

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

April 7, 2020

The Honorable Joseph M. Otting
Comptroller
Office of the Comptroller of the Currency
400 Seventh Street SW
Washington, DC 20219

The Honorable Jelena McWilliams
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

Comptroller Otting and Chairman McWilliams:

The coronavirus disease 2019 (COVID-19) pandemic continues to inflict significant harm to the American people, including workers, consumers, investors and the broader economy. According to the Centers of Disease Control and Prevention (CDC), there have been at least 8,910 deaths and 330,891 cases across all 50 states, the District of Columbia, Puerto Rico, Guam, Northern Marianas, and U.S. Virgin Islands,¹ and these staggering numbers continue to grow. Depository institutions have been affected as well. At a time when regulators should be working together to appropriately respond to this growing pandemic and keep our banking system safe and sound, unrelated rulemaking should be put on hold for the time being. To that end, we urge you to delay any unrelated rulemakings, including the Notice of Proposed Rulemaking (NPRM) with respect to the Community Reinvestment Act (CRA),² during the ongoing crisis. After the crisis passes, we urge your agencies to work with the Federal Reserve to develop a new, joint NPRM that is consistent with the purpose of the Community Reinvestment Act.

As you know, community banks³ and community organizations⁴ have voiced the need for your agencies to stop all non-coronavirus-related rulemaking, including on the CRA. To the extent you refuse to delay the CRA rulemaking in the face of the coronavirus crisis, we write to share our significant concerns with the NPRM's misguided approach.

While we believe there are reasonable updates that could be made to the CRA framework,⁵ we believe the proposal will materially weaken and undermine the current CRA framework. The CRA was created to combat redlining, a practice by which banks discriminated against prospective customers based primarily on where they lived, or their racial or ethnic background, rather than creditworthiness.⁶ The law requires banks to help meet the credit needs of all parts of the communities they serve, consistent with safety and soundness. The Community Reinvestment Act

¹ Center for Disease Control and Prevention (CDC), [Coronavirus Disease 2019 \(COVID-19\) in the U.S.](#), last updated Apr. 6, 2020.

² Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), [Community Reinvestment Act Regulations](#), Federal Register, 85 FR 1204 (Jan. 9, 2020).

³ See [Letter from Independent Community Bankers of America to Federal Prudential Regulators](#) (Mar. 30, 2020).

⁴ See [Letter from National Community Reinvestment Coalition to Comptroller Otting and Chairman McWilliams](#) (Mar. 24, 2020).

⁵ For example, see Press Release, [Rep. Meeks and Colleagues Urge Federal Banking Agencies to Reform Community Reinvestment Act Guidance](#) (Oct. 4, 2016).

⁶ P.L. 95-128, 91 Stat. 1147, title VIII of the Housing and Community Development Act of 1977, 12 U.S.C. § 2901 et seq.

was a landmark civil rights law passed in 1977 to help end discrimination that was common in America’s banking and housing markets, and it has pushed banks to better serve all communities, including low- and moderate-income communities and communities of color. However, given that we continue to see evidence of modern-day redlining,⁷ the last thing that we need are banks exploiting the weakest rules to get a passing CRA grade while low- to moderate-income communities suffer the consequences.

We are deeply concerned that the NPRM dilutes the focus of CRA on meaningful investments in LMI communities and small businesses. To provide some examples, under the proposed rule, banks that get a failing grade in nearly 50 percent of their assessment areas could still pass their overall CRA examination.⁸ Further, investments in athletic stadium improvements located in LMI tracts in Opportunity Zones would explicitly be eligible for CRA credit, with little regard for how LMI communities would be helped.⁹ The NPRM defines small businesses as having up to \$2 million in annual revenue and adjusted for inflation, up from the current \$1 million limit,¹⁰ meaning that CRA-qualifying lending could be diverted away from the smallest businesses that need the most assistance. Additionally, the NPRM would loosen incentives to fund low-income housing by providing CRA credit for middle- and upper-income housing development.¹¹ The proposal harms rural areas too, as certain loans will go to farms with gross annual revenues as high as \$10 million and qualify as a CRA qualified activity,¹² likely diverting lending away from truly small family farms.

