



City of Cleveland

Frank G. Jackson, Mayor

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Comptroller of the Currency
Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Docket Number: OCC-2018-0008

Docket Name: Community Reinvestment Act Regulations

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom It May Concern:

The City of Cleveland, appreciates the opportunity to comment on the Office of the Comptroller of the Currency's (OCC) Notice of Proposed Rulemaking (NPRM) regarding the Community Reinvestment Act (CRA). Since 1996, nationally banks have issued almost \$2 trillion in small business loans and community development loans and investments in low- and moderate-income communities. However, access to safe and affordable banking products and loans remain elusive for many Cleveland residents. The Community Reinvestment Act is a vital tool for cities in incentivizing the reinvestment efforts of local financial institutions. Any changes to this critical reinvestment tool must consider all the potential impacts to the continued economic growth of cities, low-and-moderate income residents and communities of color.

Local Context

Cleveland is considered the epicenter of the 2008 national foreclosure crisis.¹ Although our city is gradually rebounding, the effects of the crisis remain. Based on our internal data analysis of bank market share and lending performance metrics, we estimate that an annual mortgage lending gap of \$300MM exists in Cleveland. Moreover, median home sales prices have yet to rebound to pre-recession levels. Particularly, on the east side, in majority black neighborhoods, the median home sales price stands at \$24,479, a 69.4% loss in value since 2006².

Furthermore, a racial wealth gap exists between black and white borrowers within the context of the economic recovery. Within a regional context, the Federal Reserve Bank of Cleveland's research revealed

¹ https://www.cleveland.com/business/2013/09/slavic_village_devastated_by_t.html

² Housing Market Recovery in Cuyahoga County: Race and Geography Still Matter Housing Trends in Cuyahoga County 1995 – 2017, Frank Ford, Senior Policy Advisor, Western Reserve Land Conservancy, July 19, 2018

the home purchase rate for white non-LMI borrowers in 2016 nearly rebounded to the 2005 prerecession rate, however the rate for black non-LMI borrowers is still half of the 2005 rate.³

The effects of the financial crisis reverberate throughout our city in multifaceted ways. Unfortunately, Cleveland leads the nation in childhood poverty at 51 percent⁴ and our asset poverty rate stands at 43.3%⁵.

These socioeconomic challenges we confront in Cleveland require a multisector approach to remediate. Financial institutions are an important partner in reinvestment efforts. Moreover, we recognize the impact CRA has on incentivizing community reinvestment in our city. Therefore, we believe any changes to the CRA, must seek to dismantle discriminatory practices and incentivize financial institutions to uphold their affirmative obligation to lend in LMI neighborhoods and communities of color.

Provision of Affordable Banking Services

Proposed Change: Eliminate the banking Services Test which considers activities such as basic bank accounts for LMI customers.

Impact: The percentage of unbanked and underbanked residents in Cleveland is one of the highest in the nation. According to Prosperity Now's Scorecard, the percentage of unbanked households in Cleveland is 17.4%⁶, nearly triple the national rate and double that of Ohio. Additionally, twenty-four percent of households in Cleveland are underbanked, meaning although households may have a checking or savings account, they still utilized alternatives forms of banking such as check cashing services, payday loans or pawn shops⁷. These statistics suggest there is a gap between availability and access. The City of Cleveland has partnered with Enterprise Community Partners, to launch a Bank On Coalition to help address this gap. Inspired by the Federal Deposit Insurance Corporation's (FDIC) Model Safe Accounts template, a main feature of the Bank On initiative is the National Account Standards which certifies bank checking accounts meet the standard for safe and affordable.

The OCC's proposal to eliminate the Banking Services Test (substituted by a retail distribution test) would severely undermine Bank On efforts in Cleveland by decreasing incentives for financial institution to develop and maintain affordable bank accounts for LMI residents and seniors.

The OCC must consider the negative impact of decreasing access to low cost mainstream banking on those most vulnerable to predatory financial services. Low income residents and seniors are often disproportionately impacted by the lack of affordable banking products and branch closures. For example, the City of Cleveland operates a home repair program for seniors that requires residents submit bank statements to apply. Our Program Managers report that high bank statement fees have been a barrier to seniors applying for assistance. Many seniors must save over several months to afford bank fees while forgoing major repairs effecting the livability of their homes. Additionally, bank branch employees are often a first line of defense against financial fraud and senior financial abuse.

³ An Uneven Recovery: Home Lending in the Fourth District by Race and Income; <https://www.clevelandfed.org/newsroom-and-events/publications/a-look-behind-the-numbers/albtn-20181128-hmda-summary.aspx>

⁴ The Path Forward for United Way of Greater Cleveland, Community Partners Webinar, February 27, 2020

⁵ Prosperity Now Scorecard, Place Data: Asset Poverty Rate, Local Data: Survey of Income and Program Participation, 2014 Panel, Wave 2. U.S. Census Bureau 2018

⁶⁻⁷ Prosperity Now Scorecard, Source: Prosperity Now Estimates Using FDIC and ACS. Data Year 2017

Any proposed changes to the CRA that impact the provision of branch banking must increase access to safe and affordable accounts not weaken it.

