the FAIR HOUSING center

432 N. Superior Street
Toledo, OH 43604-1416
Phone: 419/243-6163
Fax: 419/243-3536
toledofhc.org

Submitted via regulations.gov

April 8, 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

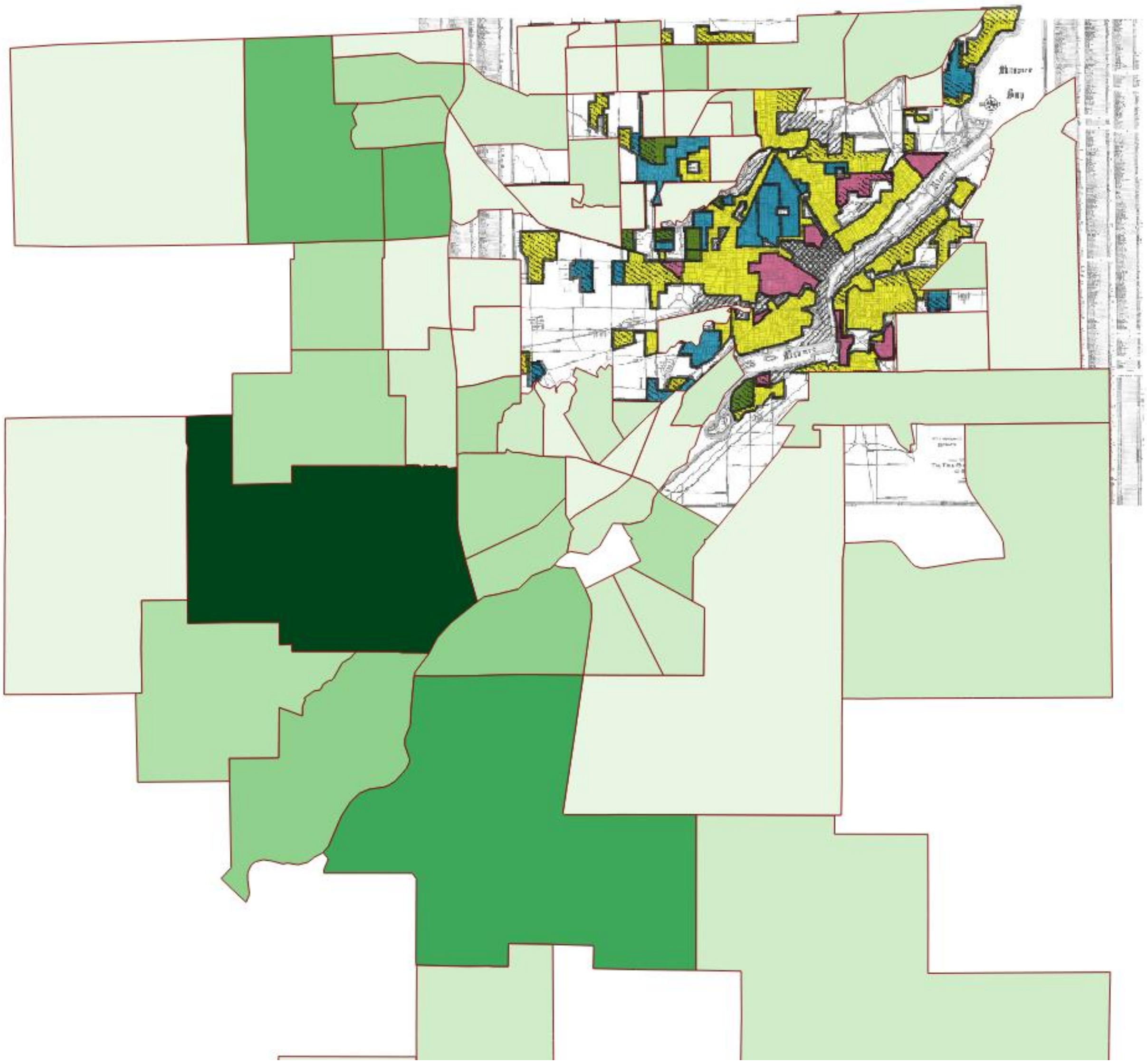
To Whom it May Concern:

The Fair Housing Center opposes the proposed changes to the Community Reinvestment Act (CRA) regulations. In doing so, we join many other organizations across the nation similarly concerned with various aspects of the proposal. However, this is not a "form" comment and we ask that the reviewers please carefully read these comments in their entirety.

The Fair Housing Center stands at a quintessential center-point of the potential harm that the newly opposed regulations would bear. The Fair Housing Center serves the Toledo metro area, including Lucas and Wood counties in Ohio. This is a post-industrial city with a long history, including a history of disinvestment in underserved central-city neighborhoods, especially in majority-minority areas. Congress expressly adopted the CRA to address precisely the issues that The Fair Housing Center's mission, as a fair housing advocacy and enforcement agency, also intends to address. Through its work in the community, and our long history of CRA advocacy, The Fair Housing Center knows the harm the proposed regulations would have specifically in our community.

