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

To Whom it May Concern:

This letter is in response to the release of the Advance Notice of Proposed Rulemaking by the Office of the Comptroller of Currency regarding the Community Reinvestment Act (CRA). The Greenlining Institute and our Coalition submit this letter in support of modernizing and strengthening the CRA in solidarity with hundreds of organizations across the United States dedicated to building an inclusive, prosperous economy with opportunity for all. The Greenlining Coalition represents 54 organizations that provide direct service in the areas of affordable housing development and counseling, small business lending and technical assistance, financial counseling, media, and consumer advocacy.

Greenlining is an antidote to redlining: The CRA was conceived as a direct response to redlining. We are a racial equity and policy advocacy organization working to address the effects of redlining in communities of color through wealth-creation. The Greenlining Institute supports the CRA because it is one proven antidote to redlining, and has proven critical to ensuring fair access to credit for all. In fact, since 1996, banks covered by the CRA have invested more than $980 billion in historically underserved zip codes. Fair access to credit is especially critical for people of color, as studies show they are targeted by predatory lenders and face discriminatory lending practices by mainstream financial institutions.

In California, banks invested over $31 billion in CRA activity to low- and moderate-income communities in 2016.[1] The organizations represented in the Greenlining Coalition have leveraged the CRA to negotiate 15 community benefits agreements on behalf of communities of color in the last 25 years, amounting to over half a trillion dollars in investments to address years of redlining and disinvestment in critically underserved neighborhoods. These agreements have specifically addressed the lack of affordable housing, access to affordable mortgages, and the lack of support for small business owners in communities of color throughout California. However, the need for greater investment remains.

Increasingly overburdened communities underscore gaps in the CRA: Investments driven by an outdated CRA are insufficient for the needs of the communities of color that are still falling behind in racial and economic equity indicators. The median net worth of Black and Latinx families is a fraction of

[1] http://calreinvest.org/wp-content/uploads/2018/07/Harnessing20the20Power20of20Banks 20report20FINAL20version.pdf

that of White families; this wealth disparity is on trend to grow without policy intervention.[2] A recent investigation by the publication, *Reveal*, documented the ongoing presence of redlining wherein African American and Latinx borrowers continue to be denied conventional mortgage loans at higher rates than White borrowers.[3] As a result, people of color are taking out high cost loans at a disproportionately higher rate (or not accessing wealth building opportunities at all). These racial disparities point to a need to implement bold changes to the CRA that target increasingly overburdened communities.

Greenlining proposals for modernizing the CRA: We are committed to strengthening the CRA and better serving the low- and moderate-income communities and communities of color that it was originally intended to strengthen. As identified by the OCC, the CRA is outdated and requires significant reform of the standards it holds banks to and the process with which the regulatory agencies enforce it. The CRA has not kept pace with the banking industry's dynamic changes and—despite driving impactful investments—in many ways the CRA has fallen short of meeting its mission: reaching communities historically marginalized from economic opportunity. The following reforms were not addressed in the ANPR, but are suggestions that we would like to see implemented in order to ensure that the CRA can deliver on its original promise of expanding access to credit in historically underserved neighborhoods.

- ***Adopt a race equity lens:*** Although the CRA was a direct response to redlining and housing discrimination, the law is colorblind. Racialized public policies led to a need for CRA, so race-based criteria that hold banks accountable to serving communities of color is necessary to genuinely address decades of race-based disinvestment. Investments should be reflective of the local needs of communities of color and banks should target their dollars towards those communities. In additions, banks should be penalized for engaging in activities that harm communities of color, such as funding displacement and gentrification by lending to wealthy borrowers in low-income neighborhoods.
- ***Expand CRA to non-banks****:* Online lenders have assumed an increasingly large presence in lending, and we must ensure online transactions operate in a safe and sound manner as the marketplace matures. Expanding CRA requirements to non-banks would help enforce responsible lending from all lenders (thereby lowering the chance of delinquency and default across the market), as well as to encourage lenders to compete in delivering safe and sound products. In addition to FinTech and online lenders, credit unions and non-depository mortgage companies should be assessed in their lending.
- ***Account for gentrification and displacement:*** Currently, financial institutions receive CRA credit for extending loans in low- and moderate-income census tracts regardless of the income level of the borrower. In California, especially in markets experiencing rapid gentrification such as Long Beach and Oakland, home purchase loans in low-to-moderate income census tracts across California vastly exceeded loans to low-to moderate income borrowers--creating a statistical portrait of gentrification. CRA examiners should not reward banks for extending home loans to upper income borrowers in low- and moderate-income neighborhoods, as these loans simply accelerate the gentrification and displacement that long-term low- and moderate-income residents face. The CRA should consider each

