From: Bethany Sanchez <bsanchez@fairhousingwisconsin.com>
Sent: Monday, April 06, 2020 5:10 PM
To: Comments
Subject: [EXTERNAL MESSAGE] RIN 3064-AF22

To Whom It May Concern:

I am writing on behalf of the Metropolitan Milwaukee Fair Housing Council, a 42 year-old private, non-profit organization that operates a full-service fair housing program. The purpose of MMFHC is to promote fair housing throughout the State of Wisconsin by combating illegal housing discrimination and by creating and maintaining racially and economically integrated housing patterns.

Our programs and services include complaint intake and counseling, investigative services, attorney referrals, outreach and education, professional support to government agencies, and programs to promote fair lending and inclusive communities.

Our Fair Lending Program strives to ensure that all credit-worthy borrowers have equal access to fairly-priced credit. We work with community partners, lenders, housing experts, financial regulators, and policy-makers to help lenders better-serve people of color, low- and moderate- income (LMI) people, LMI neighborhoods, and other under-served populations.

We are writing to strongly oppose the proposed changes to the Community Reinvestment Act (CRA), as described by the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) in the Notice of Proposed Rulemaking (NPRM) referenced in the subject line above.

CRA law requires that deposit-taking institutions meet the convenience and needs of the low- and moderate-income communities in which they operate. But the proposal articulated in the NPRM would dramatically reduce incentives for banks to serve the needs of LMI people. And it would reduce the importance of seeking input from the LMI people and communities in the banks' service areas.

We believe that the current proposal from the OCC and the FDIC would result in allowing banks to reduce their focus on, or even ignore, needs of LMI people and communities. If that happened, it would undermine MMFHC's work to increase Wisconsinites' housing choices and opportunities, and would harm the economic stability of families, communities, and the state as a whole.

What would count as CRA Activities on a Bank's CRA Performance Evaluation?

The strength of CRA, as it is currently regulated, is in the feedback loop it creates between communities, banks, and regulators. The credit needs of communities are distinct and diverse, and current regulations emphasize the need for banks to collaborate with community organizations to develop innovative products, services, loans and investments that meet the community's credit needs.

Working in coalition with banks has provided positive results for Milwaukee's LMI neighborhoods. MMFHC began its Fair Lending Program in 2001, when the wave of subprime, predatory loans were beginning to emerge in Milwaukee. We formed a coalition of nonprofit community organizations, banks, housing counselors and government agencies to prevent predatory loans and foreclosures, and to create programs to assist those who had already fallen victim to the unfair, toxic loans.

When the foreclosure crisis emerged in mid-2010, we leveraged these relationships - and CRA - to form a homeownership consortium called Take Root Milwaukee. Together, banks, nonprofits and public entities formed Take Root Milwaukee to promote free, legitimate default counseling, foreclosure prevention, and assistance to victims of mortgage rescue scams to existing homeowners. In addition to helping homeowners keep their homes, Take Root Milwaukee works to support new, sustainable, homeownership opportunities in Milwaukee and to promote affordable resources for home repairs.

During the last nine years, each of the bank members of Take Root Milwaukee have provided a growing number, and a greater percentage of home loans to LMI borrowers and people of color, than their peers in the city. Feeding that growth has been the collaboration with Take Root Milwaukee, whose members have together provided education and foreclosure prevention counseling to an average of 1778 homeowners each year, assisted an annual average of 3863 potential borrowers seeking education on home purchases. Take Root Milwaukee's housing counseling agencies have facilitated the creation of an average of 672 new homeowners each year, and an average 215 per year were able to purchase and occupy homes that had been foreclosed.

The successful partnerships we have established with banks could be threatened by the proposal for creation of a specified list of qualifying activities. The OCC and FDIC's proposed regulations would undermine collaboration between banks and community groups by creating a list of qualified activities rather than holding banks accountable to meet the needs identified by community members and community organizations.

Instead, we suggest the OCC and FDIC develop an illustrative but not definitive list of principles defining CRA-qualified activities. And banks should be held accountable to CRA's original imperative to seek out input on, and meet the lending, investment and financial services needs of LMI communities.

Measuring CRA Activities on a Bank's CRA Performance Evaluation

We are very concerned about the major changes to the way that federal regulators would measure a bank's CRA activities.

We are opposed to the "one ratio" measure that consists of the dollar amount of CRA activities, divided by dollar amount of the bank's deposits. This one ratio measure would encourage banks to find the largest and easiest deals anywhere in the country, instead of collaborating with communities and responding to local needs. If banks could get CRA credit for financing public infrastructure or sports stadiums, as the NPRM proposal suggests, those large dollar amounts included in the CRA-eligible activities would reduce the amount of home loans or small business loans in LMI neighborhoods that a bank would need, in order to pass their CRA evaluations.