We are also concerned your agencies have not conducted sufficient data-driven analysis to assess how your proposed changes will affect CRA activity. The Federal Reserve has been transparent with the public, providing detailed data on the CRA, including 6,000 performance evaluations (PEs), which they compiled with relevant Home Mortgage Disclosure Act (HMDA) and other data.¹³ This stands in contrast to the fact that the OCC issued a request for bank-specific data *following* its release of the NPRM to inform potential revisions to modernize and strengthen the CRA regulatory framework.¹⁴ We would expect any major reform to CRA to be based on extensive, data-driven analysis *before* a proposal is made to help stakeholders and the public understand if these reforms will truly fulfill the purpose of the CRA.

Similarly, Comptroller Otting, it was striking that in your testimony before the House Financial Services Committee that you attempted to respond to a long list of what you characterized as “misconceptions” about the NPRM,¹⁵ even when some of those perspectives came from

⁷ Aaron Glantz and Emmanuel Martinez, [Kept Out: For People of Color, Banks Are Shutting the Door to Homeownership](#), *Reveal* from the Center for Investigative Reporting (Feb 18, 2018).

⁸ See Martin J. Gruenberg, Member, FDIC Board of Directors, [Statement on Notice of Proposed Rulemaking: Community Reinvestment Act Regulations](#) (Dec. 12 2020).

⁹ Federal Register, Vol. 85, No. 6, NPRM §§ 25.04(c)(11) and 345.04(c)(11) (Jan 9, 2020).

¹⁰ *Id.* at §§ 25.03 and 345.03 (Jan 9, 2020).

¹¹ *Id.* at §§ 25.04(c)(11) and 345.04(c)(11).

¹² *Id.* at §§ 25.04(c)(7)(i) and 345.04(c)(7)(i).

¹³ Federal Reserve, [Community Reinvestment Act Analytics Data Table](#) (Mar. 6, 2020).

¹⁴ OCC, [Community Reinvestment Act: Request for Public Input](#) (Jan. 10, 2020).

¹⁵ House Financial Services Committee hearing entitled, [“The Community Reinvestment Act: Is the OCC Undermining the Law’s Purpose and Intent?”](#) (Jan. 29, 2020).

Presidential-appointed and Senate-confirmed regulatory colleagues. If the NPRM was clear and easy to evaluate, we would expect there would be less debate over what the proposal does.

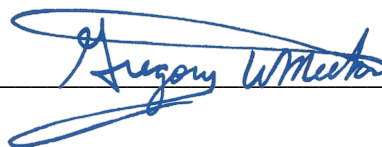

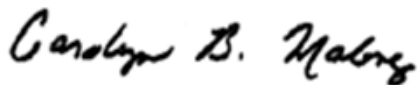
Finally, we are concerned that your inability to achieve consensus on this proposal with the Federal Reserve will create further uncertainty for the financial institutions you regulate, and only heighten the potential for a harmful race to the bottom of lax CRA standards that will ultimately hurt consumers.¹⁶

In conclusion, FDIC Board Member Marty Gruenberg summed up these and other concerns we have by saying the NPRM, “is a deeply misconceived proposal that would fundamentally undermine and weaken the Community Reinvestment Act.”¹⁷ Again, your agencies should be prioritizing a strong response to the coronavirus pandemic, and, accordingly, we urge you to delay any unrelated rulemakings, including the NPRM that would significantly undermine the CRA in its current form. After the crisis has passed, we urge your agencies to revisit this effort and work with the Federal Reserve on an updated and mutually agreeable NPRM that is consistent with the purpose of the CRA.

Sincerely,



MAXINE WATERS
Chairwoman



¹⁶ Brendan Pedersen, [What's the Fed's next move on CRA reform?](#) American Banker (Jan. 3, 2020).

¹⁷ See Martin J. Gruenberg, Member, FDIC Board of Directors, [Statement on Notice of Proposed Rulemaking: Community Reinvestment Act Regulations](#) (Dec. 12 2020).

Al Pearson

Erin Deacon

Ed Palko

Justin

Bill Foster

Joyce Beatty

Denny Heck

Jon Vargas

Q. Solano

V. M. H.

Al Lawson

Ming F. Akin

Rashida Hall

Kate Porter

Cybil Aron

Scott

Hyam Pringle

Ben McAllen

Clyde W. Crews

John W. ...

Steph ...

Tulsi Gabbard

Alma ...

Madeline Dean

José G. García

Spencer ...

D

CC: The Honorable Jerome Powell, Chair, Board of Governors of the Federal Reserve System