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April 8th, 2020

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

Docket ID OCC-2019-0029: Community Reinvestment Act Regulations; Request for Public Input

To whom this may concern,

On behalf of the National Association of Local Housing Finance Agencies (NALHFA), we respectfully submit the following comments in response to the Federal Register Request for Input (RFI) for building a new framework to modernize the regulations that implement the Community Reinvestment Act of 1977 (CRA). We appreciate the opportunity to provide feedback and recommendations on the proposed CRA regulations.

NALHFA, founded in 1982, is the national association of professionals working to finance affordable housing in the broader community development context at the local level. As a non-profit association, NALHFA is an advocate before Congress and federal agencies on legislative and regulatory issues affecting affordable housing and provides technical assistance and educational opportunities to its members and the public. Members are city and county agencies, non-profits, and private firms, such as underwriters, consultants, financial advisers, bond counsel, and rating agencies, which help in producing housing from concept to completion.

The CRA has been extremely successful over the last 40 years meeting the credit needs of low- and moderate-income (LMI) communities and their residents and driving investments in the Low-Income Housing Tax Credit (Housing Credit), the New Markets Tax Credit (NMTC), and Community Development Financial Institutions (CDFI) that provide affordable housing, community development, services, and more to vulnerable populations. The CRA is the major driver of private investment in affordable housing, and we urge that any changes to CRA allows the affordable housing community to at least maintain current levels of investment and production. While NALHFA recognizes the need for some modernizations to this critical law, there are important aspects of the current regulations that must be preserved and enhanced to protect the original intent of CRA. While these comments do not attempt to identify all of the existing actions that might ultimately be required to achieve these goals, we are using this opportunity to comment on several issues that NALHFA and its members view as particularly important to ensuring CRA continues to serve and enhance LMI communities.

For over 30 years, Housing Credit has been a model public-private partnership program, bringing to bear private sector resources, market forces, and state-level administration. It has financed roughly 3 million apartments since 1986, providing more than 6.7 million families homes they can afford. Virtually no affordable rental housing development would occur without the Housing Credit. Financial institutions are incentivized to invest in the Housing Credit partly because of the need for CRA credit. The Housing Credit additionally provides banks with a secure and profitable investment while fulfilling their CRA requirements.

Housing Credit is the primary tool for developing and preserving virtually all affordable housing and has financed more than 3 million affordable homes through public-private partnerships. The vast majority of Housing Credit investment – more than three-fourths – comes from banks that are motivated by CRA requirements.

At a time when our nation faces a growing shortage of affordable housing, NALHFA urges the OCC and FDIC to ensure that our nation's primary affordable housing delivery mechanism is at least as efficient and effective as it is today. NALHFA strongly discourages any changes to CRA that would reduce banks' demand for investing in the Housing Credit could disrupt the affordable housing market and significantly decrease our ability to provide homes to low-income households who need them.

Specifically, we are concerned with the following aspects of the OCC and FDIC's approach in the proposed rule on CRA modernization and believe they will cause harm to affordable housing tools such as Housing Credit:

- Single-Ratio Metric: The proposed rule institutes a single ratio to assess how banks serve communities. This single-ratio approach completely disregards whether the community development and financial needs of the community are being served by a bank or its investments. And as a result we would no longer be able to identify and prioritize our needs. It values dollars over impact, quantity over quality, thus minimizing the role of community input and community needs and incentivizing larger deals over smaller, more impactful ones. This means fewer loans to first-time homebuyers, low-income homeowners, and small businesses; fewer financing options for smaller nonprofits to build and preserve deep affordable housing; fewer grants to nonprofits for tenant organizing or direct services.

- Community Development Threshold: The proposed changes are likely to divert attention from areas served by branches since the OCC and FDIC propose to make it easier for banks to engage in CRA-qualified activities outside of areas with branches. Currently, banks can engage in community development activities beyond areas with branches only after satisfactorily serving them. Under this rule, 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.

- Redefined Assessment Areas: As households across the country switch their bank accounts from physical branch locations to online banking and other financial options, the footprint banks have on communities' changes. While it is important to modernize the CRA geographic assessment area to accurately reflect a financial institution's obligations to communities across the country, it is important to make sure such changes don't shift resources away from current CRA assessment areas that have continuing critical needs. Any changes made to assessment areas should enhance, and not compete with, CRA obligations in current assessment areas. It would be unproductive to shift resources from one area with sustained unmet needs to meet the needs of another area. Instead, we propose allowing community development investments in any part of the state where a bank does business to qualify for CRA credit.

  The proposed rule would to establish new areas on exams that are outside of branch networks but where banks collect a significant amount of deposits. However, the deposit data collected now does not include customer geographical locations when customers open accounts via the internet. Thus, neither the OCC and FDIC nor the public can assess the impacts of this proposal by estimating the numbers of banks with new areas and what parts of the country would have increased attention.

Additionally, any final CRA modernization should take the following recommendations into account.

- Ensure that predatory lending is not counted towards CRA credit. Some of the CRA regulations focus on the quantity of loans rather than the quality, leaving the door open for the predatory lending practices in LMI neighborhoods. Thankfully, many of these practices have been previously caught by examiners, resulting in a downgrade of several banks' CRA rating. These important guardrails for preventing predatory lending must be preserved and enhanced.

- Continuing the requirement of banks to consider the income level of the customers they serve in retail banking and the income level of the census tracts in which they have branches. This critically important for low-income households being able to access loans and lower interest loans for first time homeownership.

- Emphasizing the need for qualitative investments in the regulations and how much the loans benefit the communities. The current system focuses on quantitative goals and doesn't encourage institutions to serve communities with investments and lending practices that serve the needs of low-income clientele. This could be improved by quality training for bank examiners who will evaluate these investments. Additionally, robust guidance would need to be provided to banks on how to identify investments that provide these important community benefits.

Furthermore, we urge the OCC and FDIC to work with the Federal Reserve to ensure that the final CRA rule reflects the intent of community reinvestment.

NALHFA and its members would like to thank OCC and the FDIC for giving us the opportunity to provide comments and to assist in efforts to modernize the regulations that implement the CRA. NALHFA believes

the above stated recommendations promote the mission and intent of CRA and further address the housing affordability gap that persists across the country. If you have any questions about the above comments, please contact me at jpaine@nalhfa.org.

Sincerely,

Jonathan Paine, CAE
NALHFA Executive Director