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Office of the Comptroller of the Currency (OCC)
400 7th St. SW
Washington, DC 20219

RE: Comments regarding "Reforming the Community Reinvestment Act Regulatory Framework"

OCC Docket ID OCC-2018-0008, RIN 1557-AE34,

FDIC RIN 3064-AF22

To Whom It May Concern:

On behalf of our homebuyers, staff, supporters, and the communities we serve, Habitat for Humanity New York City (Habitat NYC) appreciates the opportunity to share our perspective on how proposed changes to the Community Reinvestment Act (CRA) as outlined in the OCC and FDIC's Notice of Proposed Rulemaking would impact access to homeownership, credit, and financial services for the lower-income families and communities with whom we partner. While we appreciate the need to modernize the CRA, we have strong concerns about several of the proposed changes.

Founded in 1984 as an independent affiliate of Habitat for Humanity International, Habitat NYC has served more than 1,300 families in the five boroughs through home construction and preservation, beginning with our very first build on the Lower East Side of Manhattan and expanding our impact to predominantly red-lined and disinvested communities across the City. Since then, Habitat NYC has brought together thousands of New Yorkers each year who become part of the solution to New York's affordable housing crisis.

Additionally, inn recent years we established the Habitat NYC Community Fund (the Fund) to provide access to affordable, small-scale financing. The Fund is a U.S. Department of the Treasury certified Community Development Financial Institution (CDFI). As a mission-driven financial institution dedicated to providing financial services to meet the needs of economically disadvantaged and underserved communities, it is required to maintain accountability to the community it serves.

The CRA matters! It is one of the most important laws we have to hold banks accountable to local communities requiring them to lend and provide services equitably and to support community development in the areas where they do business. This landmark law was one of many civil rights laws passed in response to discriminatory policies and practices that locked people of color out of banking, credit, housing, employment, and education. It has led to trillions of dollars reinvested nationwide, and billions each year here in New York City. **The Habitat for Humanity nationwide network**

acknowledges that we cannot *build* our way out of the nation's housing crisis or undo the systemic inequalities that led to the segregation and unequal opportunities our neighborhoods face without the strong institutional support the CRA provides.

And, for all of the CRA's benefits, inequities in both outcomes and opportunities, remain. We see this every day in the neighborhoods and communities we serve as families continue to struggle to make ends meet and access opportunities for self-determination. Many low-income, immigrant, and minority New Yorkers still lack sufficient access to credit and capital to purchase homes, or start businesses. Many lack access to bank accounts and bank branches. In the NY Region, 15% of Black households and 18% of Hispanic households are completely unbanked, while the rate of unbanked White households is only 3%.

The CRA should be preserved and strengthened, reflecting the principles and goals to which it was established. We have significant concerns about the ideas presented in the NPR that would weaken the CRA and oppose the current proposals.

Our specific concerns are:

I. The Single-Ratio Metric

The proposed "single-ratio" metric for assessing CRA compliance raises significant concerns for Habitat NYC. Under this proposal, a bank's lending, investment, and financial service performance would be assessed primarily by the overall *dollar volume* of CRA activities as a percentage of total bank deposits. This represents a significant shift away from the current practice of assessing the *number* of loans originated and evaluating performance based on the relationship of investment and lending activities to local credit needs.

Emphasizing dollar volume, without regard to type of investments, will favor larger and easier loans at the expense of lower-value loans, such as mortgages used by lower-income homebuyers to purchase a home. This new assessment metric could also lead to large national banks focusing their activities in neighborhoods with higher property values given that mortgages in these areas would more quickly generate the volume needed to reach an adequate ratio of CRA activities to deposits. Accordingly, the proposed single-ratio metric could have a significantly negative impact on Habitat's ability to extend affordable homeownership opportunities to partner families, especially in under-served communities.

We are also concerned that the proposed single-ratio metric significantly reduces the importance of placing bank branches in low- and moderate-income communities. Currently, bank branch locations and local volunteering make up one-quarter of a bank's overall assessment score. The new, proposed single ratio metric applies a factor of .01 to local financial service performance, reducing bank presence and activities in LMI neighborhoods to a tiny factor in achieving a passing grade. By the calculations of the Association for Neighborhood and Housing Developers (ANHD), a bank with a quarter of its branches currently in LMI communities that decides to close all of those branches would only reduce its ability to achieve a passing assessment grade by 4%. We believe this will

likely lead to significant branch loss in LMI communities, a decrease in lending to small businesses if not also to local homebuyers, and more unbanked residents in LMI communities.

