March 9, 2020

Comptroller Joseph Otting
Office of the Comptroller of the Currency
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Washington, DC 20219
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RE: Community Reinvestment Act Regulations
RIN 3064-AF22: Notice of Proposed Rulemaking,
Docket ID OCC-2018-0008

To Whom It May Concern:

I am a public interest attorney who has dedicated most of my professional life to addressing inequalities in housing and advocating for poor and marginalized people in my community. I strongly oppose the proposed changes to the Community Reinvestment Act (CRA) regulations because I believe they will fundamentally undermine and weaken the CRA, which is an important protection for vulnerable home seekers.

The CRA is an important Civil Rights Law that must not be weakened.

CRA is an important law that has been essential in the effort to revitalize low income neighborhoods, prevent further segregation, and build wealth in low- and moderate-income neighborhoods. It was passed in 1977 in order to stop banks and other mortgage lenders from systematically discriminating against black people and black neighborhoods – a practice known as redlining.

Throughout the majority of the twentieth century, African Americans were largely excluded from the home-mortgage market. The term “redlining” was not coined until the 1960s, by the sociologist John McKinght. However, the specific practice of mapping areas where banks should avoid investment based on community demographics began in the 1930’s with the passage of the National Housing Act of 1934. Additionally, informal discrimination and segregation had existed in the United States long before that.

The National Housing Act of 1934 established the Federal Housing Administration (FHA), which insured private mortgages, causing a drop in interest rates and a decline in the size of the down payment required to buy a house. But insured mortgages were largely unavailable to black borrowers because the FHA adopted a system of maps that rated neighborhoods according to their perceived stability, and, according to the maps, black neighborhoods were largely perceived to be a risky bet.

In 1935, the Federal Home Loan Bank Board (FHLBB) asked Home Owners' Loan Corporation (HOLC) to look at 239 cities and create "residential security maps" to indicate the level of security for real-estate investments in each surveyed city. On the maps, the newest areas – those considered desirable for lending and insurance purposes – were outlined in green and

known as "Type A". An A rating indicated that the neighborhood was “in demand.” These were typically affluent suburbs on the outskirts of cities. According to appraisers at the time, only a neighborhood that lacked “a single foreigner or Negro” could be given an A rating. [1] "Type B" neighborhoods, outlined in blue, were considered "Still Desirable", whereas older "Type C" were labeled "Declining" and outlined in yellow.

Neighborhoods where any African Americans lived, especially older districts in the center of cities, were usually rated “D” and were considered most risky for mortgage support generally considered ineligible for FHA backing. It did not matter whether the neighborhood had a high or low concentration of African Americans or whether the residents were of high or low economic status. It was the presence of black people – any black people – that mattered. Ta-Nehisi Coates, in his 2014 article in the Atlantic, “The Case for Reparations,” writes, “Black people were viewed as a contagion.” [2] These neighborhoods were outlined in red, hence the term “redlining.”

Redlining went beyond FHA-backed loans and spread to the entire mortgage industry, which was already rife with racism, excluding black people from most legitimate means of obtaining a mortgage.[3] In 1955, Charles Abrams, the lawyer and urbanist who helped create the New York City Housing Authority, wrote “A government offering such bounty to builders and lenders could have required compliance with a nondiscrimination policy… Instead, the FHA adopted a racial policy that could well have been culled from the Nuremberg laws.”[4]

The devastating effects are cogently outlined by Melvin L. Oliver and Thomas M. Shapiro in their 1995 book, *Black Wealth/White Wealth*:

> Locked out of the greatest mass-based opportunity for wealth accumulation in American history, African Americans who desired and were able to afford home ownership found themselves consigned to central-city communities where their investments were affected by the “self-fulfilling prophecies” of the FHA appraisers: cut off from sources of new investment[,] their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable.[5]

In Chicago and across the country, whites looking to achieve the American dream could rely on a legitimate credit system backed by the government. Blacks were herded into the sights of unscrupulous lenders who took them for money and for sport. [6] “It was like people who like to go out and shoot lions in Africa. It was the same thrill,” a housing attorney told the

[1] Coates, Ta-Nehisi (June 2014). “The Case for Reparations.” The Atlantic.
[2] Coates, Ta-Nehisi (June 2014). “The Case for Reparations.” The Atlantic.
[3] Coates, Ta-Nehisi (June 2014). “The Case for Reparations.” The Atlantic.
[4] Coates, Ta-Nehisi (June 2014). “The Case for Reparations.” The Atlantic.
[5] Oliver, Melvin & Shapiro, Thomas (2006). *Black Wealth/White Wealth: A New Perspective on Racial Inequality.* New York: Routledge, Taylor & Francis Group. p 18.
[6] Coates, Ta-Nehisi (June 2014). “The Case for Reparations.” The Atlantic.