Expanded Definition of Affordable Housing and Loans to Middle Income borrowers in LMI areas

Proposed Change: Under the OCC's proposed changes to CRA, the definition of affordable housing is relaxed to include middle-income housing in high cost areas. Also, a housing development project can be considered "affordable" without verification that lower-income individuals will be tenants. CRA provides the incentive for banks to engage in complex, innovative, and responsive investments focused on LMI communities. As rents continue to rise in Cleveland it is imperative that financing for affordable housing target those most in need.

Additionally, the Notice of Proposed Rulemaking (NPRM) revealed that the OCC intends to eliminate CRA credit for lending to moderate/middle income borrowers within LMI census tracts. Therefore, banks that provide mortgages to moderate/middle income borrowers who desire to live in LMI neighborhoods would not receive CRA credit for making these loans.

Impact: The unintended consequences of this proposal are two-fold. First, this measure discourages the growth of mixed income neighborhoods and sends the message that only LMI individuals should live in LMI neighborhoods. Second, and even more disastrous, it reinforces concentrated poverty which the CRA, Fair Lending, and HUD mission seeks to ameliorate. The OCC intentions for this measure may be to slow the wave of gentrification in some larger cities. However, this particular approach to addressing gentrification could have devastating consequences to local communities seeking to reverse decade's long effects of redlining and racial discrimination in lending and housing.

Eliminating three distinct performance test in favor of "All Activity Ratio" (Single Metric Approach)

Proposed Change: The foundation of the OCC's new performance metric is the Qualifying Activity Ratio which divides the total dollar value of a bank's qualifying activity by the dollar value of its domestic deposits. The QA ratio aggregates bank activity such as mortgage lending, CD loans and CD activity currently measured separately under today's CRA framework.

Impact: The Qualifying Activity Ratio allows banks to substitute lending activity; focusing on high yield shorter term activities, while forgoing longer term innovative projects- the kind needed in LMI areas.

Of particular concern is the potential for banks to concentrate on larger investment projects such as financing sports stadiums or infrastructure projects instead of funding smaller projects with a direct measureable benefit to LMI communities.

Analyst report that a bank can achieve an outstanding rating by doing less, concentrating on these "high-yield" CRA activities. As banks are often measured against their peer group, this may create a 'race to the bottom' with banks conducting the bare minimum of CRA activity or cherry-picking certain activities over more impactful activities to reach a Satisfactory rating.

Recently, we discussed the OCC's proposed changes with a few bank partners. Some expressed concern that their commitment to LMI communities would be discounted under the proposed system. In Cleveland, we are fortunate to have select financial institutions that are committed to providing affordable bank accounts, financial education assistance, and community development investments in small nonprofit organizations; all activities incentivized by the current CRA framework.

We fear that the All Activity ratio which aggregates CRA activity, coupled with eliminating the banking services test and awarding credit for activity beyond a bank's Assessment Area will create immediate and long term disincentives for investments and lending in LMI communities.

Expanding CRA credit beyond a bank Assessment Area

Proposed Change: The OCC proposes to broaden the geographies for which banks can operate and receive CRA credit. The OCC states this freeing up of bank capital to flow to areas outside of a bank's Assessment Area will open up markets and benefit geographies considered 'CRA deserts'. Even more alarming, is the mathematical possibility that a bank could fail in half of its Assessment Areas and still pass its overall CRA exam!

Impact: CRA has incentivized financial institutions to partner in the city of Cleveland in making strategic investments in areas of greatest need. Most recently, bank partnerships were leveraged to focus dollars in neighborhoods where private investment failed to reach. This Mayoral led effort (Neighborhood Transformation Initiative), received financial commitments from five local banks to provide housing development dollars and create a specialty mortgage loan product for targeted LMI census tracts. The willingness of banks to engage in this initiative and the subsequent deployment of dollars into LMI neighborhoods was due in large part to the CRA incentivizing local investment through its Assessment Area test.

Additionally, our lending data analysis revealed a \$300MM shortfall in mortgage lending in the city of Cleveland. This level of disinvestment cannot be overcome with the limited federal funds the city receives. Financial institutions must be willing to lend and invest in the areas of greatest need. If the OCC awards CRA credit to banks irrespective of their local assessment areas, banks may lose the incentive to partner in challenging geographies and in turn cherry pick where they invest. This would have a devastating effect on future Municipal-Bank partnerships in Cleveland.

Conclusion

In summary, meaningful CRA reform has the potential to boost lending and investments for underserved communities and communities of color. However this will only be realized if assessment areas, incentivized lending to LMI borrowers and access to safe and affordable banking are at the core of proposed reforms. Diminishing the importance of bank branches will decrease lending and access to banking in the communities that need it the most.

Therefore, we urge the OCC to rescind its current proposal and partner with the Federal Reserve Bank on CRA reforms that incentive banks to uphold their affirmative obligation to lend in the communities for which they take deposits!

Thank you for your attention to our comments.

Sincerely,



Frank G. Jackson
Mayor