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Comments regarding "Reforming the Community Reinvestment Act Regulatory Framework"

RE: RIN 1557-AE34, Federal Register Number 2019-27940, Docket ID OCC-2018-0008

To Whom It May Concern:

We write regarding the OCC and FDIC's Notice of Proposed Rulemaking (NPR) seeking input on proposed changes to the Community Reinvestment Act (CRA). We submit these comments on behalf of the East Brooklyn Reinvestment Committee and the Cypress Hills Local Development Corporation regarding the OCC's Advanced Notice of Proposed Rulemaking (ANPR) seeking input on proposed changes to the Community Reinvestment Act (CRA). The East Brooklyn Reinvestment Committee is a group of community residents and small businesses of East New York, Brooklyn and the Board of Directors and staff of the Cypress Hills Local Development Corporation (CHLDC), a nonprofit community development organization serving East New York. CHLDC builds and manages affordable housing, provides housing counseling services to homeowners, educates tenants about their rights and helps prevent evictions, counsels and organizes merchants and offers and array of human services programs positively impacting 11,000 residents of East New York a year. CHLDC is also a proud member of the Association for Neighborhood and Housing Development.

For the past 25 years we have worked collaboratively with local banks to fulfill their obligations under the Community Reinvestment Act. When collaboration has not worked, we have advocated with regulators and our elected representatives to increase lending, stop predatory practices, add credit products that are responsive to our residents' and small business owners' needs, preserve bank branches and provide education and services. The East Brooklyn Reinvestment Committee focuses on and serves the residents and small businesses of Brooklyn Community Board 5 (CB5), which is a racially diverse, low-to moderate-income community with a population of 182,896. According to the NYC Department of City Planning, 52.2% of residents are Black, 37.1% are Latino, 4.5% are Asian and 3.8% are white. In addition, 36% of CB5 residents are immigrants and 16% have limited English proficiency (over 29,000 residents), with many immigrant residents of the neighborhood hailing from Spanish-dominant Caribbean, Central and South American countries, and a growing population from Bangladesh. 32% of residents live below the poverty line (NYC average 21%), only 14.5% of the adult population has a bachelor's degree (NYC average 35.7%) and 14% of adults are unemployed (NYC average 11%).

We strongly oppose much of the ideas presented in the NPR that would significantly weaken the CRA, leading to less investment, fewer loans and bank branches, and less meaningful investments that would benefit the very people the law was designed to help: low-income people, people of color and communities of color like Cypress Hills/East New York.

Bank lending and services are already weak in our community and we anticipate the proposed One Ratio, elimination of the service test and disregard of the important issues of branching and displacement in high cost communities will further harm our community. **In 2019 our ten bank branches had $840 million of local residents' and small businesses' savings and earnings on deposits and had only issued 73 home loans totaling $28.8 million in the prior year; i.e. less than 3% of the deposit base being reinvested in the community.** The East Brooklyn Reinvestment Committee has advocated for over 25 years to ensure that these hard-earned savings get reinvested back into the housing stock and small businesses of the community. Every year we analyze HMDA and other publicly available banking and real estate/small business data for our community and report out to banks on their performance and troubling trends in the market and make recommendations for improvement. We also meet throughout the year with banks and educate residents about their finances and ways to grow and preserve their assets. It has been a tough battle for a volunteer group but one that has yielded concrete benefits because of the CRA. Our victories include an overall increase in responsible lending, new banking products that are responsive to the needs of residents (e.g. a Credit Builder loan), financing for deeply affordable housing, increases in philanthropy to support homeownership preservation efforts and maintenance of full service branches.

But, for all of these victories, we have many challenges. Small businesses still have little access to conventional credit and especially to mortgage loans to purchase the mixed use properties in our community. We need banking products and services and responsible lending that match the new realities of hyper-gentrification in urban areas. Banks are financing “affordable” housing that is way beyond the reach of East New York residents and financing the flipping of one to four family homes. Banks are also permitting the over-leveraging of apartment buildings in our community which leads to tenant harassment and displacement. They are also offering affordable mortgage products to and getting CRA credit for making mortgage loans to White, middle income borrowers in our LMI census tracts which is contributing to gentrification. Too many low-income, immigrant, and Black and Latino East New Yorkers still lack sufficient access to loans and capital to purchase homes, repair/retrofit and refinance their homes and start and grow their businesses. Nonprofit organizations also need access to operating lines of credit and predevelopment loans to make essential facility and affordable housing projects possible.

The CRA is one of the major civil rights laws that were passed in response to discriminatory policies and practices that locked people of color out of banking, credit, housing, employment, and education. It is one of the most important laws we have that holds banks accountable to local communities. It has led to trillions of dollars reinvested nationwide, and billions each year here in New York City for affordable housing, small business supports, daycares, schools, and local businesses. The CRA has also fostered affordable mortgages, small business loans and supports, bank branches, and commitments to responsible multifamily lending.