historian Beryl Satter in her 2009 book, Family Properties. "The thrill of the chase and the kill."[7]

The implementation of this federal policy aggravated the decay of minority inner-city neighborhoods caused by the withholding of mortgage capital, and made it even more difficult for neighborhoods to attract and retain families able to purchase homes.[8] The assumptions in redlining resulted in a large increase in residential racial segregation and urban decay in the United States.[9]

Following a National Housing Conference in 1973, a group of Chicago community organizations led by The Northwest Community Organization (NCO) formed National People's Action (NPA), to broaden the fight against disinvestment and mortgage redlining in neighborhoods all over the country. This organization, led by Chicago housewife Gale Cincotta and Shel Trapp, a professional community organizer, targeted The Federal Home Loan Bank Board, the governing authority over federally chartered Savings & Loan institutions (S&L) that held at that time the bulk of the country's home mortgages. NPA embarked on an effort to build a national coalition of urban community organizations to pass a national disclosure regulation or law to require banks to reveal their lending patterns.[10]

For many years, urban community organizations had battled neighborhood decay by attacking blockbusting, forcing landlords to maintain properties, and requiring cities to board up and tear down abandoned properties. These actions addressed the short-term issues of neighborhood decline. Neighborhood leaders began to learn that these issues and conditions were symptoms of a disinvestment that was the true, though hidden, underlying cause of these problems. They changed their strategy as more data was gathered.[11]

With the help of NPA, a coalition of loosely affiliated community organizations began to form. At the Third Annual Housing Conference held in Chicago in 1974, eight hundred delegates representing 25 states and 35 cities attended. The strategy focused on the Federal Home Loan Bank Board (FHLBB), which oversaw S&Ls in cities all over the country.

In 1974, Chicago's Metropolitan Area Housing Association (MAHA), made up of representatives of local organizations, succeeded in having the Illinois State Legislature pass laws mandating disclosure and outlawing redlining. In Massachusetts, organizers allied with NPA confronted a unique situation. Over 90% of home mortgages were held by state-chartered savings banks. A Jamaica Plain neighborhood organization pushed the disinvestment issue into the statewide gubernatorial race. The Jamaica Plain Banking & Mortgage Committee and its citywide affiliate, The Boston Anti-redlining Coalition (BARC), won a commitment from Democratic candidate Michael S. Dukakis to order statewide disclosure through the Massachusetts State

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[7] Satter, Beryl (March 2, 2010). *Family Properties: How the Struggle Over Race and Real Estate Transformed Chicago and Urban America*. New York: Micador – Macmillan Publishing.
[8] When Work Disappears: The World of the New Urban Poor By William Julius Wilson. 1996.
[9] Wise, Richard W. (October, 1 2019). *Redlined; a novel of Boston* (1st. ed.). New York: Adelaide Books. p. 335.
[10] Hallahan, Kird (1992). "The mortgage redlining controversy, 1972-75."
[11] Michael Westgate and Ann Vick-Westgate (2011). Gale Force, The Battles for Disclosure and Community Reinvestment. Cambridge, Ma.: Harvard Bookstore. pp. 40–41.

Banking Commission. After Dukakis was elected, his new Banking Commissioner ordered banks to disclose mortgage-lending patterns by ZIP code. The suspected redlining was revealed.[12]

NPA and its affiliates achieved disclosure of lending practices with the passage of The Home Mortgage Disclosure Act of 1975. The required transparency and review of loan practices began to change lending practices. NPA began to work on reinvestment in areas that had been neglected. In 1977, Senator William Proxmire of Wisconsin and other congressional leaders, with the support gained by the NPA passed the CRA as a response to redlining.

The CRA enacted an affirmative and continuing obligation on banks to serve the credit and banking needs of low- and moderate-income communities. This obligation is enforced through the CRA examination process in which federal agency staff conducts CRA exams and rates banks based on their lending, investment, and services to low- and moderate-income borrowers and communities.

The CRA works and is critical to lifting working families out of poverty and preventing further segregation.

