360 14TH STREET, 2ND FLOOR
OAKLAND, CA 94612
GREENLINING.ORG

April 8, 2020

Comptroller Joseph M. Otting
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20219

Chair Jelena McWilliams
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Community Reinvestment Act Regulations
Docket ID: OCC-2018-0008
RIN 3064-AF22

Director Otting and Chairwoman McWilliams:

This letter is in response to the release of the Notice of Proposed Rulemaking by the Office of the Comptroller of Currency regarding the Community Reinvestment Act (CRA). The Greenlining Institute and the Greenlining Coalition submit this letter in support of modernizing and strengthening the CRA, while maintaining the original intent of the law: to combat redlining and discrimination in the financial sector. ***Unfortunately, the proposed rule does not meet the original spirit of the CRA and should not be adopted into law.***

The Greenlining Coalition represents 58 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. We work on behalf of communities that face modern forms of redlining and continue to largely be locked out of homeownership and other forms of wealth building.

Greenlining is an antidote to redlining

The CRA was conceived as a direct response to redlining. Greenlining is 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 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] And based on research from the National Community Reinvestment Coalition, the Bay Area saw over $85 billion in CRA qualified mortgage lending to low to-moderate income borrowers and neighborhoods from 2009 to 2018. 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 five 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.

The impact of the CRA cannot be overstated: the CRA is what drives banks to make loans and invest in communities that they would not otherwise make. Continued discrmination amongst bank workers, continued perception that low-income neighborhoods are risky lending environments, and increasingly, banks have larger shares of individual, low-income markets and lower incentive to have accessible or competitive rates and products.[2]

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. A recent investigation by the publication, *Reveal*, documented the ongoing presence of redlining wherein African American and Latino borrowers continue to be denied conventional mortgage loans at higher rates than White borrowers.[3] The effects of past and present redlining include: the lower-earning potential of people of color,[4] inferior treatment of minority small business owners by banks when applying for small business loans,[5] people of color routinely denied home loans at a far higher rate than their White counterparts,[6] and a widening racial wealth gap as the wealth of a median

1 http://calreinvest.org/wp-content/uploads/2018/07/Harnessing20the20Power20of20Banks20report20FINAL20version.pdf
2 https://penniur.upenn.edu/uploads/media/Lawrence_White.pdf
3 https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/
4 Federal Reserve Bank of Cleveland: What is Behind the Persistence of the Racial Wealth Gap?
5 National Community Reinvestment Coalition: Disinvestment, Discouragement and Inequity in Small Business Lending
6 Modern-day redlining: Banks discriminate in lending

Black family has decreased by 50 percent in the last 40 years while that of a median White family has increased by 33 percent.[7]

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. This is the time to ensure that underserved communities are accessing the investments and capital they need to build wealth and security.

As such, we would like to offer comments on the OCC's and FDIC's efforts to "strengthen and modernize the CRA" in the Notice of Proposed Rulemaking -- a misrepresentation of the actual impact of the proposed changes. These proposals will have a disproportionate, disparate impact on communities of color and will not bring the positive change that the regulatory agencies claim to intend. The proposed rulemaking simultaneously dilutes the historic strengths of the CRA while failing to address any of its modern shortcomings. Below we identify the major changes put forth by the OCC and FDIC and highlight how they will not achieve the proposed goals.

(1) ***"Clarifying what counts for CRA credit" will divert resources from low-income families to wealthy investors:*** The first area of concern is the proposal to expand what counts as CRA activity. As written, this revision will divert bank efforts from the activities that are directly related to the issue of access to credit and most impact communities of color: affordable mortgages, accessible small business loans, and grants to nonprofits serving local needs. Banks, under the proposed rule, will receive CRA credit for financing infrastructure projects like sports stadiums rather than prioritizing activities that build wealth and increase opportunities for economic growth in low-income communities and communities of color. Needless to say, this is counterproductive to the mission of the Community Reinvestment Act.

The Greenlining Coalition represents communities that can only 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. 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.

[7] Institute for Policy Studies: Ten Solutions to Bridge the Racial Wealth Divide

360 14TH STREET, 2ND FLOOR
OAKLAND, CA 94612
GREENLINING.ORG

(2) ***"Updating where bank activity counts" negatively impacts rural areas:*** The second area of concern is the proposal to expand where banks make CRA investments, but without sufficient guidance or proper weight given to rural and smaller communities with significantly less branch presence. Under the proposed retail lending distribution test, the proposed allowance for banks to conduct CRA activity in at least 50% of their assessment areas is essentially a loophole to allow banks to ignore half of their assessment area; this is gateway to renewed redlining where banks will choose to where they will or will not lend or invest, discriminating against entire communities.

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.

(3) ***"Evaluating CRA performance more objectively" is overly simplistic and will lead to bad outcomes:*** The third area of concern is the proposal to implement a quantitative assessment of CRA activity that sets a dollar-value threshold of the volume of CRA activity. This will incentivize banks to rely on the largest and easiest transactions to meet the proposed threshold rather than making meaningful, localized investments in underserved communities. A single calculation will not adequately measure how responsive a bank is to its service area.

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. 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.

Those same banks have already indicated to the Greenlining Coalition their own concerns with NPRM due to the reduction of years of cultivating relationships with community organizations that they will no longer be motivated to maintain, as well as the likelihood of rural areas being underserved under this new calculation.

(4) ***"Making CRA reporting more transparent and timely" will limit consumer and community input:*** The fourth area of concern is the proposal to ultimately reduce accountability for banks by making it more difficult for the public to comment on CRA exams, allowing banks with an Outstanding rating to be evaluated less often, and giving

THE GREENLINING INSTITUTE
360 14TH STREET, 2ND FLOOR
OAKLAND, CA 94612
GREENLINING.ORG

small banks the opportunity to opt out of any enacted changes to the law. Rather than transparency and timeliness, the proposed reforms will lead to decreased clarity and consistency.

What do our communities deserve instead of these harmful changes?

It's simple: banks should make community investments that are evaluated based on the benefit to people of color and low-income communities.

Based on the needs of communities of color, we believe that any effort to modernize the CRA is incomplete and lacks the equity need for meaningful progress without the following changes:

- ***Explicit focus on race equity:*** 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 explicitly 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. A colorblind CRA is simply not sufficient for eliminating discrimination in the financial services. Race conscious regulations are needed to ensure financial inclusion.

- ***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. Studies confirm that despite the increase in home lending by non-bank and online lenders relative to traditional banks, CRA is what has made sure banks continue to lend to LMI communities. 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 and have an obligation to reinvest locally.

- ***Maintain a focus on impactful investments:*** CRA investments should be focused on low to moderate income communities and neighborhoods that are most in need of lending and investment. CRA activity in these neighborhoods are those most likely to lead to meaningful improvements. In order to make impactful investments, CRA exams should consider public input on the performance of banks and maintain transparency.

360 14TH STREET, 2ND FLOOR
OAKLAND, CA 94612
GREENLINING.ORG

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

Best regards,

Adam Briones
Director, Economic Equity
The Greenlining Institute

Rawan Elhalaby
Senior Program Manager, Economic Equity
The Greenlining Institute