But, for all its benefits, inequities persist. Too many low-income people, immigrants, and people of color in New York City still lack sufficient access to loans to purchase homes, improve their homes, and start and maintain businesses**.** Smaller nonprofits struggle to access grants and loans to build and preserve much-needed deep and permanent affordable housing and to support community development. **15% of Black households and 18% of Hispanic households in the NY region are completely unbanked, which is over 5 times the rate of white households**. Meanwhile, many low-income tenants and tenants of color are being harassed and displaced when banks lend to unscrupulous landlords.

All of this underscores the need to preserve and strengthen the CRA, making sure that the right priorities are reflected. **In that context, we have deep concerns about much of the proposal:**

1. **The proposal maintains a one-metric / one-ratio approach, despite hundreds of comments opposing it during the first comment period.** It values dollars over impact, quantity over

quality, thus **minimizing the role of community input and community needs and incentivizing larger deals over smaller, more impactful ones**. This means fewer loans to first-time homebuyers, low-income homeowners, and small businesses; fewer financing options for smaller nonprofits to build and preserve deep affordable housing; fewer grants to nonprofits for tenant organizing or direct services.

2. **There is no mention of race.** Understanding that the CRA is a color-blind law, the regulators should be doing everything possible to increase access to banks and banking for people of color through affirmative obligations and strengthening the fair lending component of the exam. But the proposal does none of that, and some of the proposed changes that value dollars over quality could inadvertently lead to fewer branches, fewer services, less housing, and less lending and banking to people of color.

3. **The proposal expands what counts for CRA credit with activities that benefit larger businesses and higher-income families, as well as activities that barely benefit lower-income people or communities and others that could displace these communities.** By creating arbitrary numerical goals to reach and by expanding the universe of CRA qualified activities, banks will have no incentive to put the time and effort it takes to reach lower-income borrowers and small businesses, or to work with local nonprofit developers who are doing the more complex, more impactful projects. Worse, banks can get credit for activities that could harm or displace LMI communities, such as opportunity zone financing for athletic stadiums or luxury housing; high-cost credit card loans to LMI borrowers; and the long-standing practice of financing bad-acting landlords who harass and displace tenants. This means less affordable housing for very low-income New Yorkers who already lack sufficient housing; fewer loans to small businesses that already struggle to access financing; fewer home loans to low- and moderate-income borrowers.

4. **The proposal greatly expands where banks can get CRA credit, allowing banks to investment more outside of local assessment areas, which minimizes local community needs and partnerships.** Under the new proposal, 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 all the assessment areas combined,

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.

This is the wrong approach.

Any reform must include OUR principles to preserve and strengthen the CRA

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. **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.

3. **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 reinvestment where it is needed, including high need "CRA hot spots" such as New York City, while also directing capital to under-banked regions.

Conclusion

Meaningful CRA reform could boost lending and access to banking for underserved communities by incentivizing high quality, high impact activities based on local needs, while discouraging and downgrading for displacement and activities that cause harm.   Transparent and consistent exams would support these goals.

The proposal does the opposite of what it claims to do for banks or the community: It is **less transparent, more complicated, and will ultimately lead to less investment and less meaningful investment**. The formula to calculate the target metric is complicated and relies upon data banks don't currently collect. Further, it no longer uses publicly available data for home lending, small business lending, and deposits, thus reducing the ways the public can verify and provide feedback on bank performance in those categories.

The OCC and FDIC should abandon this proposal and go back to the table with the Federal Reserve to come up with a plan that preserves the core of the CRA, truly addresses its shortcomings, and modernizes it to incorporate today's banking world.

We are in the midst of a global pandemic in New York City and our low/moderate income, predominately Black and Latino community is in the epicenter. Not a day goes by when we do not hear of a resident, small business owner, staff and board member who is sick from Covid-19 or hospitalized or who has died. It is truly an unprecedented crisis that so far, few banks have responded with additional financial help for the community. We find it outrageous and immoral that we have been pulled from providing emergency services to even write this letter. We can think of no good reason why the comment period could not be extended! Please know the only thing that could pull us from this front line work is the importance of the Community Reinvestment Act for our community and our deep fear that the proposed regulatory framework will dismantle it when we need it most. You may reach us at michellen@cypresshills.org and hgreen@cypresshills.org with any questions.

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Sincerely,

[redacted]

Harold Green Chair East Brooklyn Reinvestment Committee	Michelle Neugebauer Executive Director Cypress Hills Local Development Corporation

Cc: Honorable Nydia Velazquez