CRA has been quite beneficial for housing and economic development, not only for underserved communities, but the nation as a whole. Since 1996, banks have made almost $2 trillion in small business and community development loans in low- and moderate-income communities; and this is just a subset of CRA activity.[13] In addition, economists at the Federal Reserve of Philadelphia estimate that home purchase lending declines by about 20 percent in low- and moderate-income census tracts when these tracts lose CRA eligibility.[14]

CRA has leveraged trillions of dollars for low- and moderate-income communities since its enactment in 1977 and has had a broader impact on the overall economy by creating jobs, expanding affordable housing opportunities, and promoting small business development. CRA requires banks to meet the credit needs of all communities, including in low- and moderate-income areas, consistent with the safety and soundness of the banks' operations.

Since 1996, CRA-covered banks and thrifts made more than 551,000 community development loans worth $796 billion. Community development loans support affordable housing and economic development projects benefiting low- and moderate-income communities.[15]

According to NCRC's analysis of HMDA data, during 2007 and 2008 CRA-covered banks and thrifts issued more than 1.8 million prime home loans worth about $300 billion to low- and

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[12] Jordan, Patricia (June 12, 1975). "Mass Thrifts Plan Suit Over Redlining, Commissioner Stands Firm". American Banker.

[13] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."

[14] Ding, Lei & Nakamura, Leonard (June 19, 2017). "'Don't Know What You Got Till It's Gone' — The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market." Working Papers, Research Department, Federal Reserve Bank of Philadelphia; Silver, Josh (October 11, 2018). "Warren Housing Bill Presents a Clear Choice on CRA. Shelterforce.

[15] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."

moderate-income borrowers. CRA was an important source of responsible home lending during a difficult period for the housing market.[16]

CRA is effective because it relies on public accountability and input. Examiners rate banks and consider public comments in their evaluations. Also, CRA performance influences whether and how fast bank merger applications are approved or shelved (denials are rare but sometimes a poor CRA-performing bank will withdraw its application).[17]

Removing levers of accountability would reduce CRA's effectiveness. This is evidenced by the fact that independent mortgage companies that are not covered by the CRA were found to be the most abusive lenders in the years before the financial crisis because they lacked a mandate to serve low- and moderate-income populations in a manner consistent with safety and soundness.[18] Investment banks such as Bear Stearns and Lehman Brothers were outside of the CRA regulatory framework and were not required to consider the safety and soundness of their investment activity. Their complex financial activities greatly facilitated predatory lending in the years before the financial crisis and ultimately caused their own collapse as well as wreaked havoc on vulnerable communities.[19]

While credit unions, which are also not covered by the CRA, were not abusive lenders before the crisis, NCRC found that they issued fewer loans to people of color and modest-income borrowers than banks.[20] This has been attributed to lack of CRA coverage. In fact, credit unions based in Massachusetts comply with a state-level CRA and these credit unions had a better record serving lower-income borrowers than federally chartered credit unions that lacked CRA.

Banks and their affiliated mortgage companies remain the primary lenders to low- and moderate-income borrowers buying homes. Banks and their affiliates made 311,017 home purchase loans to low- and moderate-income borrowers during 2014 in contrast to the 219,329 home purchase loans made by independent mortgage companies to these borrowers, according to NCRC's analysis of HMDA data.[21]

An NCRC report, "Access to Capital and Credit for Small Businesses in Appalachia," showed that every two years banks issued $5.8 billion in community development lending and investing in Appalachia.3 Small business lending was higher in Appalachian counties with higher numbers of bank branches, demonstrating that bank branches had a positive impact on community lending.[22]

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[16] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."
[17] Silver, Josh (October 11, 2018). "Warren Housing Bill Presents a Clear Choice on CRA. Shelterforce.
[18] Silver, Josh (June 12, 2018). "The Importance of CRA Assessment Areas and Bank Branches." National Community Reinvestment Coalition, Research.
[19] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."
[20] National Community Reinvestment Coalition (2009). "Credit Unions: True to Their Mission? (Part II): A Follow-Up National Analysis of Credit Union Compared to Bank Service to Working and Minority Communities."
[21] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."
[22] National Community Reinvestment Coalition (2017). "The Community Reinvestment Act: Vital for Neighborhoods, the Country, and the Economy."

The proposed changes will ease burdens on the largest financial institutions while sacrificing low-income communities and communities of color and undermine the public participation process that is the heart of the CRA.

