

November 19, 2018

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

**Re: Reforming the Community Reinvestment Act Regulatory Framework,
Docket ID OCC-2018-0008**

Dear Mr. Otting,

The 36 undersigned consumer, community, civil rights and labor organizations submit these comments in response to the Office of the Comptroller of the Currency (OCC)'s Advanced Notice of Proposed Rulemaking (ANPR) on Reforming the Community Reinvestment Act (CRA) Regulatory Framework.¹

I. The Importance of CRA

Following passage of the Fair Housing Act of 1968 and the Equal Credit Opportunity Act of 1974, Congress passed the CRA in response to discriminatory redlining practices that excluded certain communities from the financial marketplace. A primary goal of CRA was to stop neighborhood level lending discrimination that was not targeted at individual borrowers, but that denied credit to whole communities. A key CRA principle is that banks should lend in the areas in which they do business but should not be allowed to cherry-pick some areas over others while enjoying the benefits of a banking charter, deposit insurance, and other public support. By requiring banks to address the credit needs of the communities where they take deposits, the CRA has played a crucial role in making credit available to communities of color and increasing investment in low and moderate income (LMI) neighborhoods for over 40 years. The CRA continues to be an important tool for fostering access to credit for these communities today. Since 1996, banks have increased their small business and community development lending by an additional \$2 trillion to meet their CRA requirements.²

CRA requirements must remain robust so that banks lend to borrowers and small businesses in the communities where they are located to ensure that the benefits they have from a bank charter are equitably shared. Relaxing CRA requirements could lead to a 10-20% reduction in lending for LMI communities and a total loss up to \$105 billion in loans over a five years period.³ Ultimately, this loss would be terrible for the overall economy, which benefits from the investment in LMI communities and consumption by LMI customers. By lowering the bar for compliance and watering down CRA requirements, the OCC's approach in the ANPR would weaken the CRA and facilitate a severe reduction in lending for the communities that continue to remain underserved by the banking sector despite reports of record profits.

¹ Many of our organizations support the comments submitted by the National Community Reinvestment Coalition in response to this ANPR.

²<https://ncrc.org/forecast-banking-rule-changes-could-reduce-lending-in-poor-neighborhoods-by-105-billion/>

³ *Id.*

Our concern with the direction of the ANPR is that it is geared toward ease of compliance and certainty for the industry, rather than the need to strengthen the impact of CRA on LMI communities. The ANPR's questions shift the emphasis away from the purpose of the CRA and focus on easing compliance for lenders instead of increasing access to credit for underserved communities. The Comptroller has testified about the difficulty of complying with the CRA while he was the CEO of One West Bank. However, with 96% of banks receiving a satisfactory or better rating, all discussions about changes to CRA should be focused first and foremost on strengthening the impact of CRA for LMI communities.

II. Avoiding the One-Ratio and Reforms that Could Weaken CRA

The most troubling aspect of the OCC's ANPR is the "one ratio" approach to CRA ratings. The current CRA exam structure recognizes that CRA investments may vary between communities because banks take deposits from a wide range of neighborhoods with a wide variety of needs. The CRA's adaptability and inclusion of local community input about community needs in the process are crucial to its effectiveness. The OCC's one ratio approach is deeply problematic because it takes away this adaptability and inclusion by oversimplifying the CRA exam into one ratio: the total number of a bank's CRA investments as a percentage of its total assets. By reducing the CRA exam to a single numerical benchmark, the one ratio approach lowers the bar for compliance and reduces community input in the process.

One metric cannot capture a bank's performance in serving a range of different communities and will instead drastically reduce the CRA's effectiveness in fostering activities that meet varied needs. If CRA evaluations are reduced to a one ratio, banks will seek out investments with the highest margin and least risk and make the minimum amount of loans they need to reach the requisite percentage. With a one ratio compliance measure, they will be able to do so without consideration of local needs, which will likely lead to a drastic reduction of community investment where it is needed most. This will allow banks to game compliance in a way that will undermine the express purpose of the CRA to meet community needs.

We are particularly concerned that local input and community engagement could be minimized under this one ratio approach. Community benefit agreements (CBAs) are negotiated between banks and community groups and commit banks to specific levels of loans, investments, and services to LMI families and communities of color over a multiple year period. Regulators must not discourage CBAs and should recognize them as a valuable means to improving CRA performance. The one-ratio metric does not allow for proper consideration of this type of crucial community input that makes CRA effective in each of the communities served.

The ANPR also asks whether the set of activities that count for CRA credit should be broadened. There should not be any broadening beyond investments that target LMI borrowers and LMI areas for credit on a CRA exam, and all CRA activities in LMI areas should be counted only to the extent they directly benefit LMI residents. The purpose of the CRA was to increase access to credit for communities historically marginalized by the financial services sector and encourage banks to meet the credit needs of LMI communities. Counting other types of investments for CRA credit would undermine the Congressional intent behind passing CRA as a response to

redlining and take the focus away from LMI communities. Broadening the activities that count for CRA credit should not be considered because it would allow banks to choose easier investments unrelated to LMI borrowers instead of serving the LMI communities where they do business as the CRA intended.

III. Banking Services and Technology

Even with the increased use of technology, access to bank branches and banking services remain particularly important for residents of LMI communities who may not always have access to the same types of technology, including in particular older Americans and those living in rural areas. The physical presence of banking services in these communities is crucial to meeting their banking needs. CRA assessment areas play an important role in examining whether banks are providing services and investments to meet the specific needs of these communities. Assessment areas should stay intact and CRA exams should include an evaluation of bank branches and the physical presence of banking services in a community.

Furthermore, the CRA requires banks to serve the communities where they do business. As banks expand their business through technology, their CRA requirements should expand with them. Assessment areas should be expanded to reflect the broader geographical areas that banks now serve. Banks should not be allowed to use technology to increase services to certain communities at the expense of others. CRA exams should evaluate banks for how they are meeting the credit needs of all areas where they do business, both online and in person, and assessment areas should be expanded to take into account the technological expansion of bank services.

By lowering compliance standards and making it easier for banks to choose the lowest common denominator of investments, the OCC's approach to changing the CRA in the ANPR is likely to harm the very communities the CRA was enacted to protect. Any change to CRA that takes away from community investment must not move forward. We urge the OCC not to reduce the CRA's effectiveness through the one-ratio approach and not to make changes to CRA requirements that have the potential to reduce lending in the LMI communities it is meant to support.

Sincerely

Americans for Financial Reform
AFL-CIO
Allied Progress
Arkansas Community Institute
Arkansas Community Organizations
CASH Maine
California Reinvestment Coalition
Center for Consumer Law & Economic Justice
Center for Economic Integrity
Center for NYC Neighborhoods
Center for Responsible Lending

Citywide Coalition For Utility Reform
COHHIO
Communications Workers of America (CWA)
Consumer Action
East Bay Community Law Center
Fair Housing Center of Central Indiana
Frankenberg Group
Georgia Watch
HomeFree-USA
HomeSmartNY
Legal Services NYC
Main Street Alliance
Massachusetts Communities Action Network
Miami Valley Fair Housing Center, Inc.
NAACP
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low income clients)
New Jersey Citizen Action
New Ventures Maine
Public Citizen
South Suburban Housing Center
The Leadership Conference on Civil and Human Rights
U.S. PIRG
Woodstock Institute
WV Citizen Action Group