CALIFORNIA COALITION FOR RURAL HOUSING

April 8, 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom it May Concern:

The California Coalition for Rural Housing opposes the proposed changes to the Community Reinvestment Act (CRA) regulations. According to dissenting 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." The regulators should pull the proposal and start over so that CRA reform can proceed in a more thoughtful way that will actually benefit the communities CRA was designed to build up.

Affordable Housing and Displacement

Weakening the CRA will lead to less investment in the affordable home necessary to solve California's housing crisis. Under the NPRM, the definition of affordable housing would be relaxed to include middle-income housing in high-cost areas. In addition, the NPRM would count rental housing as affordable housing if lower-income people could afford to pay the rent, even if the actual tenants are not low or moderate income.

The State of California emphasizes reinvesting in neighborhoods communities that have experienced disinvestment as well as housing for low-income households within communities of opportunity. For example, California's Low Income Housing Tax Credit (LIHTC) program induces banks and other investors to partner in developments using LIHTCs. Banks have explicitly stated that CRA requirements drive their LIHTC investment decisions within California. Under the proposed ratio measure, banks may move away from important Low Income Housing Tax Credit investments in favor of simpler and easier investments. A weakening of CRA by devolving to a single performance score would likely result in less bank investment in developments throughout the State, especially in rural and other economically distressed areas. While the proposed rule purports to address displacement, it would only exacerbate it. In addition to relaxing the definition of affordable housing and lack of tenant verification, banks would get credit for financing stadiums and luxury housing in Opportunity Zones, which will only fuel gentrification in the very communities vulnerable to it.

Mortgage Lending

CRA exams must maintain their current attention to home mortgage lending to narrow the growing inequalities in wealth and income. Our nation has a moral obligation to rectify the devastating impacts of redlining that have created barriers to wealth building and economic advancement for communities of color. A strong CRA should be applied to all lenders, particularly as mortgage companies, credit unions, fintech companies, and other “nonbank” lenders now make the majority of the home loans in America. The CRA is one of the best tools for fulfilling that obligation and promoting home mortgage lending to communities of color and LMI communities like those throughout rural California. CRA exams as they stand can encourage lenders to invest in homeownership for the communities that need it most, but this necessary lending activity is less likely under the NPRM.

Small Businesses

he NPRM puts future investment in our metro’s small businesses at risk by allowing small businesses and farms that could benefit from CRA to have higher revenues, increasing from $1 million to $2 million for small businesses and as high as $10 million for family farms. The agencies are drastically diluting the emphasis, established in the 1995 regulatory changes to CRA, of helping small businesses in LMI communities thrive.

Access to Retail Banking

Access to bank branches and services is a critical challenge facing rural California. People who live in rural California are more likely to be unbanked and rely on retail bank branches that are few and far between. While the proposal would retain a retail test that examines home, small business and consumer lending to LMI borrowers and communities, this retail test would be only pass or fail. In contrast, the retail test now has ratings and counts for much more of the overall rating. Moreover, 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. Absent traditional banking services, households turn to alternative financial services that charge exorbitant fees, leaving them trapped in a cycle of poverty.

What We Need

Rural California’s underserved communities deserve to be invested in and their needs are not met by investment in distant jurisdictions. The proposed ratio measure that consists of the dollar amount of CRA activities divided by deposits would likely encourage banks to find the largest and easiest deals anywhere in the country as opposed to focusing on local needs, which are often best addressed with smaller dollar financing for small businesses or homeowners. The proposed evaluation system would also further inflate rankings, making banks even less responsive to community needs, as would longer exam cycles for banks receiving Outstanding ratings. Since banks could fail in one half of the areas on their exams and still pass under the proposal, the likelihood of banks seeking large and easy deals anywhere increases. The result of the proposed changes would be significantly fewer loans, investments and services to low- and moderate-communities (LMI).

Instead of weakening CRA, the agencies must enact reforms that would increase bank activity in underserved neighborhoods. Real CRA reform would include:

- A retained focus on low and moderate income people and communities.
- Continued attention to ensure CRA lending for affordable homes creates the deeply targeted affordability that serves the people who need it most and Low Income Housing Tax Credits continue to be an advantageous CRA investment for banks.
- 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.

In the face of a changing industry, we must modernize the CRA, not relax it. We need regulators unafraid to stand up to financial institutions and willing to consider how CRA reform can truly fulfill its original intent of ensuring low and moderate income communities and communities of color have equal access to capital.

Thank you for your consideration of our views.

[redacted]

Robert Wiener
Executive Director

cc: California Reinvestment Coalition
National Community Reinvestment Coalition