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August 5, 2022

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E–218,
Washington, DC 20219.

To be submitted electronically via email (regs.comments@federalreserve.gov)

Re: Docket ID OCC-2022-0002, Community Reinvestment Act

To Whom it May Concern,

The Illinois Housing Development Authority (IHDA) appreciates the opportunity to respond to the Office of the Comptroller of the Currency's (OCC), Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) issued joint notice of proposed rulemaking from May 5, 2022, to the existing Community Reinvestment Act (CRA) regulations. This rulemaking is listed with Docket ID OCC-2022-0002.

The need for affordable housing is greater than any other real estate need in this country, yet we have a housing finance system where resources are increasingly scarce and developing affordable housing has become more difficult than any other real estate asset class in this country. Resources are particularly scarce in classical areas of disinvestment throughout our state – particularly areas with high concentrations of minority residents, with heavy concentrations of poverty, or areas outside of metropolitan centers with limited access to resources – and we believe we need the capital and the power of the private sector to help create the affordable housing and the community redevelopment so many of our low/moderate income communities are desperate for.

One of the ways that we see this connection being made is via investments and partnerships formed through efforts to comply with the Community Reinvestment Act (CRA). The CRA is the cornerstone piece of this private-public partnership and the role of the commercial banks both large and small has been essential to the creation of affordable housing in neighborhoods in small and large cities across this country. We need more ways to harness and encourage private sector capital, not less. Housing Finance agencies, like IHDA, are able to meet their mission because of the CRA and the partnerships that it has created between banks and underinvested communities. Strengthening this important law will help strengthen all of our communities and strengthen America at a time when we need it more than ever.

Overall, the agencies have made great progress with this proposed rule and IHDA agrees with many of the changes and updates made to the current CRA. However, some improvements are needed to ensure this law best serves communities in need of investment. Below is a summary of IHDA's key positions along with comments and suggested changes to the proposed rule.

SUMMARY OF KEY IHDA POSITIONS REGARDING THE COMMUNITY REINVESTMENT ACT

1.) Overall, IHDA is in support of the changes in the proposed rule and acknowledges much needed effort made by the agencies to modernize the CRA.

2.) Clearer guidance is needed on how to weigh performance in large metropolitan areas, smaller metropolitan areas and rural counties as well as for guidelines on investment vs. lending under the Community Development Finance Test.

3.) Expand data reporting requirements to a larger subset of banks below those with more than $10 billion in assets while more must be done to encourage more robust administratively achievable data reporting requirements for small banks in localized areas.

4.) To ensure and improve engagement within assessment areas, establish thresholds of participation and include an incentive or "plus factor" during CRA evaluation for banks that develop an action plan and document community engagement efforts.

5.) To further strengthen fair lending practices, the rule should expand the pool of discriminatory practices that result in a ratings downgrade, including banks that have high rates of defaults and delinquencies.

6.) The development of a centralized website to link all three regulatory agencies as well as a task force with regional teams would be conducive to creating a consistent regulatory approach.

Specific Comments (by section) of the Summary of Eight Key Objectives of the Interagency CRA Proposed Rule

1. Strengthen the Achievement of the Core Purpose of the Statute

IHDA affirms the changes to the proposed rule (NPR) that would continue to foster a vibrant and inclusive financial services industry.

a. *Bank engagement across geographies*

   The proposed rule intends to create new retail lending assessment areas eligible for CRA evaluation to include significant bank lending activity in communities where the bank does not have a branch. Expanding CRA assessment areas beyond where bank branches will be helpful as technological advances has made banking more accessible to better serve communities.

b. *Financial inclusion*

   Additionally, the proposed changes to the CRA rule aim to enhance resources to further banking activities with institutions that are committed traditionally to meeting the credit needs of LMI and minority communities such as minority and women's depository institutions.

c. *Use of HMDA data disclosures*

Furthermore, requiring large banks to disclose information concerning home mortgage loans in each of the bank's assessment areas by race and ethnicity would be imperative in efforts to strengthen the fulfilment of the core purpose of the statute. While the publication of the data will not have a direct impact on the CRA ratings of the bank, it would be beneficial to utilize the data as a resource during the performance evaluation to better understand what barriers exist for whom and where.