[2] https://prosperitynow.org/sites/default/files/resources/ITEP-Prosperity_Now-Race_Wealth_and_Taxes-FULL%20REPORT-FINAL_4.pdf
[3] https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/

assessment area's state of gentrification and assess home loans accordingly. In addition, regulators should have institute penalties for violations of fair lending and consumer protection principles.

We question a reform process driven by a single agency: These reforms should be driven by a community of consumers, consumer advocates, banks, and all of the federal regulatory agencies that will be tasked with enforcing the law. This will make it clear that the intention of pursuing reform is to increase investments in the *community*. Improvements to the CRA can only emerge from a process based on genuine engagement with the communities most impacted by our unbalanced economy and the OCC's effort falls short. While we appreciate the opportunity to formally weigh in on longtime issues with the CRA, we encourage the OCC to work with the other prudential regulators and adopt a collaborative approach to ensure buy-in from all of the federal regulators. Otherwise, we risk inconsistent federal enforcement which undermines both banking and community needs. We are also skeptical of the OCC's commitment to advance the spirit of the CRA due to recent steps the agency has taken to relax its enforcement of the CRA by reducing the frequency of CRA bank exams and easing the consequences of violating fair lending laws.[4]

RESPONSE TO PROPOSALS IN ANPR

Overview of Response to ANPR Proposals: We would like to offer comments on three areas of particular concern that were raised in the Advance Notice of Proposed Rulemaking due to the disproportionate impact that they will have on communities of color.

(1) The first area of concern is the OCC's proposal to implement a metric-based approach to evaluating a bank's CRA investments. We believe the "one ratio" method that is proposed will reduce a bank's responsiveness to local needs and limit a bank's CRA activities to the easiest and least impactful.
(2) The second area of concern is the proposal to broaden CRA-eligible activity and redefine community development to include activities that also serve middle and upper income communities and activities that are not directly related to the issue of access to credit. This will take the focus of CRA activities away from the lending, investments and services that were originally intended to support historically underserved communities.
(3) The third area of concern is the OCC's proposal to redefine assessment areas to give banks credit for CRA activities outside of the footprint of their branches and ATMs. This proposal should not relieve banks of their commitment to maintain a physical presence in low- and moderate-income communities and should only supplement the existing method of evaluating banks based on assessment areas.

In response to the proposal to implement a metric based approach (question 9): We support clarity in the CRA exam and believe that can be achieved by implementing more quantitative measures for evaluating a bank's CRA investments. However, developing a single metric for evaluating a bank's adherence to their CRA commitments is not a viable solution. The proposed metric is a ratio of the dollar

[4] https://democrats-financialservices.house.gov/news/documentsingle.aspx?DocumentID=401559

amount of a bank's CRA activities in relation to the bank's assets. If this ratio is prioritized by the regulatory agencies when grading financial institutions and becomes a determining factor of the bank's overall rating, it will reduce the impact of localized community investment efforts. The "one ratio" will de-incentivize banks from making meaningful investments in particularly underserved communities and from responding to the specific, local needs of assessment areas. This metric will not indicate how responsive a bank is to its various service areas.

