



November 1, 2018

To: OCC, Ms. Vonda J. Eanes
Director for CRA and Fair Lending Policy Compliance
Office of the Comptroller of the Currency
400 7th Street SW, Washington, DC 20219

Re: Docket ID OCC-2018-0008

Dear Ms. Eanes:

The Housing Community Development Network of NJ and our members are deeply concerned with the Advance Notice of Proposed Rulemaking (ANPR) for the Community Reinvestment Act (CRA). The ANPR proposal undermines the original intent of the CRA – to better meet the credit needs of low- and moderate-income people and communities. We ask the OCC to withdraw the ANPR and to engage collaboratively with stakeholders and regulators to develop a process that will improve CRA for low- and moderate-income people (LMI) and communities. The current proposal lowers the bar for banks in meeting their statutory obligations.

The CRA is a critical tool for ensuring banks meet the credit needs of low- and moderate-income people in the communities they serve. It was a landmark response to red-lining practices that targeted communities of color, practices that continue today. It is a fundamental financial pillar of community and economic development and is needed now more than ever. Based on data collected under the CRA and the Home Mortgage Disclosure Act (HMDA) for the years 2012 through 2016, we calculate that if the proposed CRA changes go through, New Jersey would lose between 10%-20% of CRA investment or \$190-\$380 million in small businesses investments and \$1.13 - \$2.26 billion in mortgages for low- and moderate-income people. Over the years, the Housing & Community Development Network of NJ along with NJ Citizen Action has negotiated CRA agreements with more than 40 financial institutions, resulting in over \$40 billion in commitments to low- and moderate-income (LMI) communities across the state in below-market rate mortgages, discounted home improvement loans, affordable consumer lending products, construction & permanent financing for nonprofit affordable housing developers, and small business loans for women & minority-owned businesses.

This would occur because the OCC proposes a “one ratio” approach to CRA ratings which allows banks to self-police and eliminates the vast majority of CRA requirements. With more than 96% of banks receiving a satisfactory or better rating, the vast majority of the banking industry does not have difficulty meeting the requirements established by existing regulations. Thus, there is no reason that the bar for CRA compliance needs to be lowered.

The ANPR allows banks to receive CRA credit for investments and activities that do not target LMI borrowers or areas. This undermines the intent of CRA and ignores that it was a response to red-lining.

While the ANPR raises proposals that would undermine the original intent and effectiveness of the CRA, it also fails to strengthen accountability in the CRA rating process, including the following.

Improving CRA Examinations

- Increase the number of trained CRA examiners, shorten the exam periods and make bank submissions public upon completion of a CRA exam.
- The CRA rating criteria should include a scoring sub-element that rates how a bank engages the public, including organizations that serve LMI communities and consumers in their assessment areas.
- Violations of fair lending and/or consumer protection laws by banks must be considered in their CRA ratings. Ratings must be lower for banks that have a track record of failing to lend to specific racial or ethnic demographics in the markets they serve.

Eligible Activities That Benefit LMI People and Communities

- Regulators can provide greater clarity on CRA eligible activities by publishing a best practice guide that is informed by community and consumer serving organizations and obtaining public input on past CRA activities that have received credit and resulted in significant impact for LMI people and communities.
- New or innovative CRA investments proposed by banks should be evaluated and receive pre-approval as “pilot” activities through a process that includes public input and data on the impact of the investment. In order to receive future credit for similar investments, the bank should present actual results and data on the impact of the “pilot” investment.
- Regulators should place a specific emphasis on encouraging focus and innovation on CRA investment that benefit LMI entrepreneurs. This does not need to be achieved by a regulatory requirement, rather regulators can use their power to convene and highlight best practices.
- No more than 10% of a bank’s CRA-credited mortgage lending should be to non-LMI households in LMI census tracts.
- It is appropriate that CRA investments in Community Development Financial Institutions (CDFIs) currently receive a special status in CRA exams. CRA investments that are intended to build the capacity of organizations seeking CDFI certification should receive a similarly favored review. Submission of an application to the CDFI Fund for a CDFI Technical Assistance grant would be a reasonable test for whether an organization is seeking CDFI status.

CRA Impact Analysis

- There is a difficult balance to be struck between encouraging investment in LMI census tracts and encouraging banks to finance activities for high income people in LMI communities – in effect, financing gentrification. Regulators should analyze aggregated CRA investment by all banks in LMI census tracts, overlaid with data on real estate market appreciation and changing racial/ethnic demographics. Where regulators find clear examples of gentrification, an advisory should be published to limit the eligibility of CRA

activities in those census tracts to only lending and investments targeted to LMI people. This analysis can only be successful if it incorporates public input.

Expanding CRA Applicability

- Finally, there should be a more level playing field across the financial services sector with regard to CRA community reinvestment obligations. Non-bank mortgage companies, tech lenders and credit unions with assets in excess of \$2 billion dollars should be subject to CRA obligations and examinations. This expansion of community reinvestment requirements would likely require legislative action; nevertheless, regulators should actively communicate with members of Congress to encourage a more level playing field in the financial services industry by expanding the applicability of CRA.

A strong CRA works to ensure that our economy is healthy, inclusive and equitable. Revisions to CRA regulations must put the credit needs of low- and moderate-income people and communities first. This ANPR places a greater focus on lowering the bar for banks with regard to their CRA obligations than on the people that the CRA is intended to benefit. We call on the OCC to withdraw the ANPR and engage in a collaborative process to truly strengthen the CRA.

Respectfully,

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Housing and Community Development
Network of NJ

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