2. Adapt to Changes in the Banking Industry, Including Mobile and Online Banking

IHDA fully supports efforts to modernize regulations to better fit with modern banking practices that have changed significantly since the CRA enactment in 1977. Proposed changes that consider mobile and online banking are long overdue and very much welcomed.

a. *Updated assessment areas and branch-based assessment areas*

IHDA appreciates changes to allow for positive CRA consideration for community development investments outside facility-based areas in that it should improve geographic investment disparities. and should promote equity pricing in rural and other areas with less CRA-motivated demand. The current framework results in some CRA saturation areas where banks over compete for LIHTC and other areas where investors are nowhere to be found. However, IHDA does recommends clearer guidance on how to weigh performance in large metropolitan areas, smaller metropolitan areas and rural counties. Assuming performance is weighted by the share of loans and deposits in that assessment area, larger areas may disproportionately contribute to the overall rating, possibly obscuring poor performance in smaller metropolitan areas or rural counties. The rule may benefit from clearer and balanced rating requirements across and within their assessment areas, i.e., a satisfactory threshold rating weighted across large metropolitan areas, smaller metropolitan areas and rural counties.

b. *Tailored assessment areas*

Updates to the proposed rule, allow for the expansion of CRA assessment areas to include banking activities outside of branch networks. Likewise, while the focus will be maintained on branches, it would be beneficial to ensure engagement within assessment area through the establishment of a threshold of participation (cd investment, deposits, etc.) before outside activity is allowed to count towards CRA rating. Encouragement of priority investment within the assessment area will allow the dollars to circulate within community longer and foster opportunities for economic stability and growth.

For both those inside and outside facility-based assessments areas where banks will be evaluated for the community development finance test, IHDA sees needed language to require minimum levels of investment to ensure banks aren't achieving satisfactory evaluations based only on lending.

3. Provide Greater Clarity and Consistency in the Application of the Regulations

IHDA lauds agency efforts to provide clearer and more consistent metrics in CRA evaluations as well as more defined eligibility criteria for CRA activities in LMI Communities and non-metropolitan communities. See additional comments for improvements in the sections below:

a. *The use of standardized metrics in CRA evaluations*

IHDA commends the agencies proposal for an evaluation framework that would establish the four new tests for large banks (Retail Lending Test; Retail Services and Products Test; Community Development Financing Test; and Community Development Services Test). This is a vast improvement to the single ratio test included in the previously rescinded rule, which would have encouraged large-scale transactions in high-cost markets at the expense of smaller transactions in underserved areas. However, changes should be made to the lending/investment split under the Community Development Financing Test. The current proposal provides no guidance or minimum requirements for lending vs. investment amounts under this performance test, which together make up 30% of the total performance evaluation. As bank investments often require that banks take an ownership interest in a development, (i.e., LIHTC), investing is a more costly and risky approach than lending and can offer less certain returns. Given the option to obtain equal CRA credit for either lending or investment, banks will gravitate towards the less risky. This could result in decreased demand and pricing for LIHTC, and severely curtail efforts to address the nation's affordable rental housing crisis.

The proposed rule should incorporate guidance to ensure lending and investment receive balanced incentives under this test, or separated all together to ensure communities are not deprived of vital investments like LIHTC.

b. *Eligible CRA activities focused on LMI communities and non-metropolitan communities*

IHDA greatly appreciates added clarity and expansion of eligible CRA activities in this proposed rule. These are a vast improvement over the qualifying list included in the rescinded rule, which was so expansive as to dilute the low income targeting of the CRA.

4. Tailor Performance Standards to Account for Differences in Bank Size, Business Model, and Local Conditions

The need to update assets thresholds for different size banks is a welcome change. Adjusted opt-in requirements based on bank size addresses some concerns regarding some compliance burdens for banks of varying capacities. As mentioned, IHDA generally supports the four new performance tests for large banks (retail lending, retail services and products, community development financing, and community development services) with the recommendation that the community development financing test have guidance or a cap on the amounts required for lending vs. investment needed to meet the 30% performance evaluation.

