RHLS
Regional Housing Legal Services

COMMUNITY LEGAL SERVICES OF PHILADELPHIA
Est. 1966
CLS

April 8, 2020

Joseph M. Otting
Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2018-0008 RIN 3064-AF22
Via portal: https://www.regulations.gov/comment?D=OCC-2018-0008-1960

Jelena McWilliams, Chair
Board of Governors
Federal Deposit Insurance Corporation
550 17th Street NW Washington, DC 20429
RIN 3064-AF22
Via email: comments@fdic.gov

Re: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

Dear Comptroller Otting and Chair McWilliams:

Regional Housing Legal Services and Community Legal Services of Philadelphia are non-profit organizations that advocate for low-income Pennsylvanians—the communities that the Community Reinvestment Act (CRA) was enacted to benefit. We write jointly to oppose the proposed changes to the CRA regulations, which will weaken the law and harm the communities we serve. Congress passed the CRA to address decades of redlining and divestment in communities of color and low-income areas. The law must be strengthened and modernized to fulfill that still urgent call.

Regional Housing Legal Services (RHLS) represents community-based non-profit organizations that develop affordable housing projects throughout Pennsylvania. Since 1973, RHLS has assisted in the completion of nearly 9,000 units of affordable housing. RHLS also engages in policy analysis and advocacy that focuses on critical housing, economic development, neighborhood revitalization and utility issues for the benefit of lower-income Pennsylvanians.

Community Legal Services (CLS) has worked to fight poverty and challenge unjust systems in Philadelphia and beyond since 1966. Through individual representation and systemic advocacy across a wide range of legal areas, we work for the most vulnerable Philadelphians to help them obtain justice and meet basic human needs. CLS's Homeownership and Consumer Rights practice prevents homelessness and protects intergenerational wealth by representing homeowners facing mortgage and tax foreclosures, and by advocating for low-income families facing predatory loans, abusive debt collection, fraudulent business practices, and consumer scams.

Although redlining traces back to the 1930s, people of color living in low-income neighborhoods are still living its effects every day. Many CLS clients have spent decades living under the staggering financial weight of predatory home purchase or home equity loans with soaring interest rates that only someone with no other option would accept. There is a shortage of affordable housing units across Pennsylvania that will only worsen as the COVID-19 pandemic sinks the nation into a new economic crisis; this recession, like the last one, will disproportionately impact people of color.[1] And many of the people we represent still live in bank deserts.

It is essential that any changes to the CRA rules increase the ability of the clients and community organizations we represent to access fair loans to buy or repair their home; affordable, quality rental housing; and banking services in their neighborhood. The proposed rule changes do not meet this standard. Instead, they threaten to shutter bank branches and restrict access to affordable housing and fair credit in lower income communities, exacerbating the pernicious racial inequity that spurred the law's passage.

The proposed CRA changes would allow banks to dramatically reduce their mortgage lending to low- and middle-income (LMI) borrowers and still pass their CRA exams.[2] From 2009 through 2018, banks in the Philadelphia area reported making $45 billion in mortgage loans and $8.7 billion in business loans in lower-income neighborhoods.[3] It is difficult to isolate the impact of the CRA, but we know that much of this lending may be at risk with the proposed roll back. Researchers found in 2017 that, when census tracts in Philadelphia lost their CRA eligibility, lending there decreased by 10 to 29 percent.[4] By expanding the definition of what counts for CRA credit and loosening the CRA exam metrics, the proposed rules all but eliminate the incentive for banks to make mortgage loans to people of color in low-income communities.

And there can be no doubt that banks in Philadelphia and across the country still need incentives to lend to people of color and oversight to make sure they do. Philadelphia remains segregated and it is still difficult for people of color to get a fair loan to buy a home or make necessary repairs. According to data analysis done by Reveal at the Center for Investigative Reporting, an

---

1 *See, e.g.*, https://www.salon.com/2020/04/06/data-suggests-covid-19-deaths-disproportionately-hit-african-american-communities_partner/; https://www.theatlantic.com/ideas/archive/2020/04/stop-looking-away-race-covid-19-victims/609250/; https://www.forbes.com/sites/korihale/2020/03/17/the-economic-impact-of-covid-19-will-hit-minorities-the-hardest/#6f1038c710c0.

2 National Community Reinvestment Coalition, https://ncrc.org/the-cra-evaluation-measures-would-allow-banks-to-relax-their-retail-lending-to-lmi-borrowers-and-communities/ (Feb. 2020).

3 National Community Reinvestment Coalition, https://ncrc.org/treasureCRA/.

4 Lei Ding and Kyle DeMaria, "A Practitioner's Summary: The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market," Federal Reserve Bank of Philadelphia (June 2017).