Public input is the heart and soul of CRA. Since the law requires banks to meet local credit needs, a critical element of rating them and determining if their mergers would serve the public interest is for the agencies to solicit and carefully consider the views of the public.[23]

By diminishing the attention paid to local areas, the OCC's one ratio proposal makes it harder for public comments to influence CRA ratings. In addition, the comptroller has been quoted in newspaper articles saying that he aims to curtail public input so that community groups cannot "pole vault in and hold [bankers] hostage" during merger applications.[24]

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 proposed weakening CRA rules will undermine the purpose of the statute and harm low-income communities and communities of color.

The original purpose of CRA was to combat redlining afflicting low- and moderate-income communities. CRA activities must therefore remain targeted towards low- and moderate-income communities.[25] Rather than gutting the protections that CRA currently has in place, it should be expanded to not only require examination of bank performance to low- and moderate-income borrowers and neighborhoods, but to also require examination of bank performance to communities of color.

The agencies would dramatically lessen CRA's focus on LMI people and communities in contradiction to the intent of the law to address redlining in and disinvestment from LMI and communities of color. The NPRM proposal would expand what counts to allow bank CRA credit for things like financial literacy classes geared towards upper income people. Even though 95% of businesses have less than $1 million in revenue, and need financing under $100,000, the proposal would double existing thresholds, allowing banks to get even more CRA credit for loans of up to $2 million to businesses with up to $2 million in revenue. And banks could get

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[23] Silver, Josh (October 11, 2018). "Warren Housing Bill Presents a Clear Choice on CRA. Shelterforce.
[24] Ensign, Rachel Louise & Tracy, Ryan (September 25, 2018). "Bankers vs. Activists: Battle Lines Form Over Low-Income Lending Rules." The Wall Street Journal; Silver, Josh (October 11, 2018). "Warren Housing Bill Presents a Clear Choice on CRA. Shelterforce.
[25] Silver, Josh (October 11, 2018). "Warren Housing Bill Presents a Clear Choice on CRA. Shelterforce.

credit for loans as high as $10 million for family farms, even though the vast majority of family farms are much smaller. As such, banks will turn away from less lucrative lending to the small businesses and small farms that serve their communities and hire locally. Distressingly, the proposal would now permit projects that only "partially" benefit LMI people and neighborhoods, such as large infrastructure and energy projects. The losers in this will certainly be low income people, entrepreneurs, small businesses and small farms.

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.

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.

I have advocated for many people detrimentally effected by the ills of discrimination and segregation and have seen first-hand how important it is to not only keep but strengthen the protections currently in place.

I am a Staff Attorney and Investigations Coordinator at Fair Housing Advocates of Northern California (FHANC) where I represent clients who have experienced housing discrimination. Since receiving my undergraduate degree in Women's Studies from UCLA in 2005, I have fought for the rights of those being excluded from housing, including poor and marginalized people. Before law school I worked at a housing counseling organization in Washington DC assisting people with HIV/AIDS access housing subsidies and then later organizing tenants throughout the city to combat segregation and the effects of gentrification on poor people and people of color. At Brooklyn Law School I interned for several non-profit legal services providers and co-founded two pro-bono projects assisting clients with welfare and public housing issues. After graduating law school in 2012, I became an Equal Justice Works AmeriCorps Legal Fellow at the New York Legal Assistance Group where I represented New Yorkers who had been impacted by Superstorm Sandy, many of whom were low and moderate income homeowners who faced foreclosure due to costs associated with the storm timed perfectly with ballooning payments and other after effects of the years of predatory lending

before the financial crisis. I later became a staff attorney in the Civil Justice Practice at Brooklyn Defender Services, assisting clients facing eviction or denial of housing based on arrest, immigration status and/or family court involvement. As a public interest attorney, I have worked on many housing policy issues by testifying at City Counsel hearings, participating in panels and policy task forces and working with local lawmakers to protect and strengthen housing laws effecting poor people and people of color.

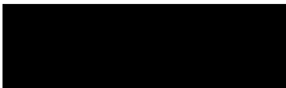
It is clear to me how important it is to create and maintain protections for low and moderate income people in the housing market given how high the cost of housing has risen and how unscrupulous many of the players have been shown to be. The CRA must be strengthened not weakened.

OCC should share its data and analysis and extend the comment period in order for consumers to have an opportunity to adequately respond

The OCC should share the data behind its assumptions and analysis, extend the comment period to 120 days, and ultimately, pull this proposal so that CRA reform can proceed in a more thoughtful way that will actually benefit the communities CRA was designed to build up.

Thank you for your consideration of our views.

Sincerely,



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