April 8, 2020

Comptroller Joseph M. Otting
Comptroller of the Currency
Comp 400 7th Street, SW
Washington, D.C. 20219

Chair Jelena McWilliams
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Docket No. OCC-2018-0008

Dear Comptroller Otting & Chair McWilliams:

Chicago Lawyers' Committee for Civil Rights submits these comments in response to the OCC/FDIC's Notice of Proposed Rulemaking (the "Proposal") regarding the Community Reinvestment Act (CRA). Chicago Lawyers' Committee strongly opposes numerous pieces of the Proposal because it reduces the effectiveness of the law to address historic and current inequities within the banking and lending industry and thereby undermines the very purpose of the CRA. This is most predominantly seen in two of the major changes to the CRA:

(1) It relies on a new assessment test which only considers dollars spent while also allowing inequitable investments which can harm the people in a community.
(2) It almost entirely removes the needs and input of local communities from the assessment.

The Proposal will result in the removal of meaningful requirements for equitable development that focuses on the people living in communities. It also removes community involvement from the understanding of what "community reinvestment" means, which is a vital piece of ensuring equitable development and repairing the harm of historic and systemic racism. Fundamentally, the Proposal goes directly against the spirit and intention of the CRA – a law born from community organizing in Chicago.

Furthermore, the Proposal must be reassessed in light of the COVID-19 pandemic. At such a time, where investment patterns into neighborhoods are likely to dramatically shift due to the pandemic, any changes to the CRA must be delayed until the full impact of the pandemic on communities can be understood. Changing the structure of the CRA risks both further deepening the inequity between low income areas, particularly those that are communities of color, and more affluent areas as we try to recover from the pandemic.

Background and history in Chicago

Chicago's low-income communities, which are predominantly majority Black and Latinx communities, have a history of redlining, white flight, disinvestment, "blight removal", contract

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buying, punitive penalties and fines, and other policies and practices that have robbed and extracted wealth from those communities.[1] These policies and practices have contributed to extreme differences in community services along with public and private investment. Protecting the people in these communities in their ability to create and maintain an economically successful community by increasing property values and building wealth while also supporting housing affordability and stability for renters or as homeowners, should be the main goal of any proposed policy that impacts financial investment in the built environment.

Development patterns without protections for the population living in the community can result in an unacceptable shift in the ability of an historic, but potentially housing-vulnerable, population to stay in their homes. Logan Square, a historic port of entry for immigrants on Chicago's north-west side, saw nearly 20,000 Latinx residents leave from 2000-2017 as a result of shifting investment priorities, housing developments, and the influx of a younger, whiter population moving to Chicago. The number of those leaving is continuing to rise, and the majority of those are a result of involuntary displacement – largely related to housing costs.

In Chicago's predominantly black communities, people are also moving out, but for entirely different reasons. From 2000 to 2010, 181,000 black residents left Chicago. Many people blame the disinvestment and continued lack of public and private investment into the majority black communities as one of the many reasons for this exodus. This disinvestment comes on top of a history of structural racism and inequitable community development, resulting in some of the largest "inequity gaps" between affluent predominantly white communities and lower income communities of color in the country.[2]

These patterns are repeated throughout cities across the country and any proposed rules for the CRA must be responsive to these issues and patterns of disinvestment and displacement. And because of the economic impacts of COVID-19, these patterns are likely to experience another fundamental and unpredictable shift which will no doubt further burden the most vulnerable.

Concerns with the assessment test in the Proposal

The Proposal, instead of working to repair harm and undue the systemic burdens placed on low income communities of color, goes the wrong direction. It looks merely at dollars spent in these communities, which we know is an ineffective measure for creating equity in community investments. By only looking at a ratio of total dollars spent, and not qualitatively at the types of investments occurring, new investment patterns will follow existing inequitable investment

[1] Moser, Whet. "Chicago Isn't Just Segregated." Chicago Magazine, 27 Mar. 2017, https://www.chicagomag.com/city-life/March-2017/Why-Is-Chicago-So-Segregated/.
[2] Institute for Research on Race and Public Policy. "Between the Great Migration and Growing Exodus: The Future of Black Chicago." Jan. 2020, https://irrpp.uic.edu/pdf/publications/IRRPP_StateOfRacialJustice_FutureOfBlackChicago.pdf.

policies and practices. The Proposal merely allows more investment types to qualify but does nothing to address the underlying inequities and will merely exacerbate them. This will allow banks to shift to finding a lower number of higher dollar and more profitable investments.

