Tuesday, April 7th, 2020

**RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations**
**RIN 3064-AF22: Notice of Proposed Rulemaking,**
**Docket ID OCC-2018-0008**

To Whom It May Concern:

**The Unity Council** strongly opposes the proposed changes to the Community Reinvestment Act (CRA) regulations. According to FDIC Board member Martin Gruenberg, the FDIC's and OCC's Notice of Proposed Rulemaking (NPRM) on the Community Reinvestment Act (CRA) "is a deeply misconceived proposal that would fundamentally undermine and weaken the Community Reinvestment Act."

We are a non-profit Social Equity Development Corporation with a 55-year history in the Fruitvale neighborhood of Oakland. Our mission is to promote social equity and improve quality of life by building vibrant communities where everyone can work, learn, and thrive. Over the time, The Unity Council has become a poverty-fighting beast, following its vision to promote social equity and improve quality of life.

There was a war on poverty. It was the 1960s, and the poverty rate in the United States stood at 19%. Early that year committing to ending poverty, and Congress passed the Economic Opportunity Act of 1964 with the purpose of combating poverty by mobilizing the country's human and financial resources. An amendment to this law, by Robert F. Kennedy allowed for the creation of community development corporations (CDCs), organizations created to support and revitalizes communities, and The Unity Council, based in East Oakland, California, became one of the country's original CDCs.

We were neglected for many, many years. There were just decades of redlining and divestment. For this organization, and the core of the CDCs, it is not only about investing in people, but in places. Over time, we have evolved into a 'poverty-fighting beast' serving over 8,000 low-income families annually and they now refer to The Unity Council as a social equity development corporation: We are not only investing in our neighborhoods; we are investing in services that give our communities the tools they need to lift themselves out of poverty.

Poverty is experienced on several fronts, particularly fueled by displacement and inequity. We address the issue of poverty through a multi-layer approach, providing more than 11 programs, ranging from affordable housing to early childhood education, to helping people get good jobs, that work together to help lift vulnerable families and entire communities out of poverty.

**Investment in LMI is essential.** We are committed to be part of creating the policies that ensure all working families can achieve their dreams. But, we cannot do all the work alone, and it is important to have allies and advocates in all fronts speaking on behalf of the Latino community.

The Unity Council has become a critical Anchor Institution for the Fruitvale and East Oakland neighborhoods with significant investments of physical and programmatic assets in the community. Fruitvale is the densest and most diverse Oakland neighborhood, with low levels of education and a high poverty rate. The neighborhood is made up of 92% minority residents and over a quarter of households speak limited English. Two of every three residents have up to or less than a high school diploma and barely 50% of people of working age have a job.

Fruitvale has become the backbone of Oakland's Latino community, in which East Oakland had a rapid increase of 132% of Latinos between 1990 and 2000. Latinos make up 38% of the population of East Oakland. Fruitvale, one of seven community districts in the city of Oakland, California, is a low-income community that has faced significant economic stress for the past decade & a predominantly minority community.

The Community Reinvestment Act (CRA) was enacted in 1977 to prevent redlining1 and to encourage banks and savings associations (collectively, banks) to help meet the credit needs of all segments of their communities, including low- and moderate-income neighborhoods and individuals.

The Unity Council’s successful work lifting families out of poverty and serving low and middle income families every day, fighting gentrification and displacement, has been possible through the power of partnerships with other organizations, corporations, governments, allies and investments from Banks into our community.

**Please end this rulemaking.** The CRA addresses how banking institutions meet the credit needs of the areas they serve, particularly in low- and moderate-income (LMI) neighborhoods. Our communities will need a stronger CRA to rebound. Lowering the bar on bank reinvestment will only hurt the low income communities and communities of color that are meant to benefit from the CRA, and that are being most impacted by the current crisis.

“*At a time when communities of color are more likely to contract and die from COVID19, the idea that Trump’s banking regulators would move forward with dismantling CRA, a landmark civil rights law, that will be essential to financial and economic recovery post crisis, is alarming. But to move forward knowing that communities are weakened and unable to comment fully as nonprofit organizations and residents work around the clock to help these same communities survive, is deeply undemocratic*”, said California Reinvestment Coalition, Executive Director Paulina Gonzalez-Brito.

