September 9, 2019

The Honorable Jerome H. Powell
Chairman, Federal Reserve Board of Governors
20th Street and Constitution Avenue NW
Washington, DC 20551

The Honorable Joseph Otting
Comptroller of the Currency
400 7th St SW
Washington, DC 20219

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

Dear Chairman Powell, Comptroller Otting, and Chairman McWilliams:

We want to thank you all for reaching out to stakeholders across the country as you draft a Notice of Proposed Rulemaking (NPR) on the Community Reinvestment Act (CRA). We are writing to express our views on two critical issues that are essential to the success of any effort to modernize the CRA: that all three regulators should agree on a common NPR; and that metrics for CRA activity should be workable, flexible, robust, and address community needs.

CRA has successfully encouraged banks to serve low- and moderate-income (LMI) borrowers and communities, influencing where and how mortgages and small business loans are made, whether community development projects are financed, and how banks and communities work together. A properly designed regulatory framework will serve both communities and banks well for the next decade or longer. A fragmented and poorly designed framework would be disruptive to banks and communities and would likely be revisited after only a short time.

First, it is important that the three prudential banking agencies issue uniform CRA regulations. With few exceptions, the agencies have maintained substantially identical regulations since CRA's enactment in 1977. Failure to act in coordination would perpetuate confusion and inconsistency and would create competitive inequities. While we share the desire to move forward with modernization, neither banks nor communities can have confidence that a new regulatory regime will endure without regulatory consensus and broad stakeholder support. A lack of regulatory consensus now will invite reversal by future regulators.

Second, there is broad agreement that well-designed metrics can provide greater clarity, consistency and transparency for banks and be impactful for LMI borrowers and communities. Enhancing benchmarks within component tests can provide greater clarity for banks in a way that is also meaningful for communities.

However, we would have serious concerns about a metrics framework based primarily on a ratio of the aggregate dollar volume of a bank's CRA balance sheet to the bank's deposit or asset base, whether at the assessment area level or institution-wide, that would drive a presumptive CRA rating.

- A dollar volume metric would not adequately reflect the diversity of bank models, products, services or markets, or adequately express the many ways banks help to meet the needs of their communities. A dollar volume metric could also inadvertently create winners and losers due to the wide array of bank business strategies and operating models that exist in the U.S. banking system. A metric that conflates all kinds of financing would also obscure the degree to which banks are responsive to local community needs identified as part of the performance context.

- A primary focus on the dollar volume of activity incents banks to hit their targets in the fastest, easiest ways possible rather than to focus on meeting community needs. Some of the most impactful CRA activities are complex, time consuming, illiquid, or require banks to hold more capital. CRA has provided an important counterweight to these obstacles. In addition, a dollar-volume driven metric would favor larger loans over smaller ones, even though smaller loans may be important to communities and harder to obtain. It is far from certain that applying multipliers to certain favored activities would effectively offset the dominant imperative to achieve volume. It is more likely that such multipliers will add considerable complexity, require constant adjustment, and still fail to take into account local needs, opportunities, priorities and impact.

- In some circumstances, a dollar volume target or quota could be construed to require banks to make loans and investments regardless of market opportunities. In other situations, it would leave community needs unmet. For over 40 years policy makers have been careful to keep CRA from becoming a form of credit allocation. The agencies should not abandon this principle.

- Properly designed CRA metrics must work well in all phases of the economic cycle. Opportunities to lend and invest will vary as interest rates and economic conditions rise and fall. A dollar volume metric cannot meet this standard without frequent adjustments on the national, and in some cases, local level. Such adjustments will inevitably defeat the objectives of predictability, clarity, simplicity and transparency.

- Metrics based solely on the CRA assets a bank holds on its balance sheet would discount or effectively ignore the degree to which banks originate and then sell loans and investments. Originating and selling loans on the secondary market provides important liquidity and is the standard practice for home mortgages (including housing finance agency programs) and, for some banks, multifamily mortgages and SBA-guaranteed loans. CRA should neither disrupt not discount these business practices, which also contribute to communities by bringing them into the financial mainstream. Banks with limited portfolio capacity will be unfairly punished by a CRA policy that ignores or greatly discounts loans they originate and sell. Banks that do have greater portfolio capacity will be more incented to retain existing loans than to make new ones.

- CRA is now an abundant resource for communities because banks receive more credit for doing more, consistent with safety and soundness. But a dollar volume target would reduce CRA to a limited resource, for which each eligible activity must compete against all others. If CRA activity is to be rationed, then the threshold for eligibility will have to be rigorous, the best will become the enemy of the good, and in some cases burdensome documentation will be required to screen out activities whose benefits are harder to prove.

CRA has a distinguished 42-year long history of encouraging lending to LMI borrowers and investment in LMI and underserved areas and encouraging community outreach and partnerships. Regulators made significant changes to the CRA regulatory framework in 1995 and 2005. Since then, enormous changes have occurred in banking, communities, and reinvestment practices. Modernizing the CRA regulation is worth doing right, even if it requires compromise among the agencies and takes longer than many of us would wish. We look forward to working with all of you to make this potentially historic initiative a success for banks, advocates, regulators and most importantly, the communities that we all serve.

Thank you for taking our views into consideration as you work on this critically important issue.

National Association of Affordable Housing Lenders
National Community Reinvestment Coalition
National Housing Conference
Affordable Housing Tax Credit Coalition
Center for Responsible Lending
Community Development Venture Capital Alliance
Consumer Federation of America
Enterprise Community Partners
Housing Partnership Network
Leadership Conference on Civil and Human Rights
Local Initiatives Support Corporation
Low Income Investment Fund
Mortgage Bankers Association
National Apartment Association
National Association of State and Local Equity Funds
National Coalition for Asian Pacific American Community Development
National Community Stabilization Trust
National Council of State Housing Agencies
National Housing Trust
National Multifamily Housing Council

National NeighborWorks Association
National Urban League
NYU Furman Center
Opportunity Finance Network
Stewards of Affordable Housing for the Future
Ohio Capital Corporation for Housing
SKA Marin
Tennessee Housing Development Agency