FAIR HOUSING CENTER of CENTRAL INDIANA

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Re: CRA - Comments in response to the Notice of Proposed Rulemaking
OCC Docket ID OCC–2022–0002
FDIC RIN 3064-AF81
Federal Reserve Docket No. R-1769 and RIN 7100-AG29

To Whom It May Concern:

The Fair Housing Center of Central Indiana (FHCCI) is a nonprofit organization that works to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education, and outreach. As part of our mission, the FHCCI has been active in challenging discriminatory housing practices and educating the public about the prevalence of such practices and the systemic history thereof. Indianapolis is the 15th largest city in the country, a population of nearly 900,000, with a nearly 30% Black population. The homeownership rate is only 34% for Blacks compared to whites at 65%, a gap even larger than it was in 1970.

The FHCCI appreciates the opportunity to comment on the Notice of Proposed Rulemaking (NPR) regarding updating the Community Reinvestment Act (CRA). This NPR represents the most significant changes to the CRA regulation and exams in 27 years. The CRA has resulted in many banks implementing better mortgage products to serve all consumers but it needs to be updated.

CRA will be more effective in bolstering bank reinvestment activity in underserved communities, the more rigorous CRA exams and ratings are. The NPR proposed some significant improvements in test rigor but the improvements are not across the board on all aspects of exams. The NPR also improved data collection and the breadth of geographical areas on exams but did not include race on exams.

In January 2022, the FHCCI released, *The State of Fair Housing in Indiana Report – Mortgage Lending in Marion County 2018-2020* which analyzed mortgage lending in the County. Yesterday, the FHCCI released a new chapter to this report analyzing the use of Federal Home Administration (FHA) and Veterans Affairs (VA) mortgage lending from 2018 to 2021. Both reports show how area lenders are not meeting the mortgage needs of their consumers.

The FHCCI is a small staff of eight employees without the ability to investigate every allegation of lending discrimination. However, in the past five years, the FHCCI has challenged three major community lenders about their mortgage lending practices. These large banks were not serving Black neighborhoods and Black home seekers. All these lenders, at the time of the FHCCI investigation documenting their subpar lending practices, had **satisfactory or outstanding CRA exam ratings**.

Lender 1 (2019 settlement):

- Made over 4,000 mortgage loans in the Indianapolis MSA, yet only 27 of those loans went to Blacks/African Americans in Marion County (City of Indianapolis), and a total of 53 loans went to Black applicants across the entire Indianapolis MSA. In one year, 2014, Lender 1 managed to make only 6 loans to Blacks located in all of the Indianapolis MSA.
- In percentage terms, during the five-year period from 2012 to 2016, the rest of the Top 20 Mortgage Lenders in the County made 4.6 times as many loans to African Americans in the MSA as did Lender 1.
- Lender 1 effectuated its discriminatory practices by locating all 26 of its Indianapolis MSA branches in census tracts that were at least 80% white.
- Lender 1 excluded Marion County from its assessment area, which is supposed to be the area that it considers the community it intends to serve, even though it made a substantial number of mortgage loans (nearly a quarter of its total loans in the MSA) to white customers in Marion County. The purpose and desired effect of this exclusion was to avoid regulatory scrutiny of its lending practices in the area of the MSA where most Blacks/African Americans reside. Lender 1 only added Marion County to its assessment area in 2016 after acquiring another bank that included the County in its assessment area, leaving the company with little choice but to add it.
- In FHCCI fair housing testing to determine how home seekers were treated at bank branches, in three separate matched-pair tests, loan officers from Lender 1 treated Black testers less favorably than they treated similarly situated white testers.

Lender 2 (2021 settlement):

- In the two-year period from 2019 to 2020, Lender 2 made over 2,250 mortgage loans in the Indianapolis MSA. The borrower's race was identified in Lender 2's own data for over 91% of these loans, yet only twenty-three were to Black borrowers in Marion County, and only thirty-seven were to Black borrowers across the entire Indianapolis MSA.
- 14.73% of Lender 2's peers' mortgage loans in Marion County from 2019 to 2020 were made to Black customers but only 3.86% of Lender 2's loans were to Black customers.
- In 2010, Lender 2 had twenty-seven branches in Indianapolis, including six in census tracts that were at least 25% Black. In 2021, there were just nine branches in the entire city and only two in census tracts that are at least 25% Black, while seventeen of its twenty-one branches in the Indianapolis MSA were in tracts that were less than 10% Black.
- In FHCCI fair housing testing conducted, Lender 2's loan officers provided Black testers with less information than they provided to the white testers, took them less seriously, and steered one of the testers towards more costly low down payment mortgages. Lender 2's loan officers provided the white testers with helpful, detailed product comparisons and analyses of their finances, additional information about loan options, and more meaningful follow-up contact. The loan officers did not provide these benefits to the Black testers.