The proposed Single Metric Ratio would allow banks to receive a strong overall rating with a passing grade in only 51% of their assessment areas. This is deeply concerning, as it could mean that a bank could choose to ignore the credit needs of half of its assessment areas, and still receive an outstanding rating.

Moreover, there is less attention to the distribution of retail and small business loans and no mention of race at all. There are no ideas proposed to increase access to banks and banking for people of color, no ideas to minimize displacement among these populations, and no attempt to strengthen the fair lending portion of CRA exams. Rather, the opposite is happening as the exam eases the analysis of the geographic and income distribution of retail lending, small business lending, and consumer lending. There is no analysis of different loan sizes to small businesses or the distribution of mortgages in lower-income tracts, and no evaluation of the types of products offered to lower-income consumers. Banks can get credit for high-cost, high-interest credit cards and other predatory loans and products offered to lower-income consumers!

As long as racial disparities in lending remain stubborn and persistent, the CRA must include lending, investing, and services to people and communities of color in its evaluations.

To summarize, this proposal would:

1. **value dollars over impact and quantity over quality, incentivizing larger deals over smaller, more impactful ones, resulting in:**
    a. fewer loans to first-time homebuyers & low-income homeowners,;
    b. fewer financing options for nonprofits like Habitat for Humanity to build and preserve deeply affordable housing; and
    c. fewer grants to nonprofits like Habitat for Humanity for community engagement and direct services
2. **allow for a bank to fail 50% of its assessment areas and still pass its exam with a satisfactory or outstanding score**
3. **reduce community input to a level of irrelevance, prioritizing monetary goals over real impact**
4. **diminish the incentive for strategic investments to those individuals, businesses, and communities the CRA was meant to serve, and instead allow for credit to be received for predatory loans and products targeted at LMI consumers**

None of this should be considered acceptable and we recommend in the strongest of terms that the single-ratio metric be eliminated from consideration.

II. *Expanding CRA Credit Activity Outside of their Assessment Areas*

Habitat NYC is also concerned that the Proposed Rulemaking allows credit for CRA activity outside of banks' assessment areas regardless of performance in their assessment areas. We believe this will further enable and encourage banks to shop nationally for the largest possible deals in which to focus their CRA activities, at the expense of smaller loans and investments that are more responsive to local needs, including those of lower-income homebuyers and homeowners.

An example of how the CRA incentivizes effective partnerships to meet these localized goals can be seen in the investment support provided through Community Development Financial Institutions. As a recently certified CDFI, the Habitat for Humanity New York City Community Fund extends credit to facilitate community development activities – specifically the development and preservation of affordable housing. Borrowers include existing resident-owned buildings as well as organizations that create and preserve affordable housing throughout New York City & State.

The Community Fund's lending capital comes from banks encouraged by their CRA reviews. As a non-profit expert in affordable housing, the Community Fund is able to stabilize and maintain existing affordable housing in New York City by providing much needed – yet often smaller-dollar – loans to affordable co-operative buildings. Direct financing from banking institutions is unavailable to these entities because of the complexity of the underwriting, the need for additional technical assistance and the size of financing required. Bank's providing both equity and debt capital to the Community Fund allows the banks to support affordable housing without the need for additional capacity required to underwrite, originate and service these smaller, complicated loans.

Investments through the Community Fund, and other institutions like it, stabilize, preserve and create new affordable housing all at a much lower cost than what would be available without a strong CRA. g.

Additionally, banks have local CRA teams, with staff and resources devoted to New York City because they have a local obligation to serve New York City. This includes staff who understand the local needs, know the organizations working in the city, and understand the range of government programs that support them. This has led to a multitude of programs, partnerships, products, and financing deals to further the mission of local nonprofits and CDCs. Without this obligation, we risk losing this long-term base of knowledge and resources that can continually respond to local needs. We must also ensure that any metrics system doesn't inadvertently reduce the incentive to make impactful loans and investments that may be smaller or more complicated.

