



April 6, 2020

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

Robert E. Feldman, Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation
550 17th Street, NW, Washington, DC 20329

RE: Joint Notice of Proposed Rulemaking
(Docket ID OCC-2018-0008)
(RIN 3064-AF22)

To: Office of the Comptroller of Currency and Federal Deposit Insurance Corporation:

The Massachusetts Association of Community Development Corporations (MACDC) represents all 63 state-certified CDCs in Massachusetts as well as 25 other non-profit organizations that share our mission of expanding economic opportunity across the Commonwealth. In Massachusetts, the Community Reinvestment Act (CRA) has motivated banks to provide loans and investments for affordable housing and economic development. Many CDCs have been able to expand their housing production and community economic development efforts because of CRA. At this time of the COVID-19 Pandemic, MACDC believes that both banking and community resources should be dedicated to serving the vital needs of low- and moderate-income (LMI) families and communities we serve. The long-term impact of this Pandemic on our LMI communities is unknown, however we know that we will need our banking and community resource partners concentration on meeting the needs of these families and neighbors for the foreseeable future. We have joined with many national, state, and local partners requesting OCC/FDIC suspend through such time after the state of emergency.

We would like to express our clear opposition for the Office of the Comptroller of the Currency's (OCC) and the Federal Deposit Insurance Corporation's (FDIC) Notice of Proposed Rulemaking (NPR) regarding the Community Reinvestment Act (CRA), and the headlong rush by OCC/FDIC to propose and implement changes that will make banks less accountable and responsive to community needs, and for launching an NPR process and proposal, which seems counter to the remedial purpose and legislative intent for the underlying landmark CRA legislation.

MACDC believes that this NPR process and proposal misses the mark at improving and maximizing credit, services, and investments to low- and moderate-income (LMI)

individuals, families and businesses, and supporting the mission-oriented work of community-based organizations that deploy these vital resources to meet locally established and shared objectives to address urgent community needs.

We are disappointed that the OCC's "go-it-alone" approach to developing revised rules was joined by FDIC in December, as this may fundamentally undermine the value and spirit of CRA by not having support from the Federal Reserve Board of Governors. This approach ignores a decade of work around the concept of CRA reform. The Federal Reserve, in collaboration with OCC and FDIC, has been engaged in a multiyear process aimed at reforming the CRA to effectively meet the credit needs of our nation's diverse communities and to adequately respond to the transformation of our financial services industry. The issuance of this NPR in December 2019, ignores what has been a long-term collaboration by all three regulators, financial institutions, advocates and community-based organizations, an approach which raises more concern, as whether OCC/FDIC is seeking balanced input from the full range of CRA stakeholders and seeking to ensure a process that will bolster CRA's effectiveness for the 21st century. Having different CRA regulations from different regulators will cause confusion in the marketplace and make it more difficult for community-based groups, local governments, and individual citizens to fully participate in CRA implementation and oversight.

MACDC is strongly opposed to performance evaluations based on a complex, formulaic, single measure that would diminish the relationships, reputations, and responsibilities financial institutions have in and to their communities. For CDCs, the proposed "one metric" approach to CRA ratings proposed in the ANPR was always a nonstarter and should not be a component feature to any package of CRA regulatory reforms. This "one ratio" formulation would allow banks to report only the top line amount of CRA investments as a percentage of total assets, effectively eliminating the vast majority of CRA requirements.

In the aftermath of fall 2018 natural gas explosions that displaced thousands of LMI families and businesses in Massachusetts' Merrimack Valley, a \$1 million emergency loan fund for area businesses was established – the result of a collaborative effort between state and local leaders, 10 local banks and Mill Cities Community Investments, a local CDC/CDFI -- to ease the immediate burden to businesses impacted by this local tragedy. The CRA statute requires that banks "have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered."

For CDCs, the key concept here is to be local and collaborative.

A "one ratio" formula, as proposed by NPR, would adversely impact Massachusetts' communities by under valuing initiatives like this and putting too much emphasis on larger, generic transactions. This single metric approach would also discourage innovation and create a perverse incentive to do the "minimum to pass," rather than seek to do the best possible job of meeting the credit needs of the local community.

