08 April, 2020

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW., Suite 3E-218,
Washington, DC 20219

Robert E. Feldman, Executive Secretary
Attention: Comments RIN 3064-AF22
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

RE: Community Reinvestment Act Regulations, Notice of Proposed Rulemaking [OCC Docket ID OCC-2018-0008, FDIC Docket ID RIN 3064-AF22]

To Whom It May Concern:

National NeighborWorks® Association (NNA) would like to thank the Office of the Comptroller of Currency for the opportunity to provide comment on its Notice of Proposed Rulemaking entitled "Community Reinvestment Act Regulations", which was published in the Federal Register on January 9, 2020 in the Federal Register. I serve as the Executive Director of National NeighborWorks® Association, a trade association of over 200 NeighborWorks organizations, with the mission to unite housing and community development practitioners to advocate for housing and economic opportunities for individuals, families, communities and neighborhoods across the country.  Our members accomplished over $9.5 billion of affordable housing and comprehensive community development across the nation this last year alone.

In response to the NPR, NNA finds that much of the rule will adversely affect our members, will adversely affect the low to moderate income (LMI) communities and neighborhoods they serve, and runs in opposition of the original mandates of the Community Reinvestment Act.

We respectfully submit comments from National NeighborWorks® Association below.  The first part speaks to the greatest negative impacts that the NPRM will have on our members' ability to deliver comprehensive community development to the areas of most in need. The second part is important factors in finalizing any modernization of the Community Reinvestment Act and the final part is additional issues, concerns or suggestions from our members.

**Negative Impact 1: The NRPM would redefine the definition of community Development/reinvestment/revitalization to include CRA credited activity not directly targeted to LMI communities**

Including large infrastructure projects, such as roads and bridges - projects that decimated communities during "urban renewal" will now be given a community benefit and considered for CRA credits.

Other large projects that could be considered for CRA credit; stadiums, are continually being financed with regressive-type taxes on "sin" products such as tobacco and alcohol, through soda taxes, or directly through publicly provided funds and financing. What little that remains in the project for private ownership to finance, could now be determined to be of community benefit.

Both of these situations giving banking institutions the opportunities to create extremely large single purpose investments, rather than multiple, smaller, more focused investments in LMI communities and neighborhoods. Our members' work and leverage will be adversely affected by including infrastructure and stadium financing in the qualified investments for CRA credit.

Other defining changes that will adversely impact our membership:

- Credit for financial literacy without any account for income levels
- Changing the definition of small business from $1 million to $2 million.
- Changing the definition of CRA service hours and monetizing them to be included in total CRA equation.
- Redefining affordable housing as housing "That is likely to partially or primarily benefit low- or moderate-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income"

**Negative Impact #2: Redefining and/or eliminating defined assessment areas**

The NRPM looks to define assessment areas based on deposits vs the branch location. If depository information was public and readily available, this could possibly work, but even the OCC has stated that this "readily available but not currently reported in an integrated and accessible manner." Our members believe that lending should remain as the preferable measure of performance and determination of assessment areas with the ability to expand or create additional assessment areas if a bank's lending activity accounts for a certain percentage of that area's total lending. Lending data is readily, and publicly available, and would not lead to additional costs or lack of transparency if relying on deposits for determination.

The NPRM also opens up credit for “activities conducted outside of their assessment areas in determining their bank-level ratings”. The Community Reinvestment Act already has a procedure for doing this that hinges on banks first establishing they are meeting needs in their current assessment areas. However, meeting the needs should not mean being able to pass the CRA exam while receiving a failing grade in up to 49.99% of their assessment areas.

**Negative Impact # 3 Not having the OCC and FDIC place a limit on how much any single transaction could influence the bank rating.**

As noted earlier, large projects such as roadways, bridges, other infrastructure including stadiums, not allowable previously, will, without limits, drive CRA investment away from impactful, community level projects, into these large, quick-CRA-credit-earning projects. This is not a true sense of community investment, lending and service, but one of accounting of large numbers to circumvent regulation and duty.

