April 8, 2020

Comment regarding "Reforming the Community Reinvestment Act Regulatory Framework"
RE: Docket ID OCC-2018-0008

Prosperity Indiana appreciates the opportunity to comment regarding the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) proposed regulations regarding the Community Reinvestment Act (CRA). Since 1996, banks have issued almost $2 trillion in loans and investments in low- and moderate-income communities, ensuring more individuals have the opportunity prosper and become homeowners, more businesses receive loans to grow and thrive, and more community development organizations can expand their work to revitalize neighborhoods. CRA is a critical tool to address equity in lending, access to credit, and investments in underserved communities.

Prosperity Indiana is a network of nearly 200 organizations and individuals committed to advancing community economic development statewide. The focus of our efforts is to ensure everyone can enjoy equal economic and social opportunities and live in thriving communities. In carrying out this work, we know how critical CRA is to ensuring that areas and/or projects that would not otherwise receive investment can secure critical capital from banks through loans and investments for affordable housing and economic development. These investments and credit services spark neighborhood revitalization and help more Hoosiers achieve and maintain economic success.

The timing of the closing of this comment period comes at an especially unfortunate time, as Indiana is under a public health emergency under the COVID-19 pandemic, which has caused Prosperity Indiana and most of our member organizations to dramatically alter our business operations. Like many of our community economic development members we serve, Prosperity Indiana has been called upon to shift much of our focus to immediate needs brought about by the pandemic. Many of those members and their partners across Indiana who are on the front lines of serving their communities do not have the time or resources needed to provide comments to these proposed CRA rule changes in the middle of the pandemic. We therefore ask that you give additional consideration to the comments of the organizations who represent those addressing those hardest hit during this pandemic.

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With that in mind, we have strong concerns about how the proposed substantial revisions to the CRA's regulations do not all appear to align with the intent of the Act. And while the CRA was established to address a legacy of redlining and divestment in low- and moderate-income (LMI) communities, the proposed changes raise concerns about how it will affect CRA's charge to affirmatively meet the community needs for credit and services in LMI communities. Prosperity Indiana has identified core issues of critical concern in the NPR, which would result in diluting benefits for LMI communities and lead to exacerbating banking deserts for these communities. Prosperity Indiana has categorized the damaging impacts of the NPR into three key areas: what counts, how it counts, and where it counts.

**What counts:** By broadening what bank activities count as CRA-qualifying and diluting the focus of bank activities on LMI consumers and communities, the changes would weaken the ability of the CRA to specifically target services to those LMI communities. Deleting 'economic development' & 'revitalization/stabilization' of LMI communities from the definition of community development would take emphasis away from rehabilitating communities impacted by the legacy of redlining and ensuring stability of those who would fall prey to it if regulations are weakened. Introducing a 'non-exhaustive' list of eligible activities that includes a definition of 'infrastructure' for activities that are not clearly limited to LMI communities (such as roads and even sports stadiums) would further lessen the impact of targeted investment. In addition, no longer considering key bank services (such as deposit accounts) as qualified activities could lead to proliferation of check-cashing, payday lending and other subprime services and further drive banking deserts if the NPR is finalized. And by counting financial education for all income levels and widening the definition of community development services to include all volunteer activities, the NPR would reduce the CRA's intended focus and impact on LMI communities.

**Where it counts:** Because the NPR limits consideration of bank branches more than under the current CRA service test, it would introduce uncertain effects for banks and the communities, non-profits, and individuals they serve in Indiana. And while assessment areas are updated in ways that aim to account for the proliferation of internet-based banks, there is much that is left vague or unknown about how the new regulations would assign deposits collected via the internet to branches. The NPR also notes that there is an allowance for credit for qualifying activities conducted outside of bank assessment areas. We continue to have concerns about how these changes will impact investment in small non-profits in Indiana.

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**How it counts:** The proposal dramatically and irresponsibly expands what activities would be eligible for CRA credit. CRA serves Indiana's communities by driving resources – we otherwise could not access – to places where they are needed. These resources address the financial and community development needs identified and prioritized by local communities. Switching to a "non-exhaustive list" of eligible activities – to include infrastructure, transportation, and even sports stadiums – removes Indiana's community voices from determining our own needs. Under this NPR, retail lending analysis would count for much less under the new proposed exams, which could exacerbate banking deserts. Potential impacts of a 'one ratio test' include a reduction in valuing retail branches in LMI communities and the potential to encourage an over-reliance on the largest and easiest deals at the expense of small-dollar business and home mortgage lending in LMI communities and a reduction in partnerships with small non-profits who make significant local impact in LMI communities. The regulations would also result in the lack of differentiation for asset classes, meaning state or regional banks are being compared to the largest banks on performance.

This single-ratio approach completely disregards whether the community development and financial needs of an area are being served by the bank or its investments. And as a result, the nearly 200 organizations that make up Prosperity Indiana's membership, that have served our neighborhoods for years, and whose experience and expertise is seriously considered as part of the current CRA examination process, will be rendered voiceless. We would no longer be able to identify and prioritize our needs. Nor would our members and partners be taken as seriously by examiners when bank actors behave inappropriately in our community.

The single ratio is a deeply flawed concept. This was made clear during previous public comment periods. Yet it still remains part of this proposed rule. Please listen to our members from across Indiana during this period. The single ratio must be discarded.

Further, the rule proposes that a bank must meet investment benchmarks in only a "significant portion" of its assessment areas in order to receive a satisfactory or outstanding rating. The rule suggests that a "significant portion" be defined as something more than 50 percent. That approach would legalize and encourage redlining! Communities like those that our members represent across the entire state of Indiana will be in the areas that are left behind. Permitting such behavior would bring us back to an era where financial institutions had the option to draw

red lines around—and deny financial services to—poor neighborhoods and all neighborhoods of color. Except this time, it's worse because we understand, yet choose to ignore, history.
The OCC and FDIC acting without the participation of the Federal Reserve risks producing three separate sets of CRA regulations. That makes everyone's job more complicated, less transparent, and results in confusion. And in the end, Indiana's communities will lose.

The problems of the single ratio, the overly broad definitions of CRA-eligible investments, the gutting of communities' voices, the speedy rule-making process, the credibility gap created by the Federal Reserve's absence, and the lack of good faith and outreach from the OCC that drove this reckless proposal make it beyond repair.

Because the CRA was originally enacted to end redlining, the primary goal of CRA modernization should continue to prioritize the problem CRA was intended to fix. Above all, it is critical for any CRA modernization to preserve the original intent of the CRA. But unfortunately, by damaging what counts in the CRA, where it counts, and how it counts, this proposal prioritizes policy compliance over impact and outcomes for the LMI families and communities that Prosperity Indiana and its members serve.

On behalf of the low- and moderate-income people and places Prosperity Indiana serves, we ask that you please discard this proposal and start again. But if this rule does move forward, please keep our recommendations for Indiana's communities at the forefront of the final rules.

Thank you for your thoughtful consideration of these comments.

Sincerely,

Jessica Love
Executive Director

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