GROW SOUTH DAKOTA

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February 14, 2020

The Honorable Joseph Otting
Comptroller, Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

The Honorable Jelena McWilliams
Chair Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429-0002

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations;RIN 3064-AF22

Dear Comptroller Otting and Chair McWilliams:

I am writing to express the concern of the Northeast South Dakota Community Action Program (NESDCAP), Northeast South Dakota Economic Corporation (NESDEC), and Grow South Dakota regarding the proposed new rules for the Community Reinvestment Act (CRA) that were announced in the Notice of Proposed Rulemaking (NPR). Our organizations began serving South Dakota with a focus on people with low and moderate income households located in underserved rural areas more than 50 years ago. We continue to focus on community, housing and economic development. NESDEC and Grow South Dakota are certified Community Development Financial Institutions.

We agree that the CRA and its rules need to be updated, but believe the proposals in the NPR would weaken the benefits the CRA mandates and contradict the purpose for which the CRA was created. While the NPR is intended to increase investment in underserved areas, the proposed rules open opportunities for banks to receive credit for doing less than they currently do with no additional incentive or mandate to increase activity in underserved areas. The NPR also reduces the importance of serving low/moderate income (LMI) earners in a bank's service areas.

We believe there are many areas of concern in the NPR, but our focus here is on those relevant to small, rural states like South Dakota. While we have good relations with many South Dakota banks committed to serving their communities, we also know that banks have to respond to their shareholders, and weakening the requirements in the CRA can encourage even the most supportive banks to seek the path of least resistance to pass CRA exams and maximize profit.

We identify the following areas of concern:

- The NPR would allow financial education to benefit people of all income levels, not just those with low/moderate income. It seems likely banks would see more upside in serving people with higher incomes because they could be more profitable customers. This could be an incentive to reduce support for people of lower income who would benefit most from financial education. As a provider of homebuyer education, we worry that support for LMI education programs will decline, which could increase risks for LMI homebuyers who may need greater information before making a purchase.

- The revenue size for defining a small business is raised from $1 million to $2 million, and family farms with revenues as high as $10 million can now be included as CRA beneficiaries. While we support the inclusion of family farms, in South Dakota the average farm revenue is $80,000. Average business revenue here is $313,000. Under these proposed levels, banks could get credit for lending to businesses and farms that far exceed the average and have less incentive to lend to entities with even average earnings. Like most rural areas, South Dakota has experienced significant declines in community banks, which historically served their local areas well. Combined with redefinition of small business and allowance of large family farms, banks will be encouraged to direct fewer, but larger loans to higher-asset but still qualifying borrowers, because it generally costs the bank as much to make a smaller loan as a larger loan, and therefore the larger is more cost-effective. These factors may exacerbate already tight credit in rural areas.
- Creating an exam ratio largely based on dividing CRA activity by deposits will encourage banks to seek out largest deals and discourage smaller dollar loans and investments in their local assessment area. The proposed allowance of investments in infrastructure projects or construction of institutions such as hospitals, where the impact on LMI communities would be hard to measure, offers banks the opportunity to make large investments and meet CRA requirements without focusing more closely on the needs of their area.
- The NPR also allows for credit to be given for CRA activity outside of a bank's assessment area regardless of performance in the bank's assessment areas. This will encourage banks to gravitate to the largest deals anywhere in the country instead of executing smaller deals more responsive to local needs. An extreme, but apparently allowable, example illustrates the problem. South Dakota is an unlikely site for construction of a professional sports stadium, but under the proposal, a South Dakota bank could get CRA credit for investing in such a project in a LMI area across the country. While the benefit for LMI people in that other area might be negligible, there would be no benefit in South Dakota.The NPR proposes a multiplier for community development activity, but this may encourage banks to cut such activity in half and still get the same CRA benefit as before.

We respectfully present our concerns and request that the NPR be withdrawn and rules be developed with greater consideration of how the NPR negatively impacts underserved areas.

Thank you for your consideration.

Sincerely,

[redacted]

Lori Finnesand
Chief Executive Officer