February 28, 2020

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

To Whom it May Concern:

Growth Partners Arizona opposes the proposed changes to the Community Reinvestment Act (CRA) regulations as deeply misconceived. The OCC and FDIC would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams that 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-communities (LMI).
The agencies would dramatically lessen CRA's focus on LMI communities in 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 NPRM would add financing large infrastructure such as bridges as a CRA eligible activity. Even financing "athletic" stadiums in Opportunity Zones would be an eligible activity. The NPRM would define small businesses and farms as having higher 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, the NPRM's reforms to the geographical areas on CRA exams are problematic and would reduce transparency. Neither the agencies nor the public can evaluate the agencies' proposal to designate additional geographical areas on exams in the case of internet banks due to the lack of publicly available data. The public does not have a fair chance to offer comments on the effectiveness of significant proposed changes whose impacts are unknown.

The agencies propose an evaluation system that would further inflate ratings while decreasing the responsiveness of banks to local needs. The agencies propose a one-ratio measure that 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 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.

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A supporting organization of the Business Development Finance Corporation (BDFC).

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 agencies 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 would 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, the agencies must enact reforms that would increase bank activity in underserved neighborhoods. The agencies 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 agencies 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. 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.

This deeply flawed proposal 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 that 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.

Sincerely,

[redacted]

Don Jenks, Board Chair
Board of Directors
Growth Partners Arizona

Growth Partners ARIZONA

WHEREAS, the Community Reinvestment Act (CRA) was enacted on October 12, 1977 to end the practice of "redlining" by financial institutions where they would draw a red line on a map around the neighborhoods they did not want to offer financial services; before the enactment of the CRA, redlining made it near impossible for low- and moderate-income Americans, racial and ethnic minorities, and their neighborhoods to access credit services, such as mortgages and business loans, regardless of their qualifications or creditworthiness; and

WHEREAS, CRA was a landmark civil rights law passed in 1977 to end discrimination that was once common in America's banking and housing markets; and

WHEREAS, discrimination in lending is still a problem; and

WHEREAS, the CRA states that "regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered"; and

WHEREAS, the CRA establishes a regulatory regime for monitoring the level of lending, investments, and services in low- and moderate-income neighborhoods traditionally underserved by lending institutions; examiners from three federal agencies assess and "grade" a lending institution's activities in low- and moderate-income neighborhoods; and

WHEREAS, the federal agencies conducting CRA examinations are: the Office of the Comptroller of the Currency (OCC), which examines nationally chartered banks and the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Board – both of whom examine state-chartered banks; and

WHEREAS, if a regulatory agency finds a financial institution not serving these neighborhoods, it can delay or deny that institution's request to merge with another lender or to open a branch or expand any of its other services; the financial institution regulatory agency can also approve the merger application subject to specific improvements in a bank's lending or investment record in low- and moderate-income neighborhoods; and

WHEREAS, a financial institution's CRA grade can be downgraded if a federal agency uncovers evidence of illegal, abusive or discriminatory lending on their fair lending exams that occur at about the same time as CRA exams; and

WHEREAS, since 1996, according to analysis of bank lending data by the National Community Reinvestment Coalition (NCRC), CRA-covered banks issued almost 29 million small business loans in low- and moderate-income tracts, totaling $1.156 trillion, and $1.179 trillion in community development loans that support affordable housing and economic development projects benefiting low- and moderate-income communities; and

WHEREAS, a 2016 review of the CRA examinations of intermediate small banks(ISBs)/mid-sized banks (banks with asset sizes today between $313 million and $1.252 billion) found that ISBs produced over $9.3 billion of community development (CD) loans and grants; and

WHEREAS, studies have found that CRA-covered home lending is safer and sounder than non-CRA covered lending; when a larger share of lending is issued by CRA-covered banks than by independent mortgage companies, a neighborhood experiences lower delinquency rates and less risky lending; and

WHEREAS, despite the tremendous benefits of CRA to communities, the full potential of CRA has not been realized because it has not been updated to take into account changes in the banking industry and the economy; independent mortgage companies not covered by CRA now make more than 50 percent of the home mortgage loans in America and financial technology companies ("Fintech") not covered by CRA operating via the internet are rapidly increasing their lending; and

WHEREAS, notwithstanding the need to modernize CRA, we are concerned about ideas from some federal regulators that would substantially weaken the law; and

WHEREAS, geographic assessment areas must remain the focus of CRA exams for all banks; banks should continue to be graded based on every geography where they lend or receive a significant percentage of their deposits; banks cannot be allowed to cherry-pick where they lend – and where they don't lend at all or to ignore the credit needs of distressed and vulnerable communities; and

WHEREAS, regulators review of a bank's CRA commitment should not be consumed by an approach that is primarily driven by dollar amount. The OCC and FDIC propose a presumptive rating which would mainly consist of the dollar amount of a bank's total CRA activities divided by the bank's deposits. CRA was designed to encourage the financial system to meet the credit and capital needs of people with low and moderate incomes and small businesses who frequently have a need for relatively smaller sized loans. Moving to a dollar volume approach would encourage larger deals at the expense of underserved borrowers the law was designed to protect; and

WHEREAS, the OCC's and FDIC's proposal of January 2020 would also move CRA away from its focus on low- and moderate-income families and communities and count the financing of sports stadiums, middle-income rental housing, and financial education for middle- and upper-income consumers; and

WHEREAS, the OCC's and FDIC's proposal would allow a bank to fail in up to one half of the geographical areas from which it collects deposits and still pass its CRA exams; and

WHEREAS, CRA should explicitly state the law's obligation to fairly serve all races and ethnicities; banks that engage in large-scale illegal and harmful activities should fail their CRA exams.

THEREFORE BE IT RESOLVED, that **Growth Partners Arizona**, will support efforts to modernize CRA, but not relax or undermine the law's goal and intent; and

BE IT FURTHER RESOLVED, that **Growth Partners Arizona** will oppose regulators efforts to raise bank thresholds and exempt more banks, such as ISBs/mid-sized banks, from examination of their community development lending and investments; and

BE IT FURTHER RESOLVED, that **Growth Partners Arizona** will support modernizing CRA to apply it to non-bank institutions including mortgage companies, financial technology companies, and credit unions; and

BE IT FURTHER RESOLVED, that **Growth Partners Arizona** will oppose regulators efforts to water down the penalties under CRA for discrimination; and

BE IT FURTHER RESOLVED, that **Growth Partners Arizona** will support a CRA with a clearly-defined grading system that emphasizes lending, bank branches, fair lending performance, and responsible loan products for working class families; and

BE IT FINALLY RESOLVED, that **Growth Partners Arizona** will support efforts to hold a bank accountable if it fails its CRA exam, or wishes to acquire a bank with a better CRA grade, and urge agencies to recognize and encourage community benefit agreements and efforts that motivate banks to make more loans, investments, and services available to traditionally underserved communities.

Respectfully submitted on February 28, 2020,

Growth Partners Arizona

[redacted]

By: Don Jenks, Board Chair

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By: Lesli Pintor, Executive Director