In New York City, we have experienced this in Habitat NYC's partnership with Citi Community Development and their support of the establishment of Interboro Community Land Trust – an innovative joint venture to create permanently affordable homeownership opportunities. This forward-looking approach aims to both incentivize and accelerate investment in historically disinvested neighborhoods while at the same time protecting against the negative effects of gentrification.

Furthermore, Habitat NYC's partnership with Chase Bank resulted in the financing of Habitat for Humanity's largest building, a 56 unit cooperative building in the Williamsbridge section of the Bronx. This unique deal combined complex new local programs with established state funding mechanisms in an innovative way that only skilled local experts would be able to navigate and execute. The CRA's local targets incentivize creative, local innovation to better serve our individual neighborhoods.If banks are striving for one large target goal for dollars invested and are able to include investments outside of their assessment area, they will choose to focus on larger deals, while shying away from smaller dollar loans and smaller deals that may be more impactful for lower-income people, communities and small businesses that need access to capital and resources, only exacerbating these disparities.

As mentioned previously, banks can get a low or failing grade in half of their assessment areas and still pass their CRA exam if they meet their target dollar goals for the entire bank. The bank-level evaluation combines CRA-qualified dollars loaned invested in the collective assessment areas, as well as qualified activities anywhere, regardless of assessment area. While some of these areas may need investment, that investment cannot come at the expense of the obligation to meet local needs. Further, all investments, regardless of location, should be analyzed for their impact on historically redlined communities.

III. *Changes to Eligible Activities*

Habitat NYC is deeply troubled that the Proposed Rulemaking significantly expands the list of activities that would be eligible for CRA credit, including such uses as athletic stadiums and bridges that are not directly related to lending to low-income homebuyers or small businesses or to ensuring the availability of financial services in low- and moderate-income communities. Of further concern are eligibility changes that involve:

- Relaxing the definition of affordable housing to include middle-income housing in high-cost areas;
- Granting CRA credit to financial education services for middle- or high-income individuals;
- Eliminating neighborhood stabilization as part of the definition of community development;
- No longer requiring eligible activities to primarily benefit low- and moderate-income communities; and
- Assuming housing to be affordable if lower-income people can afford to pay the rent, even if it is not actually available or occupied by lower-income people.

These eligibility changes stray far from the CRA's original purpose and will draw lending capital away from the lower-income homebuyers with whom we partner—especially if coupled with a shift to a dollar-volume-based metric that favors large single loans over smaller-value loans.

A bank could get CRA credit for investing in an opportunity zone fund that finances luxury housing or athletic stadiums in low-income opportunity zones. Further, a bank could exclusively finance middle-income rental housing developments in high-cost markets like New York City, despite the persistent

need for deep affordable housing for very low, low, and moderate-income families. And because housing investments get double-credit, banks would have less incentive to do the extra work to finance low-income housing when they can more easily get double credit for larger middle-income developments or loans on rent-stabilized buildings as part of their normal course of business, regardless of the quality of the housing or behavior of the property owner or developer.

Additionally, Low Income Housing Tax Credit (LIHTC) investments, a critical piece of housing financing, is also at risk. The value will almost surely go down as banks compete less for investment opportunities, thus reducing the amount of equity available to develop affordable housing.

Habitat NYC is currently utilizing the LIHTC program to develop a 123-unit, deeply affordable, LGBTQ-friendly, senior housing building in the heart of a high opportunity neighborhood in Manhattan. Lowering the value of LIHTC investments will surely damage the economic viability of important projects like ours and limit Habitat NYC's ability to serve those in greatest need.

Habitat NYC is also in predevelopment on more than 100 units of affordable homeownership for low to moderate-income households in Central Brooklyn and Southeast Queens – neighborhoods that have experienced redlining and dissinvestment for decades. Alteration to the CRA in these proposed ways would significantly disincentivize lending partners to invest in our projects compared to other newly qualified ones that would either be much less impactful for the families we serve or outright damaging to our partner communities.

