January 28, 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom it May Concern:

Habitat for Humanity of Michigan (HFHM) opposes the proposed changes to the Community Reinvestment Act (CRA) regulations. Under the proposed changes, the OCC and FDIC would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams. As a result, the exams would not accurately measure a bank's responsiveness to local needs. Contrary to the agencies assertions that their changes would increase clarity and CRA activity, the result will be significantly fewer loans, investments and services to low- and moderate-income communities. Now is the time for more loans, investments and services to low- and moderate-income people and communities.

HFHM has been working hard to promote fairness in lending and housing, both in Michigan as a leader in housing advocacy, and as a representative on Habitat for Humanity International's national policy. We have served on HFHI's U.S. Council and the Finance and Resource Development Council. We believe the proposed changes would dramatically lessen CRA's focus on LMI communities, which is a contradiction to the intent of the law to address redlining. The definition of affordable housing would be relaxed to include middle-income housing in high cost areas. In addition, the Notice of Proposed Rulemaking (NPRM) would count rental housing as affordable if lower-income people could afford to pay the rent without verifying that lower-income people would be tenants.

The following features of the proposed changes are problematic and, in our opinion, would weaken the CRA regulations:

- The NPRM would add the financing of large infrastructure such as bridges as a CRA eligible activity. Even financing athletic stadiums in Opportunity Zones would be an eligible activity.
- The proposed changes would define small businesses and farms in higher income brackets and revenues, increasing the limit from $1 million to $2 million for small businesses and as high as $10 million for family farms.
- While the NPRM recognizes changes in the banking industry such as the increased use of online banking, and that is positive for LMI and elderly communities, the NPRM's reforms to the geographical areas on CRA exams are problematic and would reduce transparency.
- The changes propose an evaluation system that would further inflate ratings while decreasing the responsiveness of banks to local needs. The "one ratio measure" proposal would consist of the dollar amount of CRA activities divided by deposits. This ratio measure would likely encourage banks to find the largest and easiest deals anywhere in the country as opposed to focusing on local needs. Since banks could fail in one half of the areas on their exams and still pass under the new proposal, the likelihood of banks seeking large and easy deals anywhere would increase. Also, the proposal would relax requirements that banks serve areas where they have branches first before they can seek deals elsewhere.

- The proposal would retain a retail test that examines home, small business, and consumer lending to LMI borrowers and communities, but this retail test would only be pass or fail. In contrast, the current retail test has ratings that count for much more of the overall rating. Moreover, the proposal would result in branch closures since it would eliminate the test that scrutinizes bank branching and provision of deposit accounts to LMI customers.
- The changes also propose to allow banks that receive "outstanding" ratings to be subject to exams every five years instead of the current two to three years. This could result in banks not making much effort in the early years of an exam cycle to serve their communities.
- Small banks with assets less than $500 million could opt for their current streamlined exams instead of the new exams. The new exams would require banks to engage in community development financing while the existing small bank exams do not. This is another loss for communities.

Instead of weakening CRA, we must enact reforms that would increase bank activity in underserved neighborhoods. The changes do not address persistent racial disparities in lending by strengthening the fair lending reviews on CRA exams or adding an examination of bank activity to communities of color in CRA exams. At the very least, the OCC and FDIC could add a category on CRA exams of underserved census tracts, which would likely include a high number of communities of color. The agencies also require banks to collect more data on consumer lending and community development activities but do not require banks to publicly release this data on a county or census tract level. Knowing this information can help agencies like Habitat move the needle forward and focus our attention on those areas that need us most. Finally, the agencies do not require mandatory inclusion on exams of bank mortgage company affiliates, many of whom engaged in abusive lending during the financial crisis. Let's help everyone be accountable and do the best we can for those who need us most!

The proposed changes would result in less lending, investing and services for communities that were the focus of Congressional passage of CRA in 1977. This backtracking will violate the agencies' obligation under the statute to ensure banks are continually serving community needs. The FDIC and OCC need to discard the NPRM, and instead work with the Federal Reserve Board and propose an interagency rule that will augment the progress achieved under CRA instead of reversing it. Thank you for considering these enhancements that will help move us forward in positive CRA reform.

Sincerely,

Sandra Pearson
President and CEO
Habitat for Humanity of Michigan