



April 8, 2020

VIA ELECTRONIC TRANSMISSION

Comptroller Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th St. SW, Suite 3e-218
Washington, DC 20219

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

**Re: Docket ID OCC-2018-0008 Comments on the Community Reinvestment Act
RIN 3064-AF22 Federal Deposit Insurance Corporation**

Dear Comptroller Otting and Chair McWilliams:

Vote Solar submits these comments in response to the Notice of Proposed Rulemaking (Proposed Rule) released by the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation entitled “Community Reinvestment Act Regulations.” Vote Solar is committed to finding policy and regulatory solutions that expand solar access to low and moderate income communities across the country, and we appreciate the opportunity to weigh in on the Proposed Rule.

Since 2002, Vote Solar has been working to make solar affordable and accessible to more Americans. Our work at the state level supports the policies and programs needed to repower our grid with clean energy. Vote Solar’s approach to advocacy combines deep technical and policy expertise with public education and mobilization. We put a particular focus on engaging and empowering low-income families and communities of color who are disproportionately impacted by the negative effects of our fossil fuel economy.

We offer the following recommendations to enhance the meaning of proposed terms; and to further expand the scope of qualified activities to include solar, community solar, and solar plus storage.

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A. Affordable Housing criteria as outlined in the Proposed Rule should not be expanded to include rental housing for middle-income individuals in high-cost areas.

The Community Reinvestment Act (hereinafter referred to as CRA) was enacted to counter redlining and encourage banks to meet the credit needs of all segments of their communities. Specifically, those in low and moderate income neighborhoods. The Proposed Rule expands affordable housing to:

Under the proposal, expansions to qualifying CD activities would include: Expanding the affordable housing . . . The proposal would clarify the criteria to incentivize banks to meet the affordable housing needs of their communities through a variety of activities; and **includes rental housing for low-, moderate-, and middle-income individuals in high-cost areas.**¹

The Proposed Rule should not be expanded to include rental housing for middle-income individuals in high-cost areas. The CRA should focus on housing policies, loans, and financing that help the lowest-income households because they are far more likely to struggle to keep their homes. Many federal housing expenditures today disproportionately benefit those with higher incomes, these are individuals that can afford housing without assistance. Furthermore, low and moderate income households are more likely to shift money away from other basic needs to pay rents or mortgages. This means they use a large percentage of their income towards housing in order to avoid eviction or homelessness.

The CRA is one of the most important tools available to hold banks accountable and ensure that they are meeting the banking and lending needs of the country's most vulnerable communities. The addition of rental housing for middle-income individuals in high cost areas opens the door for banks to turn away from the core purpose of the CRA. Vote Solar strongly recommends against the addition of middle-income individuals renting in high-cost areas.

B. Consideration must be given as to how solar photovoltaics can be integrated into financing large essential infrastructure projects for low and moderate income communities. Additionally, essential telecommunication should be expanded to include a variety of energy sources.

The Proposed Rule defines “essential infrastructure” as:

Essential infrastructure means: (1) **Public infrastructure, including but not limited to public roads, bridges, tunnels;** and (2) Essential telecommunications infrastructure,

¹ Community Reinvestment Act Regulations, 85 Fed. Reg. 6 (proposed Jan. 9, 2020) (to be codified at 12 C.F.R. pt. 25 and 195).



mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, and industrial parks.²

The history of transportation in the United States is inexorably tied to race and income. Roadways funded by the federal government that plow through low-income communities only perpetuate redlining and deepen the income gap. The financing of roads, bridges, and even athletic facilities should not be counted towards CRA requirements, unless the project can actively demonstrate that the most vulnerable communities receive the direct benefits from these projects in the form of jobs, and increased community wealth. In the inverse it is likely that funding for these projects would come with destructive and gentrifying practices. In the Section-by-Section Discussion on Qualifying Activities it is noted that:

The addition also would recognize that essential infrastructure projects are often community-wide projects for which **it is not feasible to allocate the benefit to specific populations or areas.**³

In addition to no clear benefit for vulnerable communities, this change would likely result in diverted lending to projects that do not fulfill the spirit of the CRA.