Without additional guard rails on how such investments must be made, investments do not, by default, bring long-term benefit to the people that live in those communities. Instead, they are likely to follow the same pattern as other catalytic investments, which can result in mass displacement from a community, such as what is occurring near the development of an elevated trail (the "606") in Logan Square.[3] There is no single metric that is adequate for determining if an investment is one that provides an economic benefit and value to the people in a community – and certainly not a stand-alone assessment of total dollars spent. This piece of the Proposal must be revisited to include those qualitative factors needed to measure the impact on improving the economic well-being of community members.

As demographics shift due to the change in jobs and economic realities for cities, more and more families will feel displacement pressures. This is the time to revisit our understanding of how to ensure the most vulnerable people are protected, and this Proposal does the opposite by grading banks merely on dollars spent.

Concerns with minimizing community involvement in the Proposal

The CRA was born from community organizing in Chicago. Its power is derived from the responsiveness that it requires banks to have to the communities they serve and to the people in the communities where investments are going. With that connection, it required a behavior change from financial institutions to interact directly with those communities. This interaction is welcome, from both the community perspective and the bankers' perspective, and creates more responsive investments and services within the communities where investment is flowing.

Requiring a meaningful and responsive relationship with the local community may not always initially be considered by a bank to be in its financial interest because the community is generally not going to put financial return from investment or products as its number one goal. But the local community will be able to identify the products and investments that are most needed and best suited to benefit the economic growth of the community and its members. Those goals – identified through a relationship between the community and financial institutions – are precisely the reason that the CRA exists. Organizers in Chicago, driven by Gale Cincotta, pushed for responsiveness to the needs of the community, and organized around that very concept to craft and pass the first CRA.

[3] DePaul Institute for Housing Studies. "Displacement Pressure in Context: Examining Recent Housing Market Changes Near The 606." Jan. 2020, https://www.housingstudies.org/releases/Displacement-Pressure-in-Context-606.

By minimizing the local community aspect from the assessment to the point of an afterthought, banks do not have to be responsive to communities in the same way as before and completely eschew the intention of the CRA. As stated above, there is no single metric that can be used to determine if investments are equitable or if they generally support the people living in a community. However, involving and requiring local community input in a meaningful manner as a core component will be a requirement to creating such a metric.

As a result of the history of redlining (and other policies) and the current state of many low-income communities in Chicago, new investments can be simultaneously both welcome but suspect by the people living in those communities. Identifying how local priorities align with a development must be considered. Governor Lael Brainard of the Federal Reserve said that one of the "core strengths" of the CRA is creating an ecosystem that "encourages banks to engage on the priorities identified by local leaders." We agree. Gutting and simplifying the CRA exam by reducing it to a set of mathematical formulas would have a ripple effect throughout the entire CRA ecosystem, resulting in unintended consequences for communities.

<u>Delay because of the economic change due to COVID-19</u>

The COVID-19 pandemic will cause significant economic effects which we do not yet fully understand. Among these effects, we will see property values change, landowners facing economic burdens, and vulnerable renters struggling to pay rent. We will also see many families leaning on their own source of wealth – their homes. There is too much unknown about how our communities will change in light of the pandemic to establish dramatically different new rules for the CRA.

The Proposal must be examined for its potential impacts within the new economic reality post-pandemic prior to creating any change to the CRA. It must also continue to follow the purpose of the CRA and protect the people that live within a community.

If you have any questions, please contact me.

Sincerely,

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