**Moving away from a core CRA principle, less focus on LMI.** 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 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.

**Moving away from a core CRA principle, less focus on local communities.** 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.

**Acknowledging displacement, but worsening the problem.** 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.

**Less accountability, less public input, less clarity, less investment.** The agencies would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams that would not accurately account for banks' responsiveness to local needs. Public input into this obtuse evaluation framework would be more difficult and limited. Despite the agencies' assertions that their proposal would increase clarity and bank CRA activity, the result would be significantly fewer loans, investments and services to low- and moderate-communities (LMI).

**What we need.** Real CRA reform would include:

- A retained focus on low and moderate income people and communities.
- A focus on lending that meets community needs, prioritizing loan originations, not purchases of loans that were made by other banks or for-profit companies. Mortgage lending should focus on owner occupants (not investors), and small business lending should focus on smaller loans and smaller businesses. The Consumer Financial Protection Bureau should finalize a strong small business data collection rule so that the bank regulators and the public can clearly see which banks are serving, which banks are harming, and which banks are ignoring LMI communities and communities of color.
- A hybrid approach to assessment areas that ensures that traditional banks and modern branchless banks are actually serving communities. Banks with retail branch presence should service those areas where they operate. Banks without retail branch presence should have reinvestment obligations that consider where deposits are from, and where loans and profits are made. Non retail bank reinvestment obligations should be developed with an eye towards increasing reinvestment in bank deserts, which this proposal does not do.
- A qualitative and quantitative analysis. Homeowners, small businesses, and impactful community development projects often require smaller loans and investment. Innovation and impact should be valued under CRA. A proposal that only considers what is easily monetized does not have community needs at its center.
- An end to CRA grade inflation. 98% of banks do not deserve to pass their CRA exams. This proposal will only make the problem worse. The goal should be to increase LMI lending and investment from current, inadequate levels, not to devise a system that counts more things in

more places and will lead to larger numbers while actually resulting in less lending, less investment, less impact, and less community benefit.

- More scrutiny of reinvestment in rural areas. More rural counties should be designated as "full scope review" areas subject to greater oversight and scrutiny as is generally the case for urban counties. This will immediately result in rural areas being better served, which will not happen under this proposal.
- A greater emphasis on the service test, not the elimination of it, so that branches in LMI communities retain their importance in CRA, as they have retained their importance to communities. The CRA statute references deposit products and banks should ensure that affordable and accessible bank account and consumer products are available to LMI, of color and immigrant communities (including language translation and interpretation services) so that everyone can build wealth and avoid predatory alternative financial providers.
- Downgrading of CRA ratings for discrimination and harm. Evidence of redlining or discrimination should result in a Needs to Improve or Substantial Noncompliance rating. The agencies should bolster fair lending exams which currently can consist of a mere one or two sentences in a performance evaluation. The CRA should focus on race as well as income. CRA grades should also be lowered for violation of consumer protection laws, and for other harm to LMI people and communities. This includes downgrades for bank financing of displacement, which clearly worsens households' community credit needs by creating economic destabilization, evictions, ruined credit histories and decreased ability to be able to qualify for home and small business loans and build wealth.
- Greater community input, not less. The CRA requires that the starting point for reinvestment decisions should be community needs, not a list from a federal banking regulator or the desires of big banks. Performance context, transparency of data regarding bank performance to enable better community input, public hearings during mergers, and the development of Community Benefits Agreements should all be encouraged and bolstered.

Instead of weakening CRA, the agencies must enact reforms that would increase bank activity in underserved neighborhoods. We believe it is important to end this rulemaking process so that CRA reform can proceed in a more thoughtful way that will actually benefit the communities CRA was designed to build up and better reflect the new facts and realities of our landscape, post COVID-19.

As such, we urge you to end your plans for reform to the CRA. In the alternative, we urge you to suspend CRA rule making efforts.

**Chris Iglesias**
**Chief Executive Officer**

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