African American in Philadelphia is 2.7 times more likely to be denied a conventional mortgage than a white person with the same income, seeking the same size loan in the same neighborhood.[5] And despite similarly sized populations in the city, white Philadelphians received ten times as many conventional loans as Black Philadelphians. Reveal found similar inequity in lending across the country. That 98 percent of banks pass their CRA exams despite these disturbing trends lays bare that now is the time to strengthen—not weaken—the law.

The proposed changes threaten funding for affordable housing by reducing the CRA credit available for those investments. Some of the most significant investment in low-income communities, which improves the quality of the housing stock, increases availability of services, and also can stabilize a community on a downward trajectory, is the Low-Income Housing Tax Credit (LIHTC). LIHTC is a tax credit that leverages private investment to help build affordable housing. The banks that invest in LIHTC also generally get CRA credit for those investments. Reducing the credit available for these investments will likely reduce the funding available for LIHTC, which is the primary source of affordable housing development in the country.

The impact of LIHTC investment motivated by CRA credit is easy to see in Philadelphia. For example, RHLS represented Project HOME in the planning process for an LIHTC-funded project that will create 88 units of affordable housing for homeless and formerly homeless individuals, including young adults.[6] In addition to providing critically-needed housing for these vulnerable populations, the project will provide residents with supportive services in employment, healthcare, and education. Other Philadelphia projects that have been made possible by LIHTC investment include a new construction 46-unit senior housing project called St. Rita Place, a 39-unit preservation project called Rowan Judson Diamond, and a 40-unit new construction project called Peg's Place. In the face of a long-term housing crisis that the COVID-19 crisis has magnified by thousands (or more), it is vital that the CRA continue to encourage this investment.

In addition to threatening homeownership and affordable rental housing, **the proposed rules reduce the incentive for banks to open and preserve branches in low-income areas, making it even harder for people to access the stability and security of basic banking.** While many middle-class Americans take banking for granted, many CLS clients are unbanked and must rely on check cashers and prepaid debit cards to manage their money. These high-cost alternatives dip into people's already limited income, and cannot provide the security or stability that a bank in their own community would. For that, people must spend time and money traveling to another part of the city for a simple deposit. And not surprisingly, research shows that bank branches in LMI neighborhoods correlates with an increase in lending to LMI borrowers.[7] By eliminating the service test that scrutinizes bank branching and replacing it with a proposal that devalues

---

[5] Jen Kinney, WHYY, https://whyy.org/articles/unequal-lending-keeps-redlining-alive-philadelphias-gentrifying-neighborhoods/ (Feb. 2018) (summarizing Reveal's findings with link to its original data analysis).

[6] Regional Housing Legal Services, https://www.rhls.org/2016/03/project-home-breaks-ground-on-2415-north-broad-latest-housing-in-middleton-partnership/.

[7] *See* Josh Silver, *The Importance of CRA Assessment Areas and Bank Branches*, NCRC, June 2018, https://ncrc.org/the-importance-of-cra-assessment-areas-and-bank-branches/.

branches, the proposed rules will lead to fewer bank branches in low-income neighborhoods and fewer loans made to LMI borrowers.

Cutting across each of these issues is **a crucial, urgent failure of the proposed regulations: they do not consider race.** Instead, they continue to rely on income and geography as a complete proxy. As a result, banks continue to get CRA credit for investing in projects in gentrifying opportunity zones and making home loans to higher-income white people in gentrifying areas. These loopholes defy the spirit of the law, do nothing to encourage fair lending, and can in fact increase the racial wealth gap and hasten displacement of people of color. It is crucially important that the OCC, FDIC, and Federal Reserve Bank fix this now; the COVID-19 crisis has already altered the face of poverty nationwide, and we know that the virus is disproportionately harming African American communities. Any CRA metric that fails to consider race will not only fall short of its statutory purpose—it will fail communities of color across the country.

Finally, another shortcoming of the CRA rules that the COVID-19 crisis has exposed is the antiquated requirement that banks make their public CRA file available at one branch in each state in which it operates. In this decade, and specifically in a year when public health requires people to stay home, rules must be changed to **require banks to make their full CRA file available online.**

On behalf of the organizations and people we serve in Philadelphia and across Pennsylvania, we ask that the OCC and FDIC abandon the proposed rule changes, which would shift the CRA's focus further from the communities it was intended to serve. We urge you to instead work with the Federal Reserve Bank to propose an interagency rule that embraces the law's intent and enhances its progress.

Sincerely,

Laura Smith
Staff Attorney
Community Legal Services

Rachel Blake
Associate Director
Regional Housing Legal Services