NCRC

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ECONOMIC OPPORTUNITY

October 17, 2017

RE: Community Reinvestment Act Regulations and HMDA definitions

Docket ID OCC-2017-0008

Docket FRB No. R-1574, RIN 7100-AE84

Docket FDIC No. RIN 3064-AE58

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC), a coalition of 600 community-based nonprofit organizations, community development organizations, fair housing and civil rights organizations, believes it is appropriate for the federal bank agencies to update the definitions of home mortgage and consumer loans in the Community Reinvestment Act (CRA) regulations to conform to the updates to the Home Mortgage Disclosure Act (HMDA) regulations promulgated by the Consumer Financial Protection Bureau (CFPB) as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. At the same time, NCRC maintains that the federal bank agencies should update CRA examination procedures and regulation in order to improve the rigor and precision of examining home and consumer lending in CRA evaluations.

The updated HMDA regulations now include home equity lines of credit, home equity loans, and reverse mortgages if these loans are real estate secured. Some banks have expressed concern that home equity lending is used primarily by middle- and upper-income (MUI) borrowers so that including home equity lending in evaluations of home loans on CRA exams will lower the percentage of loans made to low- and moderate-income (LMI) borrowers. A solution to this is to evaluate home equity lending separately from other types of home lending. Some CRA exams currently evaluate home purchase, refinance, and home improvement lending separately because these loans respond to different credit needs and also have different borrower income mixes. More consistency in separately evaluating various loan types will respond to banker concerns and will also be more precise in assessing the extent to which banks respond effectively to different credit needs.

In addition, the agencies state that performance context analysis will affect how home equity lines of credit are considered on CRA exams. Carefully executed, performance context analysis can appropriately weight the impact of various loans depending on community needs and the bank's major lines of business on the lending test's rating. Performance context can also take into account economic and demographic factors. Analyzing home equity lending separately can facilitate rigorous performance context analysis.

For several years, NCRC has advocated considering purchases of loans separately from originations of loans on CRA exams. Considering loan purchases and originations together risks inflating ratings, particularly when banks purchase large quantities of loans shortly before their CRA evaluations. In the mid-2000s, the agencies considered but then withdrew a proposal to report purchases separately from originations on CRA exams. Not only must purchases be reported separately from originations, they must be evaluated separately to boost rigor and prevent gaming CRA evaluations.

The proposed changes to the definition of consumer lending to conform to the HMDA changes are appropriate, but NCRC urges the agencies to revise the treatment of consumer lending in CRA exams. Currently, consumer lending is evaluated only if consumer lending constitutes the "substantial majority" of a bank's business. NCRC urges the agencies to change "substantial majority" to a "significant amount" of a bank's business. Lending has evolved over the years and bank consumer lending has been considered as an alternative to high cost payday lending offered by non-bank institutions. In order for banks to be encouraged to offer responsible consumer lending, CRA exams must evaluate such lending if it is offered in significant volumes. Community group comments and concerns about any bank's consumer lending could be more readily accommodated if the wording in the regulation was changed from "substantial majority" to "significant amount." Finally, NCRC finds it contrary to the intent of CRA for large credit card lenders to avoid scrutiny of their credit card lending by declaring themselves wholesale and limited purpose banks subject to only a community development test. Since CRA is devoted to determining whether lenders are responding to credit needs, it is an evasion of CRA's obligations when large credit card banks do not have their credit card lending evaluated to determine if such lending is responsibly responding to credit needs.

Since HMDA data will no longer include the collection and dissemination of home improvement lending that is not secured by residential real estate, the agencies propose to allow banks to collect data on this lending and to include it as "other" consumer lending on their evaluations. NCRC would urge the agencies to include unsecured home improvement lending on CRA evaluations if the lending is a significant line of business for the bank for the same reasons that consumer lending must be evaluated when that lending is offered in high volumes.

NCRC thanks you for the opportunity to comment on this important matter. If you have further questions, please contact me or Josh Silver, Senior Advisor, on 202-628-8866.

Sincerely,

John Taylor
President and CEO