Additionally, this approach to quantifying investments will encourage financial institutions to limit their community investment efforts to the easiest activities, regardless of how well those activities meet the needs of a community. Easier activities will likely include large grants to larger, more established community organizations or loans to individuals at the edge of the income threshold, rather than taking the time to identify smaller, grassroots organizations (oftentimes led by people of color) or to underwrite loans for borrowers and businesses with less established cash flows and credit histories. The activities that require more time to identify and cultivate are precisely the kinds of activities that will make a meaningful impact in underserved communities and should be encouraged, rather than disincentivized.

The Greenlining Institute convenes meetings between banks and Coalition members in order to ensure that the banks are aware of community needs and investing appropriately to those communities. The needs of the communities represented by our coalition vary based on geography, demographics, the availability of jobs, businesses and housing in the neighborhoods they serve, and the presence of financial institutions in those neighborhoods. Historically, these conveninings have resulted in banks learning of local opportunities for investment and building with the communities in their assessment areas. The relationships that Greenlining Coalition members have built with banks that have been responsive to local needs will lose their significance if banks no longer have a reason to respond to specific community needs.

We support implementing more quantitative measures into the CRA exam by supplementing the existing three pronged exam that evaluates a bank on their lending, investments and services with thresholds that banks must meet in order to pass the exam. We suggest implementing quantitative thresholds in the areas of lending, community development lending and investments, and philanthropy. The quantitative thresholds should take into account the region, size of the bank, and an assessment of the local needs, to be completed in collaboration with the local community. Our hope is that quantitative thresholds can provide clarity for financial institutions so that they may know where their resources should be invested in order to both meet the requirements of the CRA and to meet the needs of the community. This flexibility is critical to keeping CRA investments relevant to the context of assessment areas.

In response to the proposal to expand CRA-eligible activity and redefine community development (questions 15, 16, 19 and 21): The ANPR asks several questions about what should qualify for CRA consideration. Federal regulators must continue making increased access to credit the primary focus of CRA-eligible activity and not relieve banks of their obligations to lend to low- and moderate-income borrowers with less established credit histories. Lending to communities of color and low- and moderate-income communities makes the greatest impact on building wealth, financial stability and increasing opportunities for economic growth by opening up access to homeownership and entrepreneurship.[5]

Broadening CRA eligible activity, as proposed by the OCC, will give banks credit for investments and activities to middle and upper income communities, in addition to credit for activities that are not directly related to the issue of access to credit. Activities mentioned in the ANPR, including social services, apprenticeship programs, and literacy programs (question 19) will not address a historical lack of access to banking in low- and moderate-income neighborhoods. This will lessen the effect of the CRA in channeling resources and capital to the historically redlined communities that were the focus of the original legislation. It is counterproductive to divert resources from the populations that need it most: low- and moderate-income communities and communities of color.

Rather than broadening what qualifies towards a bank's CRA commitments, regulators should be pressuring banks to do more of the activities that target the needs of communities of color--home loans, investments, and small business loans. These are traditional CRA activities that despite appearing risky by many banks because they are meant for populations with less established credit histories, have tremendous impact on increasing the wealth of these communities by going straight to the individuals that need it most.

Community development--including community development services--must remain focused on low- and moderate-income consumers. CRA credit for community development should be given for impactful activities that best allocate bank employee's talent and expertise, which remains providing financial education and traditional banking services, rather than the social services based-activities suggested in the ANPR.

The Greenlining Coalition represents communities that can thrive with adequate support in workforce development, affordable housing development, access to mortgages and small business loans, technical assistance for their businesses, and stronger institutions that can serve individuals of color. Communities of color and low- and moderate-income communities that are falling behind can benefit from CRA investments that are aimed at those specific needs.

