8 April 2020

David Wohlwill
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RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

Dear Federal Deposit Insurance Corporation Regulator:

First, the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC) should have extended the deadline for submitting comments on the Community Reinvestment Act (CRA) regulations as proposed in Notice of Proposed Rulemaking (NPRM). Banks, community groups, local governments and other stakeholders are all severely impacted by the coronavirus. Given how profoundly NPRM would revise the CRA, reviewing the NRPM, analyzing its potential impacts and developing a response commensurate with the magnitude of the changes, requires significant mobilization of staff and time from community members. Given the severity of the economic and health impacts of the coronavirus, this is very difficult for some and impossible for others having a direct interest in the NPRM changes to the CRA. The FDIC and OCC should have extended the comment period at least to early summer and, perhaps further into the future depending upon when the coronavirus impacts have been sufficiently mitigated.

Second, I oppose the changes to the changes to the CRA regulations as proposed in the January 10, 2020 NPRM. According to Martin Gruenberg a dissenting member of the FDIC Board of Directors, the NPRM on the CRA "is a deeply misconceived proposal that would fundamentally undermine and weaken the Community Reinvestment Act."

The NRPM changes would allow the FDIC and OCC to relax their oversight of banks by utilizing unclear performance measures on CRA exams that would not accurately measure banks' responsiveness to community needs. Public input into this less than transparent evaluation framework would be more difficult and limited. Even though the FDIC and OCC have stated that that their proposal would increase clarity and bank CRA activity, I predict that the result of enacting the NPRM changes would be significantly fewer loans, investments and services to low- and moderate-income (LMI) communities.

This would be a major setback for LMI communities, particularly those with significant minority populations, which have struggled to reverse years of disinvestment in their neighborhoods. Thanks, in part, to the CRA many urban neighborhoods with large numbers of LMI people have undergone major revitalization and are vibrant, diverse communities contributing to the economic and social success of cities around the United States.

Under the NPRM, financing large infrastructure projects such as bridges would be a CRA eligible activity, which would diffuse banks attention to critical needs in LMI communities. Infrastructure projects such as bridges should be funded from federal, state and local transportation and other infrastructure programs. The original intent of the CRA is to make sure that banks address other community needs.

Even worse, under the NPRM, financing of athletic stadiums in Opportunity Zones would be deemed an eligible activity which does not conform to the spirit of the CRA. In allowing such projects to be an eligible activity, the FDIC and OCC are diluting the CRA's emphasis, affirmed in 1995, of revitalizing LMI communities with affordable housing, small business development and community investments.

The proposed changes are likely to divert attention from areas served by bank branches since the FDIC and OCC propose to make it easier for banks to engage in CRA-qualified activities outside of areas with bank branches. Currently, banks can engage in community development activities beyond areas with branches only after satisfactorily serving them. Under the NPRM, there would be no such restriction, allowing banks to find the easier places anywhere in the county to engage in community development without first responding to needs in the communities with branches.

As I understand the NRPM, the changes would also render the bank evaluation process less effective. Currently, 98% of banks pass the CRA exams. If the NRPM is adopted, it's will be very likely that no banks would fail the CRA exams, thus further reducing the effectiveness of the evaluation process as a tool for ensuring CRA compliance.

Currently a retail test which examines home, small business and consumer lending to LMI borrowers and communities utilizes ratings. Under the NRPM, the retail test would be only pass or fail. Additionally, the proposal would eliminate the service test that scrutinizes bank branching and provision of deposit accounts to LMI customers. Replacing this test is a formulaic measure that would result in branches in LMI areas counting for very little in the one ratio and hence would encourage banks to close them.

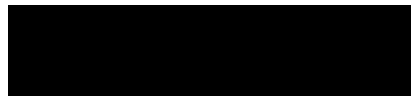
The FDIC and OCC also propose to allow banks that receive Outstanding ratings to be subject to exams every five years instead of the current two to three years. This increased time span will reduce the effectiveness of these agencies' oversight since banks with a five-year exam cycle would likely relax their efforts in the early years of the cycle. Banks would also have less accountability to maintaining acceptable recent CRA performance when they seek permission to merge with other banks.

Instead of weakening CRA, the FDIC and OCC should enact reforms that would increase bank activity in underserved neighborhoods. Currently, these agencies are not addressing persistent racial disparities in lending by strengthening the fair lending reviews on CRA exams or adding an examination of bank activity to communities of color in CRA exams. At the very least, the FDIC and OCC should add a category on CRA exams of underserved census tracts (as measured by loans per capita), which would likely include a high number of people of color.

This greatly misguided proposal would result in less investment for communities most in need that were the focus of Congressional passage of CRA in 1977. The changes – less focus on people that are LMI, a simplistic one ratio, a bank could fail in one half of its areas and retail lending and branching would count for less of the rating – would increase grade inflation accompanied by a decrease in lending, investing and bank services to LMI consumers and LMI communities. This backtracking will violate the FDIC's and OCC's obligation under the statute to ensure that banks are continually serving community needs.

The FDIC and OCC need to discard the NPRM and instead work with the Federal Reserve Board and propose an interagency rule that will augment the progress achieved under CRA in terms of reinvesting in LMI communities, not halting or reversing this progress.

Sincerely,



David E. Wohlwill