October 29, 2021

Department of the Treasury
Office of the Comptroller of the Currency

Comment on OCC Proposal to Rescind its 2020 rule regarding the Community Reinvestment Act Regulations, Docket ID OCC-2021-0014

Prosperity Indiana appreciates the opportunity to comment regarding the Community Reinvestment Act: Proposal to Rescind and Replace Community Reinvestment Act Rule Issued in 2020. We join our state and national partners in strongly supporting the proposed rescission of the harmful 2020 Office of the Comptroller of the Currency's (OCC's) final rule on the Community Reinvestment Act (CRA).

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.

When this rule was being considered in April of 2020, our membership was strongly concerned not only with the timing and short period of public commenting, which came during the very beginning of the COVID-19 public health emergency, but with the content of the rule which our members believed would undermine the purpose of CRA. In the eighteen months that have followed, the serious damage from the ongoing pandemic has only strengthened the weight of those comments.

What's at stake in Indiana?

Every Indiana community has a stake in strengthening the CRA, from our small towns to growing suburban areas to the core urban areas. This is true from Angola, which saw $130.3 million in mortgages or loans to LMI borrowers or neighborhoods from 2009 through 2018, $0 in business loans to LMI neighborhoods, and $97.2 million in loans to small businesses, to

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Warsaw with $277 million in mortgages to LMI borrowers or neighborhoods, $36.1 million in business loans to LMI neighborhoods, and $271.4 million in loans to small businesses. And in our state's largest metro area of Indianapolis-Carmel-Anderson, which itself spans a large city, a wealthy suburb, and a former industrial center now facing challenges, mortgages to LMI borrowers or neighborhoods totaled $14.2 billion from 2009 through 2018, with $3.9 billion in business loans to LMI neighborhoods, and nearly $4 billion in loans to small business. Indiana's communities from smallest to largest can't risk a weakening of the CRA from the rule OCC is rightfully considering rescinding, that would have allowed an increase in discrimination in lending.

Strengthening CRA is a critical component of a just recovery

Indiana communities who have been hardest-hit and are still battling the public health, economic, and housing impacts of COVID-19 are the same who carry the ongoing scars of redlining. The National Community Reinvestment Coalition (NCRC) recently released a major report finding significant correlations between redlining and susceptibility to COVID, including Evansville, Fort Wayne, Indianapolis, Gary and Lake County, Muncie, South Bend, and Terre Haute. In the 1930s, the Home Owners Loan Corporation (HOLC) commissioned the production of maps that rated neighborhoods based on the risk of lending in them. Working class and minority neighborhoods usually received the riskiest designation of hazardous. The designations subsequently facilitated redlining and discrimination against these neighborhoods, which remain starved of credit and are predominantly lower-income and minority. These neighborhoods also have the highest incidence of health conditions such as asthma, diabetes, kidney disease and stroke, which make residents more susceptible to COVID-19. Life expectancy is almost four years lower in the redlined communities than the neighborhoods not designated as hazardous by HOLC.

In Indiana, the pandemic has disproportionately affected communities of color in additional ways. For example, according to the Federal Reserve Bank of Atlanta's Unemployment Claims Monitor, through October 23, 2021, Black Hoosiers continue to file 27.9% of unemployment insurance claims during the pandemic, although they make up only 9.4% of the labor force.

While we have not seen state-level data about Indiana's Black-owned businesses, reports from the experiences of our members throughout the state align with nationwide trends showing a disproportionate impact on these businesses. Since the start of the pandemic, more

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than 440,000 African American businesses (41%) have been closed nationwide, compared to just 17% of White-owned small businesses. Discrimination in lending contributes significantly to racial disparities in small business survival rates. An NCRC investigation found that African American testers applying for Paycheck Protection Program (PPP) loans for their small businesses during the pandemic were likely to receive less information or encouragement to apply than White testers. We do not need state-level data to confirm the impact, and we cannot afford to see the CRA watered down in the meantime. CRA must be strengthened considerably in order to combat discrimination and help our communities recover from the pandemic.

These are among many reasons why Prosperity Indiana and our membership opposed the OCC rule in question, and why we support the move to rescind it now. Our members strongly believe that elements of the rule are not at all aligned 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 changes in the rule raised concerns about how it would affect CRA's charge to affirmatively meet the community needs for credit and services in LMI communities. Prosperity Indiana identified core issues of critical concern in the rule which would result in diluting benefits for LMI communities and lead to exacerbating banking deserts for these communities. We categorized the damaging impacts of the rule into three key areas: what counts, how it counts, and where it counts.

We also agree with the following NCRC analysis of the dangers of the final 2020 OCC rule, finding that the rule would decrease lending, investment and services in low- and moderate-income and formerly redlined communities contrary to the statutory purpose of CRA which directs banks to reinvest in these communities. The OCC final rule would do so by:

- Creating a dominant evaluation measure that would consist of a ratio of the dollar amount of CRA activities divided by deposits. This would provide powerful incentives for banks to finance deals and activities with the largest dollar amounts regardless of their benefits (or lack thereof) in LMI communities.
- Redefine activities that count on CRA exams to include large infrastructure projects such as bridges that are allowed to only partially benefit LMI people and communities. This would provide even more incentive to neglect LMI communities.
- Replace a graded lending test with a pass/fail lending test. This diminishes a critical subtest of the CRA exam that assesses the extent to which banks are making loans in LMI and underserved communities.

- Eliminate the service test of the large bank exam that pays close attention to the distribution of branches in LMI communities and bank services offered in these communities.
- Minimizes public input into CRA exams by no longer requiring examiners to consider the public's comments on bank CRA performance.

Prosperity Indiana agrees with our state and national partners that the final OCC final rule must be rescinded in its entirety. 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, the final OCC rule prioritized 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 applaud OCC for acting to rescind this deeply flawed rule, and urge the agency to begin again with these principles foremost in mind.

Sincerely,

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