Lender 3 (2022 – pending):

- In Marion County from 2018 to 2021, Lender 3 received only 9.5% of its applications from Black applicants compared to 15.8% for its fellow Marion County Top 50 Lenders and 18.3% by all other lenders. Lender 3 received 1,663 applications from whites while receiving only 198 applications from Blacks in Marion County.
- Lender 3 originated a low percentage of mortgages between 2018 to 2021 to Indianapolis Black borrowers. Compared to its peers, Lender 3 originated only 5.3% of its loans to Black borrowers

compared to 13.5% for its Top 50 peers and 15% for all other Marion County lenders. Lender 3 originated nearly 87% of its mortgage loans to white borrowers. Lender 3 originated 878 loans to whites while originating only 54 loans to Blacks in Marion County. Lender 3 had the *fifth lowest* origination rate (5.3%) for Indianapolis Black borrowers among Marion County's Top 50 Lenders during 2018 to 2021.

- Lender 3 has one of the highest denial rates (56.1%) among the Top 50 Lenders for Blacks based upon data from 2018 to 2021 for Marion County. In fact, only one other Top 50 Lender had a higher denial rate for Black borrowers.
- Today, Lender 3 has no bank branches in Indianapolis majority Black neighborhoods. In 2012, Lender 3 also had no bank branches in Indianapolis Black neighborhoods outlining Lender 3's long-term systemic neglect in serving Black home seekers.

Persistent racial disparities in lending should compel the agencies to incorporate race and ethnicity in CRA exams. A recent national level analysis showed continuing disparities in loan denials by race and when people of color received home loans, their equity accumulation was less. NCRC had asserted in a paper that it is possible for changes to CRA to comply with legal standards if CRA examined lending by race and ethnicity in geographical areas experiencing ongoing discrimination. By including race and ethnicity, CRA can identify and address persistent racial disparities that have direct impacts on quality of life and health outcomes.

Since CRA requires banks to meet the needs of communities, the agencies must elevate the importance of public comments regarding the extent to which banks meet needs. The agencies proposed to continue the current practice of sending any comments on CRA performance to banks and are also considering publishing comments received on agency websites. We urge the agencies to post comments on their websites and also to establish a public registry for community organizations to sign up if they wish to comment on CRA performance. In addition, we ask that the agencies publish a list of organizations that comment and that the agencies identify those led by people of color and women in an effort to seek input from a diverse range of organizations.

The agencies bolstered the rigor on the large bank retail lending test by introducing performance ranges for comparisons among a bank's lending and demographic and market benchmarks. This approach would decrease ratings inflation and result in more failing and low satisfactory ratings on the lending test. As a result of this proposed reform, several banks would likely respond by boosting their retail lending to underserved communities. The other large bank tests such as community development finance and services include improvements but need to be further developed to guide examiners against inflating ratings.

The FHCCI also been active in challenging bias in home appraisals impacting the home values of far too many people of color and our neighborhoods of color. One of our clients has received national attention in receiving appraisals for $125,000 and then $110,000 between March and May 2020. Only after "white-washing" her hone and having a white friend stand in, did she receive a fair appraisal of $259,000 in November of that same year. Mortgage lenders should be influential in the support and promotion of more appraisers of color. Lenders should also have more robust collection or evaluation processes on the quality of appraisers use and any bias they may bring into their appraisals. A requirement of a more formalized reconsideration process in appraisal appeals would also allow mortgage holders to better get corrected action. The appraisal industry has stated that over 90% of reconsiderations are denied – that says that the process is incredibly broken. Lenders being required to use a Tidewater type rule across mortgage lending products would also assist consumers from hard credit pulls as they dispute bias in their appraisals. Our client had hard pulls on her credit which impacted her interest rate and when she could seek the third "white-washed" appraisal.

Advocates have urged the agencies to also examine lending that occurs online. The agencies proposed to create assessment areas where a large bank does not have branches when a bank has issued 100 home loans or 250 small business loans. This proposal would result in the great majority of total lending being incorporated on exams and would therefore hold banks more accountable for serving low- and moderate-income communities. However, the agencies must further ensure that exams do not overlook assessment areas containing smaller metropolitan areas and rural counties.

The agencies proposed to eliminate certain subtests for about 1,000 medium-sized and smaller banks that would eliminate their accountability for providing community development finance and branches in underserved communities. These changes lack justification since these banks have been successfully performing these activities for several years. We urge the agencies to eliminate this aspect of the NPR since it would reduce reinvestment activity.

The NPR is a good start and promises to make parts of CRA exams more rigorous but we urge the agencies to extend the rigor of the large bank lending test to the other tests. We also ask the agencies to incorporate race in CRA exams, to expand the public reporting of their data collection proposals and to incorporate the other improvements discussed above. If CRA is improved while maintaining public input and accountability, we believe the proposed rule could help reduce inequalities, disinvestment, and other disadvantages in America's overlooked communities.

The FHCCI appreciates the opportunity to comment on this NPR. CRA has been an invaluable tool to ensure fair lending for all but more work needs to be done to meet the needs of today's consumer and our neighborhoods still suffering from redlining, the history of racial covenants, and disinvestment. Thank you for your consideration.

Sincerely,

[redacted]

Amy Nelson
Executive Director