the Network
Supportive Housing Network of NY

April 8, 2020

Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: Comments regarding "Reforming the Community Reinvestment Act Regulatory Framework"
RIN 1557-AE34, Federal Register Number 2019-27940, Docket ID OCC-2018-0008

To the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency:

The following comments are submitted on behalf of the Supportive Housing Network of New York (The Network) regarding the OCC and FDIC's Notice of Proposed Rulemaking (NPR) seeking input on proposed changes to the Community Reinvestment Act (CRA).

The Network is greatly concerned with the proposed changes to the CRA and welcomes the opportunity to comment on the NPR to solicit ideas for building a new framework to modernize the regulations that implement the Community Reinvestment Act of 1977 (CRA). We are concerned that the proposed amendments take the wrong approach to incentivizing investment in our communities and negatively impact supportive housing development during a national homelessness crisis.

The Network represents over 200 nonprofit members who operate 52,000 units of supportive housing statewide. Supportive housing is permanent affordable housing with embedded social services for eligible individuals and families, people who are experiencing chronic homelessness and living with disabilities and/or other barriers to maintaining stable housing. The Network also has over 100 corporate members including tax credit syndicators, banks, and other financial institutions. Our primary concern is to ensure ongoing investment by financial institutions in supportive housing development in New York State and investment in mission-driven, community-based organizations with proven track records.

Supportive housing was created in New York in the 1980's as a response to the then just-emerging homelessness crisis, the result of deinstitutionalization of people living with mental illness coupled with extensive demolition of very affordable housing. Originally, faith-based and community-based nonprofit organizations assembled financing to purchase, rehabilitate and provide services in this new model of housing from any available source, mostly small government subsidies. Over time, as the model was proven to end chronic homelessness[1], save taxpayer resources[2] and improve property values, federal, state and local funding emerged to support the models proliferation. Included in these funding streams was the Low Income Housing Tax Credit program in 1987 which promoted private investment in housing for homeless and low income people. The model also evolved from one that often served only formerly homeless disabled people to one that mixes supportive housing apartments for formerly homeless people with affordable housing for low-income individuals and families. Over time, the supportive housing industry became more sophisticated. Bank lending, grants, and investment, which were largely driven by CRA requirements, were critical to its expansion.

While the 52,000 units created represent tremendous success, the need for supportive housing in New York persists. In New York City, nearly 63,000 people sleep in NYC shelters each night,[3] over 3,500 people are unsheltered and sleeping on the streets or subways,[4] and there is a deficit of over 500,000 homes that are affordable to low and extremely low income households.[5] Statewide, there are almost 92,000 homeless individuals, approximately 4,000 of which are unsheltered,[6] and there is a deficit of nearly 700,000 homes that are affordable to low and extremely low income households.[7]

Background: CRA Encourages Investment in Supportive and Affordable Housing

The CRA has historically channeled investment to mission-driven nonprofits and their affordable and supportive housing projects through the Low Income Housing Tax Credit (LIHTC) program. LIHTC is our nation's most productive tool for developing and preserving affordable and supportive housing, and its success is closely tied to CRA regulations. Industry leading tax credit accounting firm Novogradac estimates that 85% of LIHTC investment is motivated by CRA compliance.[8] Starting from the early 1990s, banks have been the primary investors in supportive housing in New York State through their purchase of LIHTC. Since so many financial institutions have assessment areas in New York City, CRA activity has ensured that demand for LIHTC has

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[1] United States Interagency Council on Homelessness. *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* (2015). https://www.usich.gov/resources/uploads/asset_library/USICH_OpeningDoors_Amendment2015_FINAL.pdf. Accessed 9 March 2020, p. 41.

[2] NYC DOHMH. "NY/NY III Supportive Housing Evaluation: Interim Utilization and Cost Analysis (2013)." Downloaded from https://shnny.org/research/new-york-new-york-iii-supportive-housing-evaluation

[3] Coalition for the Homeless website. *Number of People in NYC Shelters Each Night.* http://www.coalitionforthehomeless.org/the-catastrophe-of-homelessness/facts-about-homelessness/. Accessed 9 March 2020.