**Negative Impact #4 - The addition of a multiplier assigned to community development activity**

With all things being constant, allowing banking institutions to receive a multiple of 2 times the amount of community development delivered would disincentivize level investment over pre-modernization due to being able to achieve the same measuring levels with half the community development activity. When added to the proposed ability to pass a CRA exam with only meeting CRA obligations in 50% of their assessment areas, our members will see a significant decrease in investment, lending and services, while banking institutions will be able to maintain acceptable bank ratings without consequence.

**Negative Impact #5 - The devaluing of branches in LMI areas.**

The NRPM significantly devalues bank branches in LMI areas. A bank institution with 30% of their branches in LMI census tracts, which would be a very high percentage of branches in LMI census tracts, would only receive a branch score of .3 percentage points in the CRA evaluative measure. This equation and devaluing of branches in LMI areas will lead to a significant branch loss in LMI communities.

***Factors of importance in finalizing any rules in regards to the “modernization” of the Community Reinvestment Act:***

**The Importance of**
**Community Development Financial Institutions (CDFI) and The Effect of CRA**
CRA has been a primary factor enabling the CDFI industry to grow and deliver responsible financial services and products to LMI and underserved communities.

Changes to the CRA regulatory framework should not have a negative impact on the CDFI industry's capacity to lend and invest in low-wealth markets and contribute to economic revitalization. There are currently more than 1,100 CDFIs certified by the Department of Treasury's Community Development Financial Institutions (CDFI) Fund with over $150 billion in total assets. With cumulative net charge-off rates of less than 1 percent, CDFIs lend prudently and productively in exactly the LMI communities that are the focus of CRA.

CDFIs rely on the CRA to incentivize banks to make credit and capital available to underinvested communities. Banks typically meet their CRA obligations through their own direct lending however in recent years, CDFI-bank partnerships have flourished because banks recognize the CDFI industry's strong track record. Under current CRA regulations and guidance, banks are assured CRA consideration for community development lending including loans and investments to CDFIs. Existing guidance from the OCC, Federal Reserve Board of Governors and Federal Deposit Insurance Corporation regarding treatment of CDFIs should be retained and strengthened in any modernization of CRA regulations.

**The Importance of**
**Analyzing Data Regarding People/Communities of Color**

Evaluations of lending to people and communities of color, one of the original tenets of the CRA, would further satisfy the original intent of the CRA legislation. Analyzing lending to minorities was a part of the fair lending section prior to 1995, any modernization should re-include this analysis.

In determining CRA lending in eligible LMI census tracts that includes lending to those individuals that are not determined to be of LMI income earners, analyzing the distribution of capital to minorities with greater incomes, as opposed to displacement of minorities due to lending to non-minority lenders, should be held to a high standard in any new CRA regulations.

**The Importance of**
**Physical Branches and Services to the Community**

Branches are a community asset, one that provides products and services, that if not obtained by a local, physical branch, will be replaced by predatory, undesirable and detrimental industries. Branches must remain on CRA exams because they are critical for helping LMI individuals obtain loans; the impetus of the CRA.

**The Importance of**
**Providing Access to Communities Across the Country**

Given the importance of CRA to many groups who partner with banks and to the communities they in turn serve, it is critical that the proposed changes to CRA be given ample hearings and public input opportunity. Consistency across bank charter type, size and business model is also an important value that the NPRM recognizes. For this reason, it would be useful for the OCC to propose changes that the other bank regulatory agencies, the Federal Reserve and the Federal Deposit Insurance Corporation, are comfortable with.

**Other points of important to our members:**

- Many of our members have concerns of the “proactive” outreach by the OCC during the comment period, which was communicated by our members as initiated by our members signing onto a letter from the National Community Reinvestment Coalition to the FDIC – seemingly unprecedented in relation to previous comment periods.
- Public comment on mergers, acquisitions, CRA ratings, etc. should be retained and expanded upon versus limited and restrained.
- Any implementation of rulemaking should be delayed until the COVID-19 pandemic has been eradicated.

We believe that if OCC takes into account the above comments and suggestions, and those of our colleagues and partners, that the Community Reinvestment Act would be more effective, accountable and impactful.

Thank you for the opportunity to provide comments, if you have any questions, please do not hesitate to contact me at 202.713.8720.

Sincerely,

[redacted]

Executive Director