



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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SINCE 1966

RURAL FAIR HOUSING AND FORECLOSURE PREVENTION PROGRAM

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RE: CRA NPR COMMENTS – OPPOSE UNLESS AMENDED

OCC Docket ID OCC-2022-0002;
FDIC RIN 3064-AF81;
Federal Reserve Docket No. R-1769 and RIN 7100-AG29

To Whom It May Concern:

California Rural Legal Assistance, Inc. (CRLA) and its Rural Fair Housing and Foreclosure Prevention Program thanks the agencies for soliciting comments on a unified proposed Community Reinvestment Act (CRA) rule that seeks to retain key components of the CRA, modernize aspects where industry practices have outpaced the rules, and strengthen the ability of the CRA to stabilize and revitalize communities. CRLA is a nonprofit law firm that has provided legal services to low-income residents of California for more than 50 years. Our mission is *to fight for justice and individual rights alongside the most exploited communities of our society.*

Our Rural Fair Housing and Foreclosure Prevention Program advocates for all aspects of fair housing while helping mortgage borrowers navigate their foreclosure prevention alternatives. Our program advocates have participated in CRA-focused meetings that have resulted in systemic change. We have successfully negotiated increases in fair mortgage lending to underserved communities of color, helped develop special purpose credit programs to assist with down payments, and received key escalation contacts within loss mitigation departments for assistance in resolving

issues for future clients. Relying on the CRA has been instrumental in pushing for racial equity by encouraging fair lending and curbing some of the concerning foreclosure practices we have seen. For this reason, the CRA must be strengthened to continue to address fair housing and racial equity issues.

CRLA, formally submits comments opposing the Community Reinvestment Act (CRA) rule proposal in its current form. There are significant gaps in the proposal based on our experience in participating on multiple Community Benefits Agreements. We believe the proposal can be strengthened to ensure our rural communities are not left behind, and which aligns with the obligation to affirmatively further fair housing. We see the need for modernizing the rule to better reflect the current environment of our client communities. For this reason, despite the positive suggestions in the proposal, we must oppose it unless critical issues are addressed.

CRLA believes that the obligation to affirmatively further fair housing should be a core value in the CRA, in order to address the serious housing crisis that continues to harm and destabilize our society. Banks and lenders must take affirmative steps to prevent housing discrimination in all forms, to help ameliorate the lasting effects of redlining, segregation and racism. The CRA should include efforts to close the racial wealth gap caused by historic redlining practices by rating banks on the loans they make to low income and BIPOC communities. Upholding this factor will help alert the regulatory agencies if potential discrimination is taking place. Agencies should then take swift appropriate action if they find that the banks are discriminating.

CRLA believes that language justice should also be a core value in the CRA. Language Justice is the systemic fair treatment of people of all linguistic backgrounds and respect for everyone's fundamental language rights. Some of these rights include the right to maintain non-dominant languages, to access public services and be free from linguistic discrimination. Last year we learned that in California, the American Community Survey reported that 15.9 million people speak a language other than English at home. This represents approximately 44 percent of the state population (based on the U.S. Census Bureau, 2016). Of this group, 6.7 million people or 19 percent of the state population, speak English "less than very well." People who are not fully proficient in English are twice as likely to experience poverty than English speakers. The CRA should ensure that non-dominant language speakers have meaningful access to services provided by banks and lenders so they can fully participate and thrive in their communities.

In the proposed text of the CRA and its explanation, the agencies claim that "[t]he disclosure of race and ethnicity of the bank's home mortgage loan originations and applications on the bank's CRA performance evaluation would have no direct impact on the conclusions or ratings of the bank." Although the agency explained that "a bank's CRA rating may be [negatively] affected" when discrimination occurred, when determining the existence of alleged discrimination the proposed CRA required the Agency to consider "the severity of any consumer harm resulting from violations of law" and "the duration of time over which the violations occurred." These elements will attenuate the damage caused by racial discriminations because these elements focused on the *result* of the discrimination instead of the discrimination *itself*. Therefore, the proposed rule should uphold the community reinvestment obligation by rating banks on the loans they make to low income and BIPOC communities.

Moreover, it is concerning that regulators are considering using the Home Mortgage Disclosure Act (HMDA) instead of upholding the factor of race, since the HMDA data does not independently rate banks, it only obligates them to self-report loan origination details. Nowadays, no breakdown of Performance Evaluations is available. A mere proposed disclosure of HMDA mortgage lending data on race does not change the status quo. Furthermore, although the relationships between race and home mortgage activities can be looked up in the HMDA Data Browser, the raw data is so huge that viewing and understanding the data will be too hard for the public. Therefore, the CRA should further enhance those obligations by requiring banks to publicly disclose a simplified infographic with key data points and maps proving they are affirmatively furthering fair housing and stating the specific steps they are taking to do so at their local branches, instead of removing this important factor.

CRLA supports the proposal that regulators evaluate lending to low income borrowers separately from lending to moderate income borrowers and evaluate lending to BIPOC communities when calculating CRA ratings.

Regulators should reconsider the negative impact of providing banks credit for loans that are not owner occupied, loans that were not originated by the bank (unless the originating lender is a low-income nonprofit), and loans that are non-origination loans (i.e. refinancing). Receiving credit for these types of loans will not help address the ongoing systemic inequity in credit access for minority individuals and communities, especially as we witness the ongoing housing crisis that has been greatly impacted by institutional investors as outlined in Harvard University's *The State of the Nation's Housing 2022* report. Further, according to a Washington Post analysis of Redfin data, neighborhoods where a majority of residents are Black have been heavily targeted by investors. Last year, investors purchased 30 percent of home sales in majority Black neighborhoods, compared to 12 percent in other Zip codes. This issue should be considered with the obligation to affirmatively further fair housing.

CRLA supports the proposal to expand the considerations of discrimination beyond lending. This can help make sure there's no unintended discrimination in the servicing of the loans. Regulators should consider collaborating with other federal agencies (i.e. Consumer Financial Protection Bureau- CFPB) or state agencies (i.e. California's Department of Financial Protection and Innovation- DFPI), since they may be able to capture trends through their consumer complaint database. It is crucial that any disparate impact related to a bank's servicing, results in an automatic reduction in CRA ratings, at the minimum. We also believe bank mergers should default to public hearings when their CRA ratings are not satisfactory.

CRLA and its Rural Fair Housing and Foreclosure Prevention Program appreciates the opportunity to submit these comments. We thank you for considering our concerns and suggestions. Again, despite the positive changes suggested, we cannot support the proposed CRA in its current state. The important changes outlined need to be considered to make sure that the CRA affirmatively furthers fair housing, ensures language access, addresses issues of race in all aspects of community reinvestment, ensures that banks are properly penalized for harming already disadvantaged communities, and ensures that community input via unsolicited consumer complaints is taken seriously with thorough evaluation.

We look forward to future constructive conversations about strengthening the CRA rule.

Sincerely,

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

Rural Fair Housing and Foreclosure Prevention Program

Patricia Fink, Legal Director


Johanna Torres, Community Worker


cc: Ilene Jacobs, Esq.
CRLA Director of Litigation, Advocacy and Training