The Greenlining Coalition suggests banks prioritize the development of products and services that low- and moderate-income communities and communities of color can access. Rather than continuing to rely on alternative (often predatory) loans or accessing credit through non-profit lenders and Community Development Financial Institutions (CDFIs), individuals should have access to mainstream financial institutions. Banks can offer affordable, secure, and regulated products as well as the opportunity to build their credit history, accumulate assets, and build generational wealth. The Greenlining Coalition challenges financial institutions to reach out to community organizations and collaborate on the development of products and services that will make a direct impact on low- and moderate-income communities and communities of color. The CRA can support the development of innovative, accessible products and services by prioritizing these activities and limiting CRA-eligible activities.

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5 https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/

In response to proposal to redefine communities and assessment areas (questions 13 and 14): The proposal to expand assessment areas beyond the geography surrounding branches and deposit-taking ATMs is a direct response to pressure from banks requesting credit for CRA investments they make outside of their assessment areas, alleviating them of the commitment to serve the communities they are physically located in. This decreases the importance of physical branches, which are proven to be critical for meeting the credit needs of low- and moderate-income communities and communities of color and geography should remain a central focus of CRA activity.[6]

We do not support decreasing the emphasis of assessment areas in CRA exams. However, in order to accommodate technological advances that have changed the banking industry and the way that individuals access banking services and products, we propose making additional assessments of the ways banks make online services accessible to low- and moderate-income communities and communities of color. The way a bank markets online services, how those services are delivered, and whether they are accessible and relevant should be evaluated alongside a bank's in-branch services in their assessment area.

We also recognize that exams based on assessment areas have incentivized irresponsible banking, such as loans that drive displacement and gentrification, by giving banks credit for loans made in low- and moderate-income neighborhoods to moderate income borrowers.[7] In addition to limiting the amount of investments to low- and moderate-income borrowers, these bank activities displace low- and moderate-income borrowers and banks should be penalized for such activities. Regulatory agencies should consider the effect of lending that drives displacement and gentrification when evaluating a bank's CRA activity, without releasing banks of their obligation to lend in their assessment areas to low- and moderate-income borrowers.

As a result of both the increase of online banking and the growing risk of incentivizing gentrification by evaluating banks on their lending to specific census tracts, CRA reform should include an *additional* evaluation of the activities banks undertake outside of their assessment area. Changes in consumer behavior and upgrades in technology do not relieve banks of their obligation to maintain a presence and to market to individuals in historically underserved communities.

The Greenlining Coalition represents organizations from neighborhoods that have been neglected by mainstream financial institutions and individuals are taken advantage of by predatory lenders. The CRA should retain its focus on assessment areas, while making additional considerations of potential negative impacts of CRA-eligible activities in assessment areas and of CRA-eligible activities that banks undertake beyond their assessment areas.

Conclusion

In many ways, the CRA has fallen short of meeting its mission: reaching communities historically marginalized from economic opportunity. Still, to build on its successes, the CRA must be strengthened

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[6] Bank Branch Presence and Access to Credit in Low- to Moderate- Income Neighborhoods, September 2011, https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1538-4616.2010.00343.x.
[7] http://greenlining.org/wp-content/uploads/2017/12/State-of-Gentrification-Home-Lending-to-Communities-of-Color-in-California.pdf

and improved--not weakened, as many of the proposals in the ANPR will ultimately do--in order to achieve its purpose of building an inclusive economy. In that spirit, we strongly urge the OCC to consider the comments above as it contemplates recommendations to reform the CRA.

Best regards,

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The Greenlining Coalition:

African Americans for Economic Justice
American GI Forum, State of CA
Black Business Association
CAMEO - California Association for Micro Enterprise Opportunity
City of Livingston
Community Development, Inc.
Community Housing Opportunities Corporation (CHOC)
Domar Companies, LLC.
El Concilio
Ella Baker Center for Human Rights
Fresno Metro Black Chamber
Inland Empire Latino Coalition
National Federation of Filipino American Associations
Rising Sun Center for Opportunities
San Francisco Black Chamber of Commerce
Southern California Black Chamber of Commerce
The Central Valley Urban Institute
Voz Interpreting