



June 26, 2020

Dear Representative:

We, the undersigned organizations, write to express our strong support for H.J. Res. 90, a Congressional Review Act resolution of disapproval that will nullify a rulemaking by the Office of the Comptroller of the Currency (OCC) that, if allowed to stand, would drastically undermine one of our nation's most important civil rights laws, the Community Reinvestment Act of 1977 (the CRA).

Enacted in 1977, the Community Reinvestment Act (CRA) has been vital in fighting redlining, a practice that systematically – and for decades, as a matter of federal policy – shut neighborhoods of color and lower-income communities out from home loans and other essential financial services. The CRA requires banks to undertake reasonable efforts to lend to and invest in all of the neighborhoods in areas where they do business. The law has helped to spur increased investments in formerly-redlined communities. It did not, however, prevent non-bank lenders (who are not subject to the CRA) from flooding communities of color with toxic subprime mortgages in the years before the 2008 crisis; and research shows that racial disparities in lending – which cannot be explained away by differences in credit scores – persist to this day.¹

It is clear that the CRA needs to be modernized and strengthened in order to fulfill its original purpose. But in January, the OCC and the Federal Deposit Insurance Corporation (FDIC) published a Notice of Proposed Rulemaking (NPRM) that would instead significantly weaken the CRA. The agencies proposed new overly simplistic metrics system that would make it far easier for banks to pass their CRA exams by making large investments in communities where they can reap the largest rewards, rather than carefully-targeted, smaller investments in underserved consumers and neighborhoods.

Even before the NPRM was published, a wide range of stakeholders weighed in with both the OCC and FDIC to raise concerns and to ask for more data justifying the changes. Those concerns were not addressed, and the data was never released. By the time the NPRM was published, the United States and the world were just beginning to learn about the growing threat posed by a dangerous new respiratory virus. In the coming weeks, it became clear that the virus had not been contained, and it spread rapidly to multiple countries including the United States. As stakeholders and the public began devoting more and more resources and attention to the health, social, and economic fallout of the growing pandemic, and many urged the OCC and FDIC to

¹ See, e.g., Aaron Glantz and Emmanuel Martinez, “Kept Out: For People of Color, Banks are Shutting the Door to Homeownership,” Reveal/Center for Investigative Reporting, Feb. 15, 2018, at <https://bit.ly/3db1r8l>.

temporarily suspend rulemaking not related to COVID-19,² the agencies continued plowing ahead, only agreeing to a one-month extension for comments.

In the days before the deadline for comments on the rule, it had become clear that COVID-19 was proving fatal to communities of color – the very communities the CRA was intended to help – at a rate several times higher than the population at large;³ the U.S. Surgeon General warned the public to prepare for “our 9/11 moment,”⁴ and models predicted 100,000 or more deaths in the United States alone. Only 41 days after the comment period ended,⁵ and even though only a minority of commenters voiced support for the new framework,⁶ the OCC rushed through a final rule that left it largely intact. The FDIC, to its credit, declined to finalize its version of the rule at this time.

In the weeks since the OCC finalized its rule, our nation has been facing a long-overdue reckoning with our troubled legacy of racial and ethnic discrimination. While much of the conversation has rightly been focused on police brutality and the impact of over-policing in communities of color, this conversation is inexorably tied to the lasting economic, social, and legal legacy of redlining and other forms of racial discrimination.

We will not succeed in addressing issues surrounding law enforcement in communities of color without also addressing decades of underinvestment in housing, employment, education, health care, transportation, and other factors that, to this day, have contributed to the longstanding disparities that are once again coming to light. Now is certainly not the time to weaken the most important civil rights laws we have at our disposal to correct those disparities.

As such, we urge Congress to support H.J. Res. 90, to overturn the OCC’s regulatory attack on the Community Reinvestment Act. Thank you for your consideration.

Sincerely

9to5, National Association of Working Women
Alianza Nacional de Campesinas
Alliance for Justice
Americans for Financial Reform
Andrew Goodman Foundation
AREAA - Asian Real Estate Association of America

² See, e.g., Independent Community Bankers of America, ICBA’s COVID-19 Agency Rulemaking Delay Letter, March 30, at <https://bit.ly/3fB2U9H>.

³ Reis Thebault, Andrew Ba Tran, and Vanessa Williams, “The Coronavirus is Infecting and Killing Black Americans at an Alarming High Rate,” Washington Post, April 7, 2020, at <https://wapo.st/3edPpfQ>.

⁴ Isaac Stanley-Becker, Aaron Gregg, and William Booth, “Americans Warned of ‘Pearl Harbor Moment’ as Trump Tells Parts of the Nation to Brace for ‘Peak,’” Washington Post, April 5, 2020, at <https://wapo.st/3ebbz2c>.

⁵ Brendan Pedersen, “OCC Goes it Alone on Narrower CRA Rule,” American Banker, May 20, 2020, at <https://www.americanbanker.com/news/occ-goes-it-alone-on-narrower-cra-rule>.

⁶ Office of the Comptroller of the Currency, Final Rule, Community Reinvestment Act Regulation, RIN 1557–AE34, 85 Fed. Reg. 34734, June 5, 2020 (“Although commenters disagreed with the approach outlined in the proposal, the agency ultimately agreed with the minority of commenters who expressed support for the proposed framework,” at 34738).

Bend the Arc: Jewish Action
Campesinos Sin Fronteras
Center for Responsible Lending
Color of Change
Consortium for Ciitizens with Disabilities Housing Task Force
Consumer Action
Equality California
Farmworker Association of Florida
Green For All, a program of Dream Corps
Impact Fund
Japanese American Citizens League
Justice in Aging
The Leadership Conference on Civil and Human Rights
League of Women Voters of the United States
Matthew Shepard Foundation
Multicultural Efforts to end Sexual Assault (MESA)
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Association for Latino Community Asset Builders (NALCAB)
National Association of Consumer Advocates
National Association of Human Rights Workers
National Center for Lesbian Rights
National Community Reinvestment Coalition
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
The National Council of Asian Pacific Americans (NCAPA)
National Council of Churches
National Fair Housing Alliance
National Housing Law Project
National LGBTQ Task Force Action Fund
National Urban League
OCA-Asian Pacific American Advocates
Poverty & Race Research Action Council
Prosperity Now
Service Employees International Union
Silver State Equality-Nevada
Tash
Union for Reform Judaism
Woodstock Institute