The ambiguous performance measures on CRA exams proposed would not accurately measure bank's responsiveness to local needs, especially in mid-sized city areas with steep challenges, like Toledo. This development is unfolding even while we know that banks in our area are increasingly failing to provide home loans in LMI and minority areas. As just one example, we provide a visual of the lending patters of one of the largest banks in our area (by deposit share). The map on the follow page (**Graphic 1**) shows the lending patterns for this bank in 2018. It processed nearly 1,000 loans, and originated 629 of those. The darker green areas show census tracts with the largest number of loans issued in those areas, while areas with less than four loans were not shaded at all. The underlying multi-shaded graphic is the 1938 HOLC redlining map. As evident from this map, this bank is focusing its lending activity entirely outside of the traditionally redlined areas, with essentially no lending activity in the central-city LMI neighborhoods that the CRA intends to benefit.

Graphic 1 – Lending pattern for a large bank in the Toledo, Ohio area



Sadly, the general pattern displayed in the graphic above might be described as "typical" for other banks in the Toledo, Ohio area. It is critical that the CRA encourage banks to improve their lending and investment activity. Despite this clear need, and critical role for the CRA, the proposed regulatory changes would further harm neighborhoods in need like those displayed above. As just a few examples, the proposed regulatory change would do the following:

- Lessen CRA's focus on LMI communities in contradiction to the intent of the law to address redlining in and disinvestment from LMI and communities of color;
- Relax the definition of affordable housing to include middle-income housing in high-cost areas;
- Count rental housing as affordable housing if lower-income people could afford to pay the rent without verifying that lower-income people would be tenants;
- Make financing large infrastructure such as bridges would eligible as CRA activity, which would divert banks' attention from community development projects in LMI communities;
- Make financing "athletic" stadiums in Opportunity Zones an eligible activity;
- Allow small businesses and farms that could benefit from CRA to have higher revenues, increasing from $1 million to $2 million for small businesses and as high as $10 million for family farms;

Obviously, these measures would significantly dilute the emphasis, established in the 1995 regulatory changes to CRA, of revitalizing LMI communities with affordable housing, small business development, and community facilities.

However, among all the changes, the reworking of geographical areas of CRA exams could prove the most devasting for "middle-America" areas like Toledo. New areas on exams are situated outside of branch networks but include locations where banks collect a significant amount of deposits. However, the deposit data collected now does not include customer geographical locations when customers open accounts through the internet. In that case, neither the agencies nor the public can assess the impacts of this proposal by estimating the numbers of banks with new areas and what parts of the country would have increased attention. The public does not have a fair chance to offer comments on the effectiveness of significant proposed changes whose impacts are unknown.

Obviously, the proposed changes are likely to divert attention from areas served by branches since the agencies propose to make it easier for banks to engage in CRA-qualified activities outside of areas with branches. Currently, banks can engage in community development activities beyond areas with branches only after satisfactorily serving them. Under the proposed rule, there would be no such restriction, allowing banks to find the easier places anywhere in the county to engage in community development without first responding to needs in the communities with branches. Under such a rule, it is very likely that areas like Toledo, Ohio, could be quickly left behind.

Consistent with this trend, the proposal would also change the evaluation system to further inflate ratings while decreasing the responsiveness of banks to local needs. Now, 98% of banks pass CRA exams; the proposal would likely push this up to 100%. The proposal would create a one ratio measure that consists of the dollar amount of CRA activities divided by deposits. This ratio measure would likely encourage banks to find the largest and easiest deals anywhere in the country as opposed to focusing on local needs, which are often best addressed with smaller dollar financing for small businesses or homeowners. Since banks could fail in one half of the areas on their exams and still pass under the proposal, the likelihood of banks seeking large and easy deals anywhere increases. Again, this increases the likelihood that banks will invest CRA activity elsewhere, outside of areas that need development, such as, for example, the disinvested central-city areas of Toledo.

On another similar note, the proposal would retain a retail test that examines home, small business, and consumer lending to LMI borrowers and communities but constituted only as pass or fail. In contrast, the retail test in place now has ratings and counts for much more of the overall rating. The proposal would eliminate the service test that scrutinizes bank branching and provision of deposit accounts to LMI customers. Replacing this test is a formulaic measure that would result in branches in LMI areas counting for very little in the one ratio and very likely encourage banks to close them.

Finally, The Fair Housing Center opposes the changes to exam schedules. Under the proposal, small banks with assets less than $500 million could opt for their existing streamlined exams instead of the new exams. The new exams would require banks to engage in community development financing while the existing small bank exams do not. A significant subset of these banks which are now required to engage in community development finance would not be required to continue to do so, another loss for the community that appears unjustified, and would particularly harm areas like Toledo.

FDIC Board member Martin Gruenberg commented on the FDIC's and OCC's Notice of Proposed Rulemaking (NPRM) on the Community Reinvestment Act (CRA) by saying that it "is a deeply misconceived proposal that would fundamentally undermine and weaken the Community Reinvestment Act." The Fair Housing Center agrees with this comment. This deeply flawed proposal would result in less activity for communities most in need that were the focus of Congressional passage of CRA in 1977. The changes – less focus on people that are LMI, a simplistic one ratio, a bank could fail in one half of its areas and retail lending and branching would count for less of the rating – would increase grade inflation accompanied by a decrease in lending, investing, and bank services to LMI consumers and LMI communities. This backtracking will violate the agencies' obligation under the statute to ensure that banks are continually serving community needs.

If you have any questions about this comment you may contact George Thomas at gthomas@toledofhc.org.

Sincerely,

George Thomas
Vice President and General Counsel
The Fair Housing Center