We are alarmed that the CRA performance test measuring banks' home mortgage, small business and consumer lending (the "retail lending test") would be supplemental, and would count for less. And we are gravely concerned that home mortgage lending in LMI communities would be eliminated as an exam criterion. If banks are not held accountable for making mortgages to credit-worthy borrowers in LMI

communities, we will likely see a return to the levels of redlining that CRA was originally established to eliminate!

Additionally, changing the retail lending test to a pass/fail assessment, instead of generating ratings for a bank's retail lending would mean that this important lending test would count for much less toward a bank's CRA rating. The changes in the proposal would mean that banks could fail their retail lending test in half of their assessment areas and still pass their CRA exam.

We are very concerned about the impact that the NPRM proposal would have on the communities we serve. For example, CRA has benefitted Milwaukee in a variety of ways:

- **mortgage loan programs** and **downpayment assistance** for first time homebuyers
- **home repair loans** for homeowners
- loans or investments in affordable housing or mixed use developments, like the **Villard Library**, which houses a public library and affordable apartments above it; the **Griot Apartments**, mixed-income housing located above **America's Black Holocaust Museum**; Journey House's **Clarke Square Apartments,** the United Community Center's **Olga Village;** Layton Boulevard West Neighbor' **Turnkey Renovation Homes** and the **Welford Sanders Lofts**
- investments in innovative community facilities located in low- and moderate-income neighborhoods, like the **Clock Shadow Building** and **Walnut Way's Innovations and Wellness Commons**
- financial assistance for nonprofit organizations **that provide free or low-cost home repairs** for extremely low income, elderly or disabled homeowners
- financial support for nonprofit **homebuyer counseling agencies** that have helped thousands of people to access the American Dream
- **bank staff who volunteer** with organizations that provide financial education to high students, homebuyer counseling, affordable housing development, or small business development
- **financial support and technical** assistance to minority business development organizations, workforce development programs, and nonprofit organizations that help with employment readiness, and
- **participation in Take Root Milwaukee**, a partnership between nonprofit community groups, banks, government, Realtors, and philanthropic foundations, all working to help move residents from renters to successful, sustainable homeownership.

Affordable Housing

The NPRM proposal would count rental housing as affordable housing if lower-income people could afford to pay the rent – but banks would not be required to verify that lower-income people would be tenants.

We need banks to invest in affordable housing that truly serves those who need it the most. Rental rates in our area have steadily increased in recent years, and affordable rental housing continues to become increasingly scarce. As documented in Matthew Desmond's best seller, "Evicted," the affordable units that do exist are often in poor condition and are unsafe. And especially since the foreclosure crisis, more affordable rentals, and properties that were previously owner-occupied, are owned by unaccountable, out-of-state landlords.

The lack of affordable rentals has meant more families doubling up in the homes of friends or family, and it has meant increased homelessness. And now, with COVID-19, we are facing a new round of foreclosures, again hitting LMI neighborhoods and people of color the hardest. Without strong protective measures, wealth-building and neighborhoods stability are certain to take another hit.

The NPRM could allow banks to get credit for developments that house all upper-income families, paying very low rent. Since low-income tenants often have significant financial hurdles, competing with high-income tenants will be yet another barrier for them to overcome. Affordable housing for LMI people is a critical need in our community. The OCC and FDIC should not loosen the standard for verifying that housing is being used by LMI tenants.

Small Businesses

In the NPRM, the OCC and FDIC change the definition of a small business, changing the definition from one that takes in $1 million in annual revenue, to a business that receives up to $2 million in annual revenue. But the clear need in small business lending is in the smaller businesses. The Consumer Financial Protection Bureau (CFFPB) estimates that 95% of small businesses have revenues of $1 million or less.

In Milwaukee, and across the country, small businesses are critical to the health of our neighborhoods, including, and especially our LMI neighborhoods. And the health of our housing is interconnected with the health of those very small businesses who need banks to help address their financial service needs.

By expanding the definition of what counts as a CRA-eligible small business loan to include businesses with $2 million in annual revenue, the OCC and FDIC will divert lending from the smallest businesses who otherwise struggle to access affordable capital.

Bank Branches

The NPRM would significantly reduce the importance of bank branches in CRA performance evaluations. This would likely lead to the closure of branches serving LMI neighborhoods.

Bank branches are essential to the economic vitality of communities, and CRA regulations should emphasize the importance of physical branches in LMI neighborhoods. The proposed regulations would encourage the export of capital from communities, in direct contradiction of the statutory goal of the CRA.

Conclusion

We urge the OCC and FDIC to discard the proposal as described in the NPRM and instead work with the Federal Reserve Board to propose an interagency rule that will modernize CRA in a way that will increase reinvestment in LMI communities.

Sincerely,

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