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cra.reg@occ.treas.gov

Comments@fdic.gov

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

To Whom It May Concern:

I, Annya Maskey, strongly oppose the proposed changes to the Community Reinvestment Act (CRA) regulations. According to FDIC Board member Martin Gruenberg, the FDIC's and OCC's Notice of Proposed Rulemaking (NPRM) on the Community Reinvestment Act (CRA) "is a deeply misconceived proposal that would fundamentally undermine and weaken the Community Reinvestment Act." I believe that this proposed rule should not be approved, and that the regulators have more work to do to make actual advancements.

I joined Fair Housing Advocates of Northern California (FHANC) in February 2019. In the past year, I have learned about the housing industry – a world of laws, protections, and policies that I was never exposed to before. I have encountered my fair share of discrimination as a low-income citizen of Sonoma County, and a woman of color with a child, especially related to searching for housing to finding programs to help me grow agriculture enterprise. Through my work at FHANC, I learned that there is a cause for the segregations of the neighborhoods in the Bay Area (and throughout the country), which is a system that was created to benefit one group of people above others. The legacy of redlining, Jim Crow laws, and systemic discrimination has left behind so many people in our communities, and completely stunted our growth as a society. Sadly, redlining and discrimination are not just monuments in the past, but an active part of the housing and lending industries today. This proposal does nothing to address this fact and may very well lead to further discrimination of protected classes as banks held to a lower standard and fail to serve some of their assessment areas. The free market is only as free as the people who are in control. These bankers, the lenders, and every person of power in the housing industry gains monetary and psychological power over people who work tirelessly to achieve the American Dream but are sold false hope, steeper interest rates, and led to believe they must live in a certain part of town.

In 2007, the housing bubble burst and the entire country was affected by the lending industry's mistakes. We must have oversight of this industry, with carefully crafted regulations that put the people first and profits second. This industry can be adapted to improve the lives of people who look like me, who have experienced similar hardships. I believe that the first step to a better life is through access to financial markets like mortgage loans, small business loans, and equal treatment. All of this improvement must have a transparent framework, built with input from advocates and community members, that make it easier for individuals to create and build a life in their own communities.

This proposal appears designed to weaken community input and participation. This reaction against community input is evident in the proposal itself, which includes arbitrary thresholds that are not justified, references data not shared, creates a formula driven process that will make community input and partnerships less relevant, treats performance context as an afterthought, and is not clear on what role, if any, community input on bank performance will play. As an example, as to the lack of transparency and opportunity for community input, the OCC issued a Request for Information (RFI) almost a month after the release of its proposed rule, on January 10th. The RFI seeks data from banks to inform potential revisions to the CRA regulatory framework and is due the day after the 60-day public comment period closes for the rule. This means communities will not have access to this data, to be used by the OCC to make potential revisions to the rule, prior to submitting public comment.

The agencies would dramatically lessen CRA's focus on LMI people and communities in contradiction to the intent of the law to address redlining in and disinvestment from LMI and communities of color. The NPRM proposal would expand what counts to allow bank CRA credit for things like financial literacy classes geared towards upper income people. Even though 95% of businesses have less than \$1 million in revenue, and need financing under \$100,000, the proposal would double existing thresholds, allowing banks to get even more CRA credit for loans of up to \$2 million to businesses with up to \$2 million in revenue. And banks could get credit for loans as high as \$10 million for family farms, even though the vast majority of family farms are much smaller. As such, banks will turn away from less lucrative lending to the small businesses and small farms that serve their communities and hire locally. Distressingly, the proposal would now permit projects that only "partially" benefit LMI people and neighborhoods, such as large infrastructure and energy projects. The losers in this will certainly be low income people, entrepreneurs, small businesses and small farms. While the proposal does seek to expand reinvestment obligations to the increasing number of banks that do not have a branch model (such as fintech and internet banks), it does so in a way that few banks will actually be covered, and only accounts for where deposits are taken, not where these non-branch banks are making loans and making money. As proposed, the rule will likely do nothing to address the critical issue of bank deserts, and only serve to weaken the connection between banks and local communities.

The proposed rule will fuel gentrification and worsen displacement of LMI people. The definition of affordable housing has become so broad that it now includes people with incomes up to 120% of area median income. This leaves behind a significant portion of the population who are living below the poverty line and rental housing providers can market their units to higher earning people. The most marginalized populations are not adequately being served by this proposed rule. Worse still, banks would get credit for financing athletic stadiums, storage facilities, and luxury housing in Opportunity Zones.

