Submitted via Regulations.gov

November, 19 2018

Department of the Treasury
Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Re: Reforming the Community Reinvestment Act Regulatory Framework

Notice: Docket ID OCC-2018-0008

Dear Comptroller Otting:

I am writing on behalf of Citizens' Housing and Planning Association (CHAPA), a Massachusetts non-profit organization that advocates for affordable housing and equitable community development. Our mission is to encourage the production and preservation of housing that is affordable to low and moderate income households and to foster diverse and sustainable communities. Below are our comments on the Advance Notice of Proposed Rulemaking (ANPR) from the Office of the Comptroller of the Currency (OCC) to solicit ideas for building a new framework to transform or modernize the regulations that implement the Community Reinvestment Act of 1977 (CRA).

The CRA is a critical component in the forwarding of CHAPA's mission. Congress passed CRA at a time when many banks and other financial institutions would routinely "redline" low income or communities of color, refusing to invest in them or to extend credit to their residents. Since its enactment, CRA has expanded access to banking services and increased the flow of private capital to communities that have historically been underserved.

Despite this progress, investment in low and moderate-income (LMI) areas and the households living in these places continues to lag. Research by economists at the Federal Reserve Bank of Chicago shows that areas denied credit in the aftermath of the Great Depression continue to have lower property values, lower homeownership rates, and lower credit scores.[1] In short, the legacy of redlining persists.

In Massachusetts, this legacy can be illustrated by racial disparities in home ownership and lending, where the gap between black and white home ownership is 33% and 67%, respectively.[2] Additionally, a recent study of mortgage data found the denial rates for mortgage applicants in

[1] The Effects of the 1930s HOLC "Redlining" Maps (Revised August 2018) by Daniel Aaronson, Daniel Hartley, Bhash Mazumder. Federal Reserve Bank of Chicago Working Paper, No. 2017-12, 2017.
[2] U.S. Census, American Fact Finder, "Occupied Housing Units with a householder who is black or African American 2016 American Community Survey 1-year estimate."

Greater Boston with incomes between $101,000 and $125,000 were 9.3% for black households and 4% for whites.[3] This same study found also geographic disparities that showed just five cities (Boston, Worcester, Springfield, and Randolph) accounted for 43.9% of all loans to black households.[4]

CHAPA recognizes that the CRA provides a tremendous opportunity for LMI communities and households to receive support from private banks and is "the thumb on the scale" to incentivize lending and investment in these communities and to these households. Yet much remains to be done. A recent analysis of CRA ratings of Massachusetts banks found that only five of the state's ten biggest banks[5] were rated "outstanding" in their most recent CRA exams.[6] One of the top five largest banks received a "needs to improve" rating.[7] Until three years ago, it was routine for all ten of the biggest banks to have ratings of "outstanding."[8]

The Office of the Comptroller of the Currency (OCC) should work with its regulatory partners, the Federal Deposit Insurance Corporation (FDIC), and the Federal Reserve Board, to ensure that any modernization of the law is through the lens of meeting these fundamental tests: 1) Changes result in increased investment in communities that are currently underserved; 2) Increased benefit to greater number of LMI households; 3) Ensure that CRA lending and investment does not lead to displacement of communities and households who wish to remain; and 4) Make both bank performance and government enforcement more transparent and predictable.

Metric-based Performance Measurement System

The OCC proposes modernizing the CRA through a "metric-based performance measurement system" with benchmarks for evaluating performance. The ANPR describes this approach as way to calculate a single ratio that uses objective criteria to compare banks. CHAPA opposes this framework because it could result in large institutions being less inclined to make CRA investments. For instance, this framework could lead banks to choose the investments that best fit the evaluation metric rather than an investment that will have the biggest impact on LMI communities and populations.

Additionally, a single ratio could serve as an unofficial cap on CRA activity. For instance, if a bank knows that they have established their CRA commitment based on the criteria, some well-deserving activities might not be considered after the obligation has been met. CHAPA has pushed back on similar proposals in other federal programs that serve affordable housing and development, including a proposed "outcomes framework" within the Affordable Housing Program for the Federal Home Loan Banks.

The ANPR also seeks feedback on providing additional weight to certain CRA activities, such as doubling the value of a community development investment over the value of a loan product. There is a concern that this could result in a total reduction in community development equity investments, including investments in the Low-Income Housing Tax Credit. When this proposal is paired with the single-ratio approach, which would effectively set investment thresholds,

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[3] Jim Campen, Changing Patterns XXIV: Mortgage Lending to Traditionally Underserved Borrowers & Neighborhoods in Boston, Greater Boston and Massachusetts, 2016 (published Jan. 2018).
[4] Id.
[5] Ranked by total in-state deposits as reported by the FDIC for mid-2017.
[6] Jim Campen, CRA Ratings of Massachusetts Banks, Credit Unions, and Licensed Mortgage Lenders in 2017 (Jan. 2018).
[7] Id.
[8] Id.

banks might be incentivized to hit the threshold and find the quickest way to get there without giving thought to other investment opportunities.

CHAPA agrees with the National Housing Conference (NHC) in their opposition of any CRA rule change that adopts a ratio-driven approach. It's worth noting that NHC arrived at this decision after extensive consultation with nearly 200 members, including many of the largest banks in the nation. NHC was unable to identify a single supporter of this proposal within their membership.

Assessment Areas

CHAPA is fully supportive of efforts to redefine assessment areas so long as redefinition leads to targeted investments that benefit a greater number of LMI households and does not lead to displacement in communities where households wish to remain. This is a difficult balance to strike, particularly because the 40+ years since the CRA became law, technological advances have made definitions that are tied to brick and mortar branch and deposit locations obsolete. Gaining an understanding of how banks are conducting business in the 21st century and where branch locations are placed, the degree of reliance on mobile banking, and differences between large banks and community banks is essential before undertaking redefinition of assessment areas.

One area of particular interest around assessment areas is how the CRA could be used to help stabilize communities in designated Opportunity Zones. Opportunity Zones are census tracts identified by states and approved by HUD that give favorable tax treatment to the investment of capital gains into housing and economic development activities. One concern with this new tax incentive is that new investment will drive-up housing costs and displace existing communities. One such way to protect communities from displacement is by creating opportunities for home ownership. The OCC and its regulatory partners should explore a policy whereby banks can receive CRA credit for mortgage loans to LMI households purchasing a home in a designated opportunity zone outside of a bank's current assessment area.

Thank you for the opportunity to comment. CHAPA agrees that CRA modernization is an important priority, but maintain that any reform effort result in genuine improvement in the existing regulatory framework and improve clarity, flexibility, and increased service to LMI communities and households. We look forward to seeing how this work progresses and how all three CRA regulatory agencies come together to develop a unified regulatory proposal.

Sincerely,

Rachel Heller
Chief Executive Officer