[4] *NYC HOPE 2019 Results*. City of New York Website. https://www1.nyc.gov/assets/dhs/downloads/pdf/hope-2019-results.pdf. Accessed 9 March 2020.

[5] *NYC Housing: Problem.* City of New York website. https://www1.nyc.gov/site/housing/problem/problem.page. Accessed 9 March 2020.

[6] The U.S. Department of Housing and Urban Development. *The 2019 Annual Homeless Assessment Report (AHAR) to Congress*. https://files.hudexchange.info/resources/documents/2019-AHAR-Part-1.pdf. Accessed 9 March 2020, p. 13.

[7] National Low Income Housing Coalition. *The Gap: A Shortage of Affordable Homes* (2019). https://reports.nlihc.org/sites/default/files/gap/Gap-Report_2019.pdf Accessed 9 March 2020. Appendix A.

[8] Novogradac, Michael. "Proposed CRA Regulations Greeted with Great Concern: Aggregate Balance Sheet Ratio Could Overwhelm Other Changes." https://www.novoco.com/periodicals/articles/proposed-cra-regulations-greeted-great-concern-aggregate-balance-sheet-ratio-could-overwhelm-other. Published 2 January 2020.

remained strong, providing much needed equity for affordable and supportive housing development.

Under the proposed changes to CRA, the value of LIHTC investments will almost surely diminish as banks compete less for investment opportunities because they can contribute half as much for the same credit can meet their obligation for years with large investments that remain on the books. This will reduce the amount of equity available to develop supportive and affordable housing. Without the continued investment by banks in supportive housing development, both through LIHTC investment and direct investment, the housing and homelessness crises would be much more severe than they currently are. It is essential that the proposed CRA amendments do not decrease investment in housing the most vulnerable New Yorkers.

All of this underscores the need to preserve and strengthen the CRA, while making sure that the right priorities are reflected. In that context, we have the following deep concerns about the proposal.

1. Qualified CRA Activities

In response to the discriminatory policy of redlining, the CRA was created with the specific focus on promoting development in communities that were deprived of access to capital and credit, specifically Low and Moderate- Income (LMI) communities. It is essential that any changes to the CRA emphasize quality investment in areas that furthers the original intended beneficiaries of the legislation, LMI communities. Strong community needs assessment and community engagement should inform community needs and how examiners evaluate the degree to which banks are meeting those needs.

The Supportive Housing Network of New York believes that qualifying investments should be in assets that have a demonstrated positive impact for community and economic development. Supportive housing has been proven in numerous studies to be an effective tool to end chronic homelessness and stabilize the lives of the most vulnerable in LMI communities. Investment in supportive housing and other proven community development projects should be presumed to receive credit and should have more weight.

Loans, services, and investments that support organizations with a mission of community or economic development, and with proven track records, should be emphasized and given more weight. Supportive housing has historically been developed, owned and operated by nonprofits. For decades, these organizations have remained faithful to their missions to provide housing and social services to the most vulnerable, no matter the challenges or changing housing market conditions. The outcome-oriented operation of supportive housing by nonprofits ensures that individuals and families that have experienced poverty, trauma and homelessness maintain their housing over the long-term. By supporting and empowering nonprofit organizations, CRA activities are more likely to support lasting, beneficial products and services for low-income communities. Continued investment in the projects of mission-driven nonprofits with strong track records of success and proven outcomes for LMI communities must be strongly encouraged.

Financial institutions should be incentivized to form meaningful relationships with community-based organizations. Working with community-based organizations ensures that qualifying investments and services are those that the community has helped to identify to fulfill its needs. Additionally, grants that help community-based organizations to fulfill their missions of community and/or economic development and serving LMI individuals should continue to qualify under CRA.