Vote Solar proposes the following changes in bold:

Essential infrastructure means: (1) Public infrastructure, including but not limited to public roads, bridges, tunnels, **and solar photovoltaics (PV)**; and (2) Essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, and industrial parks.⁴

Incorporating financing for solar photovoltaics (PV) projects can be directly beneficial for low- and moderate- income communities. PV can be deployed in a manner that helps to strengthen essential infrastructure, lessen energy burdens, and provide clean energy. By incorporating PV into public infrastructure and places like brownfields banks can foster community resilience, provide numerous environmental benefits, and promote sustainability.

Finally, essential telecommunications infrastructure should be modified to read:

Essential infrastructure means . . . (2) Essential telecommunications infrastructure, mass transit, water supply and distribution, **energy supply, storage**, and distribution, sewage treatment and collection, and industrial parks.⁵

² Id at 1241.

³ Id at 1211.

⁴ Id at 1241.

⁵ Id.



It is important that the Proposed Rule acknowledges the numerous ways in which communities can and do receive their energy supply. By removing the word “utilities” we ensure that all energy sector participants are included.

C. Consideration should be given to expanding section 25.04(c)(6)(ii) to include the purchase of energy facilities along with the addition of financing storage projects.

Vote Solar proposes the following changes to section 25.04(c)(6)(ii) in bold:

Public welfare investment, under 12 CFR part 24, that will finance construction **and/or the purchase of a solar energy facility, a solar plus storage energy facility, or an energy storage facility that will provide access to reduced cost electrical utilities to LMI census tracts.**⁶

Financing the construction and/or purchase of a solar plus storage energy facilities can have number benefits for the low- and moderate- income communities the CRA serves. The capital that is required for low and moderate income households to go solar remains a significant barrier for which the CRA can help alleviate. Solar plus storage is an effective means to not only building resiliency but also to encourage community development. The combination of solar and energy storage can provide power to critical community facilities like hospitals, shelters, and public safety buildings with electricity when the grid is down. Solar with storage also can provide bill savings to these facilities by reducing demand. Furthermore, the ability to purchase the facility creates direct economic benefits to communities in the form of reduced energy burdens.

D. Vote Solar proposes the following qualified activities for addition to the CRA.

Vote Solar proposes the following qualified activities for inclusion in the CRA:

- Financing or financing assistance to non-profit organizations that allows for the financing of community solar projects in LMI communities.
- Financing or financing assistance to LMI homeowners for the purchase of rooftop solar or solar plus energy storage systems for single family housing.
- Financing or financing assistance for the addition of solar or solar plus energy storage systems to multifamily housing complexes in LMI communities.
- Financing the construction of community solar projects that serve LMI households.

The addition of these qualifying activities would help to support community development in low and moderate income areas, and directly benefit LMI households by reducing their energy burden. By

⁶ Id at 1232.



allowing non-profit organizations to house community solar projects, residents will be able to subscribe to the project and receive a credit on their utility bill for the clean energy produced by the system. This can save money each month on their electricity bills. Similarly low-cost rooftop solar loans can also help low and moderate income households.

Financing or loans for low-income multifamily solar projects is an excellent way to help affordable housing providers install solar that can directly or indirectly benefit tenants. “Research shows that low-income households, especially renters and minority households, face disproportionate energy cost burdens.”⁷ Solar on multifamily housing can help stabilize and reduce energy costs, while offering incentives to landlords.

For these reasons, Vote Solar strongly urges the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation to consider our proposed suggestions. Thank you for the opportunity to comment on the Proposed Rule.

Respectfully submitted,

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⁷ Lauren Ross, and Ariel Drehobl, “Lifting the High Energy Burden in America’s Largest Cities: How Energy Efficiency Can Improve Low Income and Underserved Communities” (April 2018), <https://www.aceee.org/sites/default/files/publications/researchreports/u1602.pdf> (last visited April 7, 2020).