



23 January 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom it May Concern:

The Florida Alliance of Community Development Corporations, Inc. (FLACDC) is opposed the proposed changes to the Community Reinvestment Act (CRA) regulations submitted by the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC). These changes would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams that would not accurately measure a bank's responsiveness to local needs. Contrary to the agencies assertions that their changes would increase clarity and CRA activity, the result will be significantly fewer loans, investments and services to low- and moderate-communities (LMI).

FLACDC is a membership organization of community-based development organizations and their partners which work in LMI communities across Florida, serving urban and rural communities of all sizes. Not only is a strong CRA important for us, it is critical to the work of our members. Not only do they receive grant funds from regulated financial institutions that help build their organizational capacity and provide services to LMI individuals and families, they use bank financing to develop residential and commercial real estate projects in their communities that trigger additional investment and increase wealth.

Member organizations range in size from small (1-2 people) to large (20 or more employees), with operating budgets from \$150,000 to nearly \$7million annually. Based on a recent survey, 62% of our members provide homeownership and financial education services; 38% connections to health and employment/workforce programs; and 31% incorporate arts/culture in their programs, provide programs specifically for young people and offer foreclosure mitigation services. Other services, such as business development, mortgage lending, real estate brokerage services and senior and veteran programming are also offered by our members. The people taking advantage of these programs are predominately African-American (44%) and Latino (32%) with a significant majority (69%) being women. They typically have incomes ranging from extremely-low to moderate and our members tend to work with the most vulnerable, with about 70% focusing on low-income people and nearly 50% targeting very low-income residents. In 2016, the last year for which we have data, our members served at least 50,000 LMI people (15,000+ households), provided over 600 units of affordable housing and injected nearly \$30 million into LMI communities, activities that would likely not have occurred without a strong CRA.

These proposed changes would dramatically lessen CRA's focus on LMI communities and contradicts the intent of the law which was passed to address redlining. The definition of affordable housing would be relaxed to include middle-income housing in high cost areas. In

addition, the Notice of Proposed Rulemaking (NPR) would count rental housing as affordable if lower-income people could afford to pay the rent without verifying that lower-income people would be tenants.

The NPR would add financing for large infrastructure such as bridges as a CRA eligible activity. Even financing “athletic” stadiums in Opportunity Zones would be an eligible activity. The NPR would define small businesses and farms as having higher revenues, increasing the limit from \$1 million to \$2 million for small businesses and as high as \$10 million for family farms. I can assure you that this is not considered ‘small’ in our communities.

While the NPR recognizes changes in the banking industry such as the increased use of online banking, the proposed reforms to the geographical areas on CRA exams are problematic and would likely reduce transparency. Neither the agencies nor the public can evaluate the agencies’ proposal to designate additional geographical areas on exams in the case of internet banks due to the lack of publicly available data. The public does not have a fair chance to offer comments on the effectiveness of significant proposed changes whose impacts are difficult to predict.

The agencies propose an evaluation system that would further inflate ratings while decreasing the responsiveness of banks to local needs. The one ratio measure that would consist of the dollar amount of CRA activities divided by deposits is simply unacceptable, as we commented during the Advance Notice of Proposed Rulemaking period. This ratio measure would likely encourage banks to find the largest and easiest deals anywhere in the country as opposed to focusing on local needs. Since banks could fail in one half of the areas on their exams and still pass overall under the proposal, the likelihood of banks seeking large and easy deals anywhere would increase. Also, the proposal would relax requirements that banks serve areas where they have branches *first* before they can seek deals elsewhere.

The proposal would retain a retail test that examines home, small business and consumer lending to LMI borrowers and communities but this retail test would only be pass or fail. In contrast, the current retail test has ratings that count for much more of the overall rating. Moreover, the proposal would result in branch closures since it would eliminate the test that scrutinizes bank branching and provision of deposit accounts to LMI customers.

The agencies also propose to allow banks that receive Outstanding ratings to be subject to exams every five years instead of the current two to three years. This could result in banks not making much effort in the early years of an exam cycle to serve their communities.

Small banks with assets less than \$500 million could opt for their current streamlined exams instead of the new exams. The new exams would require banks to engage in community development financing while the existing small bank exams do not. This is another potential loss for communities if this rule is adopted.

Instead of weakening CRA, the agencies should be working to enact reforms that would increase bank activity in underserved neighborhoods. The agencies do not address persistent racial disparities in lending by strengthening the fair lending reviews on CRA exams or adding

an examination of bank activity to communities of color in CRA exams. At the very least, the agencies could add a category on CRA exams of underserved census tracts, which would likely include a high number of communities of color. The agencies also require banks to collect more data on consumer lending and community development activities but do not require banks to publicly release this data on a county or census tract level. Finally, the agencies do not require mandatory inclusion on exams of bank mortgage company affiliates, many of whom engaged in abusive lending during the financial crisis.

This deeply flawed proposal would likely result in less lending, investing and services for communities that were the focus of Congressional passage of CRA in 1977. This backtracking will violate the agencies' obligation under the statute to ensure that banks are continually serving community needs. The FDIC and OCC need to discard the NPR, and instead work with the Federal Reserve Board and propose an interagency rule that will augment the progress achieved under CRA instead of reversing it.

Sincerely,



Theresa Chelikowsky
Executive Director