CRA has rightly maintained a focus on whether banks have a branch presence in LMI communities, and whether banks make their products accessible to all consumers. But this proposal provides almost no incentive for banks to maintain and open LMI branches, and it seems to do away entirely with any consideration of whether banks are offering affordable bank account and other consumer products, such as payday alternative small dollar loans and age friendly account products, which are needed by LMI and senior communities. The result of this

proposal will be fewer bank branches in LMI and rural communities, and LMI consumers turning more to predatory check cashers and payday lenders.

What we need. Real CRA reform would include:

- A retained focus on low- and moderate-income people and communities.
- A focus on lending that meets community needs, prioritizing loan originations, not purchases of loans that were made by other banks or for-profit companies. Mortgage lending should focus on owner occupants (not investors), and small business lending should focus on smaller loans and smaller businesses. The Consumer Financial Protection Bureau should finalize a strong small business data collection rule so that the bank regulators and the public can clearly see which banks are serving, which banks are harming, and which banks are ignoring LMI communities and communities of color.
- A hybrid approach to assessment areas that ensures that traditional banks and modern branchless banks are actually serving communities. Banks with retail branch presence should service those areas where they operate. Banks without retail branch presence should have reinvestment obligations that consider where deposits are from, and where loans and profits are made. Nonretail bank reinvestment obligations should be developed with an eye towards increasing reinvestment in bank deserts, which this proposal does not do.
- A qualitative and quantitative analysis. Homeowners, small businesses, and impactful community development projects often require smaller loans and investment. Innovation and impact should be valued under CRA. A proposal that only considers what is easily monetized does not have community needs at its center.
- An end to CRA grade inflation. 98% of banks do not deserve to pass their CRA exams. This proposal will only make the problem worse. The goal should be to increase LMI lending and investment from current, inadequate levels, not to devise a system that counts more things in more places and will lead to larger numbers while actually resulting in less lending, less investment, less impact, and less community benefit.
- More scrutiny of reinvestment in rural areas. More rural counties should be designated as “full scope review” areas subject to greater oversight and scrutiny as is generally the case for urban counties. This will immediately result in rural areas being better served, which will not happen under this proposal.
- A greater emphasis on the service test, not the elimination of it, so that branches in LMI communities retain their importance in CRA, as they have retained their importance to communities. The CRA statute references deposit products and banks should ensure that affordable and accessible bank account and consumer products are available to LMI, of color and immigrant communities (including language translation and interpretation services) so that everyone can build wealth and avoid predatory alternative financial providers.
- Downgrading of CRA ratings for discrimination and harm. Evidence of redlining or discrimination should result in a Needs to Improve or Substantial Noncompliance rating. The agencies should bolster fair lending exams which currently can consist of a mere one or two sentences in a performance evaluation. The CRA should focus on race as well as income. CRA grades should also be lowered for violation of consumer protection laws, and for other harm to LMI people and communities. This includes downgrades for bank financing of displacement, which clearly worsens households’ community credit needs by

creating economic destabilization, evictions, ruined credit histories and decreased ability to be able to qualify for home and small business loans and build wealth.

- Greater community input, not less. The CRA requires that the starting point for reinvestment decisions should be community needs, not a list from a federal banking regulator or the desires of big banks. Performance context, transparency of data regarding bank performance to enable better community input, public hearings during mergers, and the development of Community Benefits Agreements should all be encouraged and bolstered.

This deeply flawed proposal would result in *less* lending and investment in the very communities that were the focus of CRA when passed by Congress in 1977. This proposal will make things easier for banks, all the while retreating from key statutory and regulatory core principles of CRA, such as a focus on low and moderate income people and communities, a focus on banks meeting local community credit needs, and active community participation to ensure that communities, not big banks, benefit.

The OCC should share the data behind its assumptions and analysis and pull this proposal so that CRA reform can proceed in a more thoughtful way that will actually benefit the communities CRA was designed to build up.

Thank you for your consideration.

Annya Maskey
Executive Assistant/Development Coordinator
Fair Housing Advocates of Northern California

cc: California Reinvestment Coalition
National Community Reinvestment Coalition