April 6, 2020

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th St, SW, Suite 3E-218
Washington, DC 20219

Re: Community Reinvestment Act Regulations, Docket ID OCC-2018-0008

To Whom It May Concern:

BlueHub Capital, a 35-year-old, national community development financial institution (CDFI), appreciates the opportunity to comment on Docket ID OCC 2018-0008 a proposed rule regarding Community Reinvestment Act regulation.

Since making our first loan in 1985, BlueHub (formerly Boston Community Capital) has invested over $2.1 billion and leveraged another $10 billion in public and private capital for underserved communities across the United States. Through its three main affiliates, BlueHub Capital offers a broad range of innovative financial tools united by the common purpose of connecting communities with the resources they need to thrive. The BlueHub Loan Fund—rated A- with a stable outlook by S&P Global Ratings—finances affordable housing, childcare centers, youth programs, schools, healthcare facilities, and other vital community resources; BlueHub SUN prevents families from losing their homes to foreclosure; and BlueHub Energy ensures that low-income communities are able to participate in the benefits of solar energy.

Throughout our history, we have seen the critical role that CRA has played in generating both the investment capital that has allowed us to finance critical affordable housing, economic development and community facility projects serving low income communities and the direct loans and investments to low income households and busineses.

Overview

Reforms to the regulatory framework of the Community Reinvestment Act (CRA) must advance the primary purpose of the statute: assuring that banks provide appropriate access to capital and credit to low- and moderate-income (LMI) people and places. Over the past 40 years, CRA has helped bring affordable housing, small businesses, jobs, and banking services to underserved communities. Any modernization must build on this successful record.

Performance Evaluation

Questions referenced: 14-19

The performance evaluation process outlined in the Notice of Proposed Rulemaking (NPR) would significantly weaken the banking industry's requirements to serve low wealth markets. A metric relying on a ratio comparing the dollar volume of a bank's CRA activities to its size is insufficiently responsive to local community needs and economic conditions. Instead of the specific credit needs of a local market driving a bank's CRA activities, banks would be evaluated on their ability to meet a certain dollar volume goal to achieve a satisfactory or outstanding rating. Performance context, as it is defined in the current CRA regulations, would be an afterthought in the OCC-FDIC proposal. This flaw in the performance evaluation design is so fundamental that it outweighs any other positive changes included in the NPR.

Under the dollar volume ratio framework, banks will be incented to make the largest, easiest investments in communities that need it least. This approach devalues smaller, more impactful, loans such as those made in LMI markets where incomes and home values are lower or most transactions involving CDFIs.

The proposed framework requires a 6% minimum ratio to obtain a Satisfactory rating and a 11% minimum ratio to obtain an Outstanding rating. Two percent of the ratio must be in the form of community development loans and investments. The remaining 4% (Satisfactory) or 9% (Outstanding) could be met through a bank's retail lending. Community development loans and investments are significantly more valuable to LMI people and places and should be afforded more weight in any performance evaluation.

The proposed framework also includes a retail lending distribution test similar to the current practice of measuring the number of qualifying retail loans to LMI people and places in assessment areas. Measuring the number of loans, rather than the dollar value of a bank's lending, is preferable as it accords greater weight to the geographic disbursement of CRA activity. It also recognizes that a relatively small loan can have a very positive impact on the LMI individual and community.

The proposal acknowledges the valuable role of CDFIs by providing a multiplier of two for activities undertaken with CDFIs. When taken in the context of the dollar volume ratio framework, the multiplier is unlikely to incent a bank to choose a CDFI transaction over the many other options for higher dollar volume CRA eligible activities.

Assessment Areas

Questions referenced: 11-13

The NPR recommends the creation of a new type of assessment area to complement the existing "facility-based" assessment areas in effect under current CRA regulations. Under the proposal, markets where a bank collects 5% of its deposits would become "deposit-based" assessment areas. This reform is aimed at addressing how the banking industry has evolved to include banks with no or limited "bricks & mortar" presence. It is unlikely that the creation of "deposit-based" assessment areas will do enough to address the "CRA deserts" problem facing rural, Native and other low-wealth markets today. Communities with high concentrations of low-income residents are unlikely to generate the level of bank deposits to trigger the creation of a deposit-based assessment area. Similarly, low population communities are also likely to be missed.

The NPR recommends that CDFIs be accorded the same treatment as Minority Depository Institutions, Women's Depository Institutions and Low-Income Credit Unions for bank investments outside their assessment areas. Allowing banks to receive CRA credit outside their assessment areas for activities clearly targeting LMI people and places such as investments in CDFIs is a positive reform.

Under the proposal, a bank cannot receive a Satisfactory or an Outstanding rating unless it also receives that rating in a "significant portion" of its assessment areas. The NPR proposes that 50% be the threshold used to determine a "significant" portion of a bank's assessment area. A bank should not be able to obtain a Satisfactory or Outstanding rating in a CRA exam if CRA activities meet the performance evaluation measures in only half of the bank's assessment areas.

CRA Eligible Activities

Questions referenced: 1-10

The transparency embraced by the NPR in providing and updating an illustrative list of CRA qualifying activities is welcome. A public list of CRA eligible activities provides clarity and certainty, helping banks make better investment decisions without waiting years after engaging in a transaction to find out if an activity qualifies for CRA credit.

Still, just because an activity may appear on a list of CRA eligible activities does not guarantee any bank will chose to conduct that activity. Highly impactful community development activities such as investments in Indian country will be competing against much larger deals that may allow the bank to meet its dollar volume ratio more quickly and simply.

Under the OCC-FDIC proposal, significant changes regarding CRA eligible activities are proposed in both the retail lending and community development categories.

Retail lending:

Mortgage lending and small loans to businesses and farms are still included in the retail lending test under the proposal. In addition, the NPR recommends adding consumer loans to the retail lending test for banks where that product line accounts for more than 15 percent of a bank's total lending. When evaluating a bank's consumer lending for CRA purposes, the quality of the consumer product is extremely relevant. High-cost credit card, car and student loans which may be detrimental to the financial health of the borrower should not receive CRA credit.

The NPR also proposed increasing the threshold for small business and small farm lending from $1 million to $2 million for both the size of the business and the size of the loan, in spite of the well documented need for smaller dollar lending for business owners. The Federal Reserve's 2019 Small Business Credit Survey found that 92 percent of business owners seeking capital sought financing of less than $1 million, with 57 percent seeking less than $100,000 in financing. [1]

---

[1] "Small Business Credit Survey: 2019 Report on Employer Firms", Federal Reserve Banks, Accessed February 7, 2020. https://www.fedsmallbusiness.org/medialibrary/fedsmallbusiness/files/2019/sbcs-employer-firms-report.pdf

The small business and small farm lending threshold should remain at $1 million for the size of the loan and the size of the business to encourage banks to meet the demonstrated capital needs of small businesses in LMI communities. Doubling the dollar threshold allows banks to obtain CRA credit for making larger loans likely to have been made in the normal course of business.

Community development loans and investments:

The NPR retains affordable housing in the definition of community development but removes references to economic development, revitalization and stabilization. It also weakens the emphasis on meeting the needs of specific communities by permitting larger scale projects or activities with diffuse or unclear benefits to LMI people and places.

Certain eligible activities like affordable housing and financing essential community facilities offer banks a pro rata share of CRA credit based on the direct benefit to LMI people, but this is not consistently applied throughout the proposal. It should be.

Thank you for considering these recommendations.

Sincerely,

Elyse D Cherry

Elyse D. Cherry
Chief Executive Officer