IV. More complicated, less transparent, and disincentivizing investment

The proposed changes would do the opposite of current claims of benefits for banks and communities, in that It will make the CRA process less transparent, more complicated, and will ultimately lead to less meaningful and less overall investment in the communities the CRA was meant to serve.

The proposal relies upon deposit and community development data that banks do not yet collect, with little transparency as to how banks will collect and report on the data. The proposal seeks to no longer use publicly available data, such as the Home Mortgage Disclosure Act (HMDA) data for home mortgages, FDIC data for branches and deposits, and the FFIEC for small business data. This will reduce the ways the public can verify and provide meaningful feedback on bank performance in those categories.

Additionally, the proposed formula to calculate the target metric is complicated and relies upon data never before used on CRA exams, meaning banks will have to spend millions to adapt to this new system. Meanwhile, smaller banks below $500 million in assets can opt out of the new system, effectively removing the community development finance requirements for those banks.

The proposal also comes at the expense of community input, community partnerships, and any activity that cannot be quantified, such as branch openings and closings; hours of operation; and qualities of bank accounts. Specifically, community input is diminished in the following ways:

- There is no meaningful way to incorporate community comments on local credit needs or on bank performance in the ratings process and is thereby deprioritized compared to target dollar goals
- There is no systematic way to incentivize high-impact activities removing the systematic analysis of bank responsiveness and innovation
- There is still no way to downgrade a bank for harmful activities, such as higher cost loans or lending to predatory bad acting landlords who harass and displace tenants.

The proposed changes would create a system that would cost more, be less transparent, and result in fewer banks participating, directly undermining the goals of the Community Reinvestment Act. If the proposed changes are implemented, the result could be catastrophic to the effectiveness of the CRA.

V. Reject the Proposed Rules

Habitat for Humanity New York City is deeply concerned that the Proposed Rulemaking would significantly reduce access to credit for qualified, low- and moderate-income homebuyers in the communities we serve, while reversing progress made to revitalize historically under-served and distressed communities.

The combined effect of: 1) measuring CRA activity primarily by total dollar volume; 2) allowing banks to ignore virtually half of their assessment areas and still receive outstanding performance ratings; and 3) expanding eligible activities to include stadiums, bridges, middle-income housing, and other activities that do not primarily benefit LMI communities or residents, will significantly undermine banks' incentives to meet the credit needs of every low-income community in which they take deposits, and to make capital available to the lower-income homebuyers with whom we partner.

The proposed measures would weaken and disincentivize activities that serve disinvested communities. If passed, these changes would reduce the financing and support for services provided by Habitat for Humanity New York City and our sister affiliates across the country.

Productive reforms must preserve and strengthen the CRA and should include the following principles:

1. **Banks should be evaluated on the quantity, quality and impact of their activities within the local communities they serve and based on the needs of these local communities**. This cannot be done with a one-ratio evaluation that simply looks at dollars invested.

    - Incentivize high quality, responsive activities that lift historically redlined people – **people of color and low- and moderate-income people** – out of poverty and help reduce wealth and income disparities.

- Downgrade banks that finance activities that cause displacement and harm.

2. **Assessment areas must maintain local obligations**. The CRA must maintain the current place-based commitment banks have to local communities. Banks should have additional assessment areas where they do considerable business (make loans / take deposits) outside of their branch network. These types of reforms must maintain or increase quality investment where it is needed, including high need "CRA hot spots" such as New York City, while also directing capital to under-banked regions.

3. **Community input and community needs must be at the heart of the CRA**. Strong community needs assessment and community engagement should inform community needs and how examiners evaluate how well banks are meeting those needs.

The current proposal fails to accomplish these goals and instead creates a more complicated, less transparent system that will result in less banking, lending, and valuable investments in the neighborhoods we serve.

We call on the OCC and FDIC to abandon its Proposed Rulemaking—or to start over. The OCC, FDIC, and Federal Reserve's revised rulemaking should increase bank activity in underserved neighborhoods, not reduce incentives for banks to invest in distressed markets. Any changes to the CRA need to ensure continued availability of credit to all areas and all members of LMI communities, including lower-income homebuyers with smaller-dollar mortgages.

Thank you for your attention to our comments.

Kind Regards,

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