While IHDA understands the need for some flexibility in performance standards for small banks, the agency objects to the opt-in option for intermediate sized banks when it comes to the community development finance test. This category test should be required. While adjustments can be made to the evaluation test to accommodate concerns for intermediate banks, a wholesale opt-out pathway for this evaluation category will have negative impacts on communities who rely on financing from banks in this tier.

5. Tailor Data Collection and Reporting Requirements and Use Existing Data Whenever Possible

IHDA supports proposed requirements for banks to collect community development and deposit data as it will likely improve accuracy of bank evaluation tests. Data would be reported at the census tract and/or county level by income and would enhance the level of data for the community development finance test, allowing for better determination of whether a bank is or is not responsive to local needs. Unfortunately, this data requirement is only for large banks with assets over $10 billion. While IHDA is sensitive to the administrative burden placed on smaller sized banks, large banks with assets below $10 billion should also be required to comply. In fact, intermediate size banks as well should also be subject to the improved data collection requirements in some form. In the case of small banks, IHDA suggests more effort be made to enhance reporting requirements in ways that are administratively achievable, so that areas that rely on banks in this tier are not unfairly subjected to inaccurate evaluation tests. Lastly, more is needed to ensure the public availability of these new data reporting requirements for increased transparency – a stated key objective of the proposed rule.

6. Promote Transparency and Public Engagement

IHDA commends the NPR as it emphasizes transparency and community engagement as essential aspects of the CRA evaluation process. Gathering feedback of community credit needs, forwarding all public comments regarding a bank's CRA performance to the bank, and distributing metrics and branch data are substantial efforts that will provide additional information to the public. Additionally, it would be helpful for the proposed rule to include an incentive or "plus factor" during CRA evaluation for banks that develop an action plan and document community engagement efforts, noting individual and community group input and responses. As needs vary across a community, it is important to include the input of those who largely have been underserved and underreported. Public participation keeps banks accountable and the community vision in the forefront. Essentially, opportunities for community engagement would provide banks with primary insight and allow the community to take an active role in the process of facilitating change.

7. Ensure that CRA and Fair Lending Are Mutually Reinforcing

IHDA supports the stance on violations or illegal fair lending practices resulting in a bank's downgrading CRA rating. The proposed rule maintains assessment areas encompass entire counties ensuring that low- and moderate-income households are not excluded from receiving banking products and services. The expansion of this provision should include all discriminatory practices, in addition to lack of provision of deposit products, credit, or other products and services offered by the bank. Further, performance of these products and services should be taken into consideration, noting any banks that have high rates of defaults and delinquencies as it is within CRA evaluation of home lending.

8. Create a Consistent Regulatory Approach among All Three Banking Agencies

IHDA stands by the agencies' pledge to maintain a unified approach. Efforts to establish and implement consistently a final rule include including participant feedback, roundtables, and letters noting updates on agency actions. Likewise, the development of a centralized website to link all three regulatory agencies as well as a task force with regional teams would be conducive to creating a consistent regulatory approach. The regional task force would facilitate the management of the consolidated website, increasing accessibility and agency responsiveness on matters concerning the CRA. Additional responsibilities for the regional task force would include various services such as the supervision of the use of standardized metrics and instruction on the implementation of banking performance evaluation exams. It would also be useful for the task force to conduct biennial reviews for the agency to ensure the CRA requirements are effective in accomplishing its intended goals and objectives.

In Conclusion

Overall, the proposed rule has made significant improvements to the Community Reinvestment Act and promises to make parts of CRA exams more rigorous. However, IHDA believes it should go further in ensuring that more lending flows to disinvested communities of all types and across a variety of geographies, including ones not served by large banks. We urge the agencies to extend the rigor of the large bank lending evaluations to the other tests and to expand the public reporting of their data collection proposals. Additional steps should be taken to bolster the assessment area proposals to make sure that smaller communities are not left out and to refrain from reducing reinvestment requirements for any segment of banks.

Thank you for the opportunity to provide a response to these proposed rule. We look forward to the agencies addressing our submitted comments and the ultimate adoption of the revised regulations.

Sincerely,

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Kristin Faust,
Executive Director
Illinois Housing Development Authority