NEW YORK HOUSING CONFERENCE

November 19, 2018

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Submitted electronically via regulations.gov

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

I am writing on behalf of New York Housing Conference (NYHC) in response to the Office of the Comptroller of the Currency's (OCC) Advanced Notice of Proposed Rulemaking (ANPR) seeking comments regarding the Community Reinvestment Act (CRA). NYHC is a nonprofit affordable housing policy and advocacy organization. We represent a statewide coalition of affordable housing practitioners, advocates and experts in real estate, finance and community development. Our mission is to advance City, State and Federal policies to support the development and preservation of decent and affordable housing for *all* New Yorkers.

CRA requires banks to lend money, provide services and support community development activities in the local communities, where they are chartered to do business or receive deposits. In 1977, this pivotal law was passed to combat the practice known as redlining (discriminatory credit policies and practices against low-income and minority neighborhoods) by requiring banks to help meet the credit needs of the entire local community, including low- and moderate-income (LMI) neighborhoods. As a result, over the past forty years, CRA has leveraged trillions of dollars in loans, investments and services for LMI communities nationwide and billions annually in New York City, where NYHC is located.[1]

CRA regulations consider affordable housing to be a key component of community development, and as a result, banks represent one of the most important sources of affordable multifamily housing investment due to their investments in Low Income Housing Tax Credits (LIHTC) and Tax-Exempt Private Activity Multifamily Housing Bonds and loans and letters of credit to affordable housing developers. With renters representing over two thirds of New York City's population, and the majority of them living in multifamily apartment buildings, New York greatly relies on affordable multifamily housing development and preservation investment to protect the housing affordability for thousands of New Yorkers.[2] Equally important is affordable homeownership opportunities and access to financing for residents of low and moderate-income communities, offering the chance to build wealth and bring stability to neighborhoods. The Association for Neighborhood and Housing Development estimates that over 330,000 affordable multifamily housing units have been built in New York City alone due to CRA-leveraged private loans and investments since the law's passage.[3]

In New York, CRA has not only created a vital and dependable source of affordable multifamily housing investment, it also has expanded homeownership opportunities and resources, provided vital banking services to underserved neighborhoods, and had an overall positive impact on the economy by creating jobs and promoting small business development in LMI communities. NYHC is deeply concerned that

[1] ANHD. 2018. The State of Bank Reinvestment in New York City: 2017.
[2] NYU Furman Center. 2018. State of New York City's Housing and Neighborhoods in 2017.
[3] ANHD. 2018. The State of Bank Reinvestment in New York City: 2017.

OCC's current approach to reforming this critical law, outlined in the ANPR, would significantly diminish the value and quality of bank-supported community reinvestment. We urge the OCC to work jointly with the other federal regulators– the FDIC and the Federal Reserve- to improve CRA's effectiveness in response to recent changes in banking and technology providing banks with a consistent and transparent system that allocates CRA credit for responsible, safe, and equitable community services, lending and investments. NYHC's strongly believes in order for any CRA reforms to be valuable and successful, not only must they be the product of joint rulemaking, but they also must preserve and strengthen CRA's standards for local community reinvestment. It is with this perspective that we offer the following comments to some of the proposals discussed in the ANPR:

We are concerned that the OCC's "transformational approach to the CRA regulatory framework" or 'one-ratio', as it has been commonly called, could reduce most or all of a bank's CRA evaluation to a simple mathematical formula that would make CRA exams considerably less effective in evaluating how banks are responding to local needs. The one-ratio would consist of the dollar amount of a bank's CRA activities divided by the bank's assets. While we recognize the need to modernize CRA, make rules clearer for banks and provide greater flexibility to financial institutions, the proposed metric is too simplistic and would not be able to accurately assess a bank's local performance.

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."[4] The critical word is local. CRA exams currently evaluate and rate bank performance in geographically based assessment areas where banks have branches or ATMs. Due to this local obligation, banks invest in having local CRA teams, with devoted staff and resources tailored to the local needs of community and market. However, the OCC's proposed one-ratio approach could encourage a bank to strive for one large target number goal and as a result could negatively impact its approach to and the quality of its community lending, services, and investment. It could lead to the reduction of branches and services in LMI areas, and the loss of incentive for banks to make innovative and impactful loans, products and investments targeted for LMI communities.

The NYHC is particularly concerned that the one ratio approach could make financial institutions less likely to invest in LIHTC, as transactions can be complex and time-consuming, which would reduce the demand for LIHTC and the amount of private equity generated for affordable housing projects. This would lead to a decrease in affordable housing production, jobs and economic development activity in New York and across the country. In New York State alone, LIHTC annually generates 26,000 affordable housing units, 66,000 thousand jobs and $11 billion in economic activity.[5]

Currently, CRA examiners evaluate bank performance based on both qualitative and quantitative data. Examiners are required to solicit and consider comments from community stakeholders about a bank's performance in its assessment areas. This is a vital part of CRA. This qualitative layer of CRA exams helps ensure that banks are held accountable to the communities in which they operate. The OCC's one-ratio proposal is solely quantitative in its approach to CRA performance measurement, and will not be able to tell an examiner, a bank, or a member of the public how responsive a bank is to the needs of the local communities in its assessment areas. This approach would result in the loss of the local community's voice on whether a bank's community investments are actually meeting their needs.

Under CRA, banks are required to lend and provide services equitably to the members of the local community where they operate. In line with the historical purpose of the legislation, CRA should aim to benefit disadvantaged communities with recognition that more must be done to eliminate racial wealth gaps and racial disparities in homeownership rates. Furthermore, investments that threaten the stability

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[4] 12 U.S.C. 2901 (a)

[5] NYSAFAH. 2017. Report on Economic Impacts of Affordable Housing on New York State's Economy by HR&A Advisors Inc.

of LMI neighborhoods or those with potential to cause tenant displacement, especially financing predicated on aggressive turnover rates in rent stabilized housing, should not receive CRA credit.

In conclusion, CRA is an invaluable resource for LMI communities in NY and across the country. NYHC urges the OCC to work jointly with the Federal Reserve Board and the FDIC to develop new reform proposals that could concurrently serve to create a clear and consistent CRA grading system for banks while also protecting lending, investments and services that meet the needs of underserved communities.

Sincerely,

Rachel Fee
Executive Director, New York Housing Conference