April 8, 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom It May Concern:

Community HousingWorks is a thirty-plus year old nonprofit developer and owner of life-changing affordable apartments, housing over 9,500 low-wage families, seniors and formerly homeless people across California. We have been aware of clunky and dysfunctional portions of the Community Reinvestment Act (CRA) regulations for some years and of the need for reform. Sadly, we are writing to oppose the proposed changes to the Community Reinvestment Act (CRA) regulations as the wrong framework for that reform. The proposal by the OCC and FDIC would have the unintended consequence of creating unclear performance measures on CRA exams that do not really measure responsiveness to local needs, and therefore will undermine the intent of the Act. As a nonprofit housing developer in many markets across California, we see a very real risk that the result of these regulations will be significantly fewer loans, investments and services to low- and moderate-income communities (LMI). Community HousingWorks is a proud affiliate of NeighborWorks America, and knows that our position is generally held by many of our fellow locally-based affiliates across the country.

Community HousingWorks not only owns over 3,600 apartments – we are an active developer of low income housing tax credit apartments, with a pipeline of over 1,000 apartments (acquisition/rehab and new construction). We also are an active provider of nationally-recognized resident programs for credit strengthening, increased savings, and getting our unbanked residents into the banking system. CRA is a critical tool for incentivizing lenders to provide tax credit investments and debt for our apartment production in markets strong and weak, and services grants from banks have been a critical support for strengthening the financial behavior of our low income residents.

The following are our areas of special concern.

- Expanding the definition of affordability to include middle-income housing in high cost areas.
- Counting rental housing as affordable if lower-income people could afford to pay the rent, without verifying that lower-income people would be tenants. This appears to give banks unusual credit for activity that in some markets is just market activity.

- Including large infrastructure such as bridges as a CRA eligible activity. Even financing "athletic" stadiums in Opportunity Zones would be an eligible activity.
- Designating guidelines for additional geographical areas on exams in the case of internet banks without publicly available data. We agree that among the needed areas of reform for the regulations is the increased use of on-line banks. But neither the public as commenters nor the agencies can make a wise decision on how and whether this proposal works if we don't have data.
- The *one ratio measure* that would consist of the dollar amount of CRA activities divided by deposits, and the five year review period for banks that receive Outstanding ratings. The unintended consequence will almost certainly be that banks would reasonably seek the largest and easiest deals anywhere in the country as opposed to focusing on local needs, the areas where they have branches, or the more difficult projects that we think are the intention of the Act.
- The opt-out for small banks with assets less than $500 million, that could opt for their current streamlined exams instead of the new exams. The opt-out would exclude those banks from the requirement of engaging in community development financing while the existing small bank exams do not. This is another loss for communities.

Instead of weakening CRA, the agencies must 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.

You cannot build a house on a cracked foundation. This flawed proposal is based on such a deeply cracked foundation that its "reforms" will move us backwards, producing less lending, investing and services for communities that were the focus of Congressional passage of CRA in 1977. The agencies have a statutory obligation under the Act to insure that banks are continually serving community needs. The FDIC and OCC need to discard the NPRM, 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.