From: Ruby B [redacted]
Sent: Thursday, April 02, 2020 2:04 PM
To: Comments; Comments@occ.treas.gov
Subject: [EXTERNAL MESSAGE] Community Reinvestment Act Regulations

To Whom It May Concern:

I strongly opposes the proposed changes to the Community Reinvestment Act (CRA) regulations and urges that they be withdrawn. The proposed changes fundamentally undermine and weaken the CRA, putting at risk critical bank investments in affordable housing and other community benefitting activities that were the clear focus of the CRA when it was passed by Congress in 1977.

The primary source of financing for affordable housing development organizations is equity generated by the sale of Low-Income Housing Tax Credits, and banks are the primary investors in these credits. Under the current CRA, banks actively compete with each other to lend to and make tax credit investments in developments within their CRA service areas. They offer increased tax credit pricing and lower loan interest rates, both of which make more affordable housing developments feasible and reduce the need for public subsidy. The current CRA is a great example of law that incentivizes the private sector to support public needs.

The proposed OCC and FDIC changes to CRA regulations will significantly lessen these incentives by giving CRA credit for many new and less beneficial activities and by weakening evaluation standards. The result will be less bank investment in affordable housing and therefore fewer affordable homes produced at time of great national and state need. Approval of the revised regulations will also have the impact of substantially reducing jobs in constructing and operating affordable housing for lower-income households and will reduce economic activity among low-income renters who will have less disposable income to spend on basic needs.

The proposed changes to the CRA regulations will:

1. **Undermine CRA's focus on investing in low- and moderate-income (LMI) communities.** The proposal would dramatically lessen CRA's focus on LMI people and communities, in contradiction to the intent of the law, to meet their financial needs, including addressing redlining and disinvestment from LMI and communities of color. Most distressingly, the proposal would reward making investments that only "partially" benefit LMI people and neighborhoods, such as large infrastructure and energy projects and athletic stadiums, storage facilities and luxury housing in Opportunity Zones. Investment in low-income people, entrepreneurs, small businesses, small farms and affordable housing will all be less attractive.

2. **Weaken the definition of affordable housing.** The OCC and FDIC propose to expand the definition of affordable housing to include middle-income housing (incomes up to 120% of area median income) in high-cost areas. The California Housing Partnership's recent policy brief entitled Who Can Afford to Rent in California's Many Regions finds that only 4% of median income households (which at 100% AMI earn significantly less than the proposed 120% AMI threshold) in California are severely cost burdened, as opposed to 50% of very low-income households and 76% of extremely low-income households. In addition, the proposal would count non-income restricted rental housing as affordable housing and give

CRA credit for its construction if LMI people could *theoretically afford* to pay the rent even if the actual occupants are not low or moderate income. We strongly urge the OCC and FDIC to keep the focus of affordable housing on households earning less than 80% of AMI – and particularly on those earning less than 50% of AMI and 30% of AMI, who have by far the greatest needs and are most likely to become homeless.

3. **Undermine the evaluation system to the point where banks can ignore it.** The agencies are proposing an evaluation system that would further inflate CRA ratings to the point where they would become meaningless. Currently, 98% of banks pass CRA exams; the proposal would likely push this higher by lowering the bar for a satisfactory rating. The agencies propose a version of the one ratio measure that consists of the dollar amount of CRA activities divided by deposits. This approach is made even more bank-friendly by not only dramatically increasing the scope of the activities and the places banks can receive credit (increasing the numerator), but at the same time also decreasing what are considered deposits by excluding brokered and municipal deposits (shrinking the denominator).

   Banks will have much less incentive to invest in Low-Income Housing Tax Credit investments and make low-interest construction and permanent loans for affordable housing because they will need less CRA investment overall and the proposed regulations count easier investment with less public benefit. For example, banks will be able to achieve Outstanding ratings by investing in subprime credit card lending, large infrastructure and energy projects, athletic stadiums, storage facilities and luxury housing as long as they are in Opportunity Zones, even if those activities have no proven benefit to LMI communities.

   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 aspect of the proposal deviates from the agencies' statutory duties to ensure banks are continuing to respond to community needs. Banks with a five-year exam cycle would likely relax their efforts in the early years of the cycle. Banks would also have less accountability to maintaining acceptable CRA performance when they seek permission to merge with other banks.

4. **Invite regulatory arbitrage.** Under the proposed changes, banks will be able to choose their regulator based on which one provides a friendlier CRA framework. Small banks under $500 million in assets will be able to opt out of the new rules and lower their reinvestment obligations. All banks, especially large banks, should have the same, strong, reinvestment obligations. When regulators choose different rules, and banks can choose their regulators, communities lose.

Conclusion. This deeply flawed proposal would result in substantially LESS lending and investment – particularly in affordable housing – in the very communities that were the focus of CRA when it was passed by Congress in 1977. We strongly urge the OCC and FDIC to withdraw this proposal and maintain the benefits of the current CRA regulations.

Thank you for considering our views.

Sincerely,

Ruby Bolaria Shifrin
Director, Housing Affordability Initiative

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"Change will not come if we wait for some other person or some other time. We are the ones we've been waiting for. We are the change that we seek."