PROSPERITY NOW

November 19, 2018

Comment regarding "Reforming the Community Reinvestment Act Regulatory Framework"

RE: Docket ID OCC-2018-0008

To Whom it May Concern:

Prosperity Now appreciates the opportunity to comment on the Office of the Comptroller of the Currency's (OCC) Advance Notice of Proposed Rulemaking (ANPR) regarding the Community Reinvestment Act (CRA). CRA 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.

We are pleased to submit the following recommendations that we believe should be incorporated into any restructuring of the CRA:

<u>Regulators Should Work Together to Reform the CRA</u>

While the OCC is spearheading the reexamination of the CRA, the office will need to collaborate with the CRA's other regulators – the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve (the Fed) – while doing so. The input of all regulators should be considered, and each one should support the final version.

A lack of consensus will lead to avoidable confusion about what regulations and guidance should be followed by banks. In the process, there is also a risk this could water down the regulation for the national bank entities overseen by the OCC, while keeping them stronger for the state-chartered entities the FDIC and the Fed regulate.

<u>The Needs of Underserved Communities Should be Prioritized</u>

In order to bolster CRA's effectiveness, reforms are necessary to take into account changes in banking and technology. Yet, as the OCC contemplates reform, it must not rush to propose or implement changes that will make banks less accountable and responsive to community needs, which would be counter to the purpose of the CRA legislation.

<u>The Definition of 'Assessment Areas' Should Not be Weakened</u>

If the OCC proceeds to significantly diminish the importance of assessment areas on CRA exams, the progress in increasing lending to low- and moderate-income neighborhoods will be halted. The National Community Reinvestment Coalition

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(NCRC) estimates that low- and moderate-income neighborhoods could lose up to $105 billion in home and small business lending nationally over a five-year time period.

A Bank Branch Presence in Low-and Moderate-Income Communities Is Still Important

Lastly, the OCC asks whether branching in low- and moderate-income communities should continue to be considered on CRA exams. Research has shown that low- and moderate-income people rely on branches for access to loans and banking services. If CRA exams dropped branches from consideration, the amount of lending and bank services in low- and moderate-income neighborhoods would decrease significantly.

Require an Assessment of Service to Communities of Color

In terms of expanding populations served by CRA, exams must explicitly evaluate bank lending and service to people and communities of color. Senator Proxmire and the other members of Congress that drafted CRA and secured its passage were clearly concerned about disparities in lending in minority communities, especially inner-city neighborhoods. Since racial disparities in lending remain stubborn and persistent, CRA must include lending, investing, and service to people and communities of color in its evaluations.

Improve the Examination Process

Ratings and lending tests should be more objective. For example, nonbank affiliates of banks are included in CRA exams at the bank's discretion. Such inclusions should be mandatory.

Reward Banks that Satisfy CRA Goals

Discrimination should be punished and reflected in a bank rating. Increased service to local underserved markets should be rewarded. Banks with failed CRA ratings (just two percent) should continue to be prohibited from merging or acquiring other institutions.

Do Not Adopt One Ratio for CRA Compliance

We are concerned that an OCC idea commonly called the one ratio would make CRA exams considerably less effective in evaluating how banks are responding to local needs in metropolitan areas and rural counties. The one ratio would consist of the dollar amount of a bank's CRA activities (loans, investments, and services to low- and moderate-income borrowers and communities) divided by the bank's assets. The ratio is supposed to reflect CRA effort compared to a bank's capacity.

The idea behind the one ratio is that it will immediately signal to banks whether they are in compliance with CRA and will pass their next exam. While all stakeholders seek clarity in CRA, the one ratio is a solution in search of a problem. Passing CRA exams is not a problem since 98 percent of banks have passed their exams over the last several years.

While not necessary to ease banker anxiety about passing CRA exams, the one ratio threatens to render CRA ineffective in making sure banks respond to local needs. 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." The key word is local. One ratio 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.

The OCC's ANPR discusses the need to expand CRA exams to assess bank lending in areas beyond bank branches but does so in a way that further supports the one ratio concept. The ANPR says bank lending and deposit taking in geographical areas beyond bank branches has been increasing and that CRA exams should scrutinize this activity. However, the ANPR then hints that the dollar amount of this activity could be added to the numerator of the one ratio. Instead, the OCC should establish assessment areas for geographical areas where banks do not have branches but engage in a significant amount of business. This would better facilitate accountability to local needs and public input.

The OCC asks whether CRA consideration should be broadened for additional activities and populations. Industry trade associations have been advocating for CRA consideration for projects that have broad benefits such as financing hospitals that are not necessarily located in low- and moderate-income neighborhoods. However, the OCC must be reminded that the original purpose of CRA was to combat redlining in low- and moderate-income neighborhoods. If CRA exams award points for financing or activities that do not address lack of access to banking or community development needs in lower income neighborhoods, then CRA will be less effective in channeling resources to the communities that were the focus of the 1977 legislation.

For example, the service test is a key measure of what a bank offers LMI communities in its market. If a revised CRA fails to measure bank service, it may disincentivize banks from providing financial education and certain targeted savings accounts, and it may even stop taking into account a bank's record of closing and opening branches in LMI communities.

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Conclusion

In conclusion, meaningful CRA reform could boost lending and access to banking for underserved communities. Strong reform prioritizes the mission of the CRA - expanding access to mainstream banking for underserved communities – over streamlining banking operations and shoring up profits. We also think diminishing the importance of branches and assessment areas and adopting one ratio will decrease lending and access to banking in the communities that need it the most. Lending and access to banking for people and communities of color must also be considered on CRA exams. Finally, mortgage company affiliates of banks must be included on CRA exams, and banks should be rewarded for CRA compliance.

We urge the OCC to go back to the drawing board and develop a reform proposal in conjunction with the Federal Reserve Board and the FDIC that is in alignment with these recommendations.

Thank you for your attention to our comments.

Sincerely,

Jeremie Greer, Vice President, Policy & Research

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