

April 8, 2020

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[Comments@fdic.gov](mailto: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, Abraham Ramirez, strongly opposes 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 work for private non-profit organization who helps fight against housing discrimination against the protected classes listed under the Fair Housing Act. As such, we work with and assist LMI communities and communities of color on a day-to-day basis. These already vulnerable communities who are already struggling to make ends meet are being put at test as a result of the global health crisis we are experiencing. People are losing jobs which means many of them will lose their homes to foreclosure – we saw this happen in 2008 - and small businesses, many of which hire locally, are losing sales and are at risk of going out of business. If we weaken the CRA rules and do not strengthen them as we should, LMI communities and communities of color will not have an opportunity to keep their homes, many will not have an opportunity to realize their dream of becoming first time homebuyers, and small business will not have an opportunity to grow or some even to stay afloat. I, myself, aspire to realize my dream and become a first-time homebuyer in the future and if this current administration weakens these rules, I will not be able to realize that dream in the foreseeable future. Others who dream of opening their own small business, will not have access to affordable loans to grow and scale their business.

**Please end this rulemaking.** The COVID-19 pandemic has made it not only more challenging to focus on submitting thoughtful comments, but it will also create unknown needs in our communities once it subsides. We do not know what community credit needs will exist post-crisis, but we do know that the needs will be greater, and that this will require a stronger CRA, not the weaker CRA that this Proposed Rule will create. Please end this rulemaking for the sake of the low income communities and communities of color that we serve and that are what CRA is all about.

**Less accountability, less public input, less clarity, less investment.** The agencies would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams that would not accurately account for banks' responsiveness to local needs. Public input into this obtuse evaluation framework would be more difficult and limited. Despite the agencies' assertions that their proposal would increase clarity and bank CRA activity, the result would be significantly fewer loans, investments and services to low- and moderate-communities (LMI).

**Moving away from a core CRA principle, less focus on local communities.** The OCC and FDIC propose a new bank level evaluation framework that allows banks to count ALL eligible loans and investments made anywhere, including outside the areas where bank branches are located. CRA implementation has focused on banks serving the local communities where they are operating. Now, big banks could seemingly get a large amount of CRA credit for subprime credit card lending to LMI consumers anywhere. 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.

**Acknowledging displacement, but worsening the problem.** The proposed rule purports to address displacement, but only exacerbates it. The definition of affordable housing would be relaxed to include middle-income housing (for people with incomes up to 120% of area median income) in high-cost areas. In addition, the NPRM would count rental housing as affordable housing if LMI people could afford to pay the rent, even if the actual tenants are not low or moderate income. Worse still, banks would get credit for financing athletic stadiums, storage facilities, and luxury housing in Opportunity Zones, which will only fuel gentrification in the very communities vulnerable to it.

**Reducing community input.** This proposal appears designed to weaken community input and participation. Why else would such a complicated and substantial change to the rules implementing the nation's redlining law come with a mere 60 days for public comment? Statements and actions by OCC officials also suggest that the OCC does not like to hear from people with whom it disagrees. This is not acceptable for a public rule making process. 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 10<sup>th</sup>. 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.

**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. Non retail 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 end this rulemaking process so that CRA reform can proceed in a more thoughtful way that will actually benefit the communities CRA was designed to build up and better reflect the new facts and realities of our landscape, post COVID-19.

Thank you for your consideration of our views.

Abraham Ramirez