A single metric approach incentivizes larger deals over smaller ones, and quantity over quality. In summary, the Network recommends that the CD activities that qualify be narrowed to specify demonstrated positive impact for LMI and underserved communities and to emphasize investment in and lending and grants to mission-based projects and organizations. Community input and community needs must be at the heart of the CRA.

2. Assessment Areas must Maintain Local Obligations

The proposal greatly expands where banks can get CRA credit, allowing for investment outside of local assessment areas, which minimizes focusing on local community needs and partnerships. Under the new proposal, banks can get a low or failing grade in half of their assessment areas and still pass their CRA exam if they meet their target dollar goals for the entire bank, which will limit banks' obligation to meet local needs for the most vulnerable New Yorkers.

New York is currently in the midst of dual homelessness and housing crises; the CRA must maintain the current place-based commitment banks have to local communities. Though technology and the growth of many banks in geographic reach have radically altered the way that many access banking services, tying assessment to historically underserved geographic areas is still of the utmost importance, especially in an economically diverse city like NYC. While a modernization of assessment areas is important to capture the influence of institutions that primarily operate online, losing the local focus would have a negative impact on CD activities in LMI communities. The housing, community development, and economic development needs in NYC are great and are not likely to abate any time soon.

Assessment areas should encourage a local focus without drawing arbitrary boundaries of banks' service, investment, and lending areas. A local focus requires banks to assess local community needs and be responsive to those needs, which is essential to impactful community and economic development. The Supportive Housing Network believes that removing the emphasis of CRA requirements from bank activities in the LMI geographies surrounding branches and deposit-taking ATMs, or in other targeted geographic areas, would be problematic and result in those areas no longer receiving appropriate focus from banks. Moreover, the Network supports the extension of assessment areas in New York City to the entirety of the City, so as to avoid the arbitrary lack of investment, services, and loans in some boroughs that have great CD needs.

3. Metrics-Based Assessments

The Network does not support a single-ratio approach; we believe it over-simplifies what is an extremely nuanced question: are banks effectively meeting the CD needs of LMI and underserved communities? The proposal creates arbitrary target goals before considering community needs. Further, under this new approach, banks can do high volumes of investment in some areas, while excluding others entirely.

The Network believes that the current three-part exam structure – lending, services and investments – and the explicit investment test should be maintained. All three categories, lending, investment and services are key to promoting opportunity for LMI communities and to community development. Proposals to combine these activities into a single measure will sacrifice the nuance and likely the effectiveness of CD activities of financial institutions. The single ratio approach does not adequately distinguish between different activities, such as loans and investments. Debt and equity products differ in both their complexity and their benefits for communities. Weighting these activities equally would not be practical and might result in a lack of one or more types of activities.

Moreover, there are no ideas proposed to increase access to banks and banking for people of color, no ideas to minimize displacement among these populations, and no attempt to strengthen the fair lending portion of CRA exams.

The current investment test includes a number of activities that are critical to affordable, supportive housing and community development, such as grants to nonprofit organizations, investments in LIHTC and services to those who reside and work in LMI communities. Without an explicit investment test, banks may no longer look to these investments as a primary means of fulfilling CRA obligations but may instead turn toward less complex and less localized alternatives, which have fewer long-term benefits for the community and are less impactful. Since supportive housing development is a uniquely complex but essential investment, the Network fears that a simple ratio would be especially harmful to supportive housing development.

Lastly, there is still no way to downgrade a bank for harmful activities, such as higher cost loans or lending to predatory bad acting landlords who harass and displace tenants.

The OCC and FDIC's proposal is less transparent, more complicated, and will ultimately lead to less -- and less meaningful -- investment. The Network supports a proposal that will incentivize high quality, responsive activities that lift historically redlined people – people of color and low- and moderate-income people – out of poverty and help reduce wealth and income disparities.

Thank you for the opportunity to comment on the notice of proposed rulemaking.

Sincerely,

[redacted]

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