A single metric cannot tell an examiner, a bank, or a member of the public how responsive a bank is to its various service areas. CRA exams currently evaluate and rate bank performance in geographical areas called assessment areas where banks have branches. Examiners are required to solicit and consider comments from community members about performance in assessment areas. This critical part of CRA – considering public comments on local performance – will be significantly undermined if the one ratio replaces assessment areas or significantly diminishes the importance of assessment areas and public input on CRA ratings. This problem is made even worse by the NPR’s proposal to allow banks to essentially ignore nearly half of their assessment areas.

MACDC believes that a one ratio formula does nothing to strengthen CRA’s effectiveness, and could significantly undermine the historic, legislative intent of the law. We believe resource deployment around physical bank branches is at the heart of CRA’s spirit and intent. Investment, lending, and services around physical bank branches are and will remain critical to the health and prosperity of LMI families and communities.

In an historical context, MACDC adheres to the original 1977 CRA’s legislative intent, to apply the law so that all communities have access to capital, investments, loans, and services. This NPR misses an opportunity to implement that intent in a modern context, and we join with others in opposition to the OCC/FDIC proposal.

Advocates, community organizations, regulators, and currently regulated financial institutions, in the past have all questioned whether additional types of institutions, such as mortgage servicing companies, credit unions, and insurance companies, among others, should be subject to CRA-type regulations. In Massachusetts, our state-chartered banks and credit unions are examined for compliance with the Massachusetts CRA and select mortgage lenders are examined for compliance with the Mortgage Lender Community Investment (MLCI) regulation – also known as CRA for mortgage lenders. And these laws have been a big success in driving credit unions and mortgage companies to expand their investments in LMI communities.

We believe there should be a more level playing field across the financial services sector regarding CRA and community reinvestment obligations. Non-bank mortgage companies, fintech lenders and credit unions with assets more than \$2 billion dollars should be subject to CRA obligations and examinations.

This NPR fails to meet this challenge, and, thus, ignores a significant modernization opportunity.

A strong CRA is necessary. MACDC objects to the OCC/FDIC NPR’s underlying formulation that the existing CRA regulatory framework is in a state of disrepair, or that CRA reform requires a slackening of regulatory and reporting requirements for banks

and financial services providers, presumed to be unduly burdened subjects of the current CRA review and examination process.

The Community Reinvestment Act has been an extremely successful law that has leveraged significant amounts of loans and investments for low- and moderate-income communities. Since 1996, banks have issued almost \$2 trillion in small business loans and community development loans and investments in low- and moderate-income communities. CRA has promoted partnerships between banks and local community-based organizations and fostered highly successful public-private partnerships.

CRA has been successful and it should be strengthened and modernized. Unfortunately, this NPR process and proposal threatens to undermine this record of success and weaken CRA's ability to achieve its statutory purpose. While we agree that there are opportunities to modernize CRA regulation to better reflect today's financial services industry, the OCC/FDIC through this NPR appears to be moving in the wrong direction by diminishing the effective incentive provided by CRA for banks to serve and to invest in local communities, with an intentional focus for meeting the needs of low- and moderate-income (LMI) individuals, families and businesses.

MACDC believes that this NPR will make banks less accountable and responsive to community needs, which will be counter to the original, historical intent of CRA. We feel that OCC/FDIC has ignored an opportunity to consider critical feedback as to the future of the Community Reinvestment Act, issues and feedback that have been informally shared for over a decade.

Easing bank anxiety via the one ratio and diminishing the importance of branches, assessment areas, and public input will decrease lending and access to banking in the communities that need it the most. For these reasons, MACDC is opposed to the NPR put forward by OCC/FDIC. We urge you to reconsider your approach and start anew in partnership with the Federal Reserve. At minimum, we would further urge the OCC/FDIC to suspend this NPR proposal and process at least through such time as the state of emergency brought on by COVID-19 is lifted.

Sincerely,

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