the income targeting of the Community Reinvestment Act as a vital component of the CRA and the goal of reaching underserved populations. Allowing CRA credit for people at all income levels will undermine the central purpose of the CRA.

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We recommend that credit for CRA eligible activities, including housing counseling services and financial literacy activities, be limited to those populations specifically targeted by the CRA.

Facilitating Partnerships

According to the NPRM, partnerships with Community Development Financial Institutions (CDFIs) "would be presumed to qualify for CRA credit given these organizations would need to meet specific criteria to prove that they have a mission of promoting community development and provide financial products and services to low- or moderate-income individuals and communities." We think this presumption makes sense and would recommend applying the same logic to HUD-approved housing counseling agencies, HUD-designated Community Housing Development Organizations (CHDOs), and NeighborWorks organizations.

Evaluating CRA Bank Performance by Race and Ethnicity

The CRA was created in 1977 to address redlining by banking institutions, where lending decisions were based on the racial and ethnic make-up of the neighborhood. The CRA requires banks to serve the credit needs of all the communities they serve. Under the Act, regulators evaluate bank performance of their lending by borrower income, but not by race or ethnicity. While redlining is a geographic phenomenon, it is the race and ethnicity of the residents within these neighborhoods that defined the discriminatory redlining that the CRA was designed to address. The CRA has effectively leveraged trillions of dollars of loans, investments, and services to low and moderate-income communities. While this has great value, it does not effectively address the racial and ethnic elements of redlining. Today there remains the troubling homeownership gap and the wealth gap by race and ethnicity.

Agencies must consider activity by race and ethnicity. We recommend including ethnicity and race in exams to further identify and address these inequitable outcomes that are directly tied to the wellness and quality of life of consumers. Deep racial and ethnic disparities will persist in lending practices without the incorporation of race and ethnicity in CRA exams. Banks are currently collecting the data on race and ethnicity in the Housing Mortgage Disclosure Act (HMDA) data and strengthened CRA regulations should evaluate bank performance, including evaluations based on race and ethnicity.

We support the National Community Reinvestment Coalition proposals for affirmative obligations to serve people of color and their communities into CRA evaluations of retail lending, retail services, community development financing and community development services. The agencies should value programs which address the racial and ethnic wealth gap, including first generation downpayment assistance, special purpose credit programs that take into account race and ethnicity, and smaller mortgages.

Addressing Appraisal Bias

The new CRA rules should address appraisal bias with the requirement of a HMDA-like disclosure for appraisal firms. Recent reports have demonstrated that appraisals for consumers of

color and properties in communities of color are more likely to understate property values in comparison to actual sale prices for white sellers and less diverse communities.
The HMDA-like reports should include data on the number and share of appraisal firms provided by the census tract, the number where appraised value is less than the contract sale price, and related data. This would enable local cities, counties, hospitals, universities, and nonprofits to identify and utilize preferred appraisal firms similar to lists of minority-owned, women-owned, and veteran-owned contractors. Mortgage lenders should be encouraged to work with appraisers who have a track record of serving diverse communities. The Philadelphia Home Appraisal Bias Task Force urges this action in its July report for cities in the United States. It is critical to address appraisal bias because communities of color earn less equity than their white counterparts in their mortgages. Appraisal bias worsens racial inequities in the housing market. The disparate impact of appraisal bias is inconsistent with the Fair Housing Act.

Conclusion

Housing counseling delivered by HUD approved agencies is a proven tool that helps consumers get mortgage-ready through financial education, pre-purchase counseling, reverse mortgage counseling, and credit history counseling. We encourage you to strengthen CRA and its ability to impact underserved communities and to increase the role of housing counseling in achieving these goals.

Thank you for considering our recommendations.

Sincerely,

National Housing Resource Center