

Comments on OCC NPR Rescission and Replacement of Final Rule for the Community Reinvestment Act (CRA)

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National Disability Institute, a 501(c)3 nonprofit corporation, is dedicated to inclusive communities and community development where people with disabilities have the same opportunities to achieve financial stability and security as people without disabilities. For the past 16 years, NDI has led the creation of new knowledge about financial behavior and banking status of individuals with disabilities and their families with the analysis of data collected by the FDIC, the U.S. Census Bureau and the FINRA Investor Education Foundation. NDI reports have brought into focus the challenges of this economically vulnerable population that, when compared to people without disabilities, is twice as likely to be living in poverty, twice as likely to use costly nonbank lending and twice as likely to be unbanked.

During this transition period, before publication of new proposed rules for CRA, banks should be expected and encouraged to provide more lending, investment and financial services “where they are needed most” and to who needs them most to the intentional inclusion of low- and moderate-income (LMI) populations with disabilities.

Under CRA, for over 40 years, banks have a role and responsibility to respond with investment, lending and services to help support the economic recovery of LMI neighborhoods and LMI populations. The disability community strongly supports the need for CRA regulation modernization. Modernization is long overdue for some 22 million working-age adults with disabilities and one in five families with a member with a disability who are disproportionately represented among households living in long-term poverty.

It is of critical importance that the three banking regulators work collaboratively to revise CRA rules to provide greater clarity and guidance for regulated banks to respond to the historical patterns of exclusion and lack of fair and equal access to credit, capital and financial services for low- and moderate-income individuals with disabilities in underserved LMI neighborhoods. Financial institutions have not routinely targeted LMI populations with disabilities as part of investment in workforce development, affordable and accessible housing and technology infrastructure. Financial institutions have not routinely focused on disability-owned small business lending for start-up and growth.

Financial institutions have not been proactive in offering affordable and accessible financial services and building financial capability through financial counseling for LMI individuals with disabilities. Unless the challenges of LMI people with disabilities are intentionally addressed as an essential focus of CRA investment, lending and services by regulated banks and a required part of evaluation of bank performance by bank examiners, people with disabilities will be unintentionally excluded from the financial system and be overlooked as a target of community development activities.

In 2020, as part of the revised CRA regulations, OCC included significant changes to the CRA framework that recognized the importance of specific identification of LMI people with disabilities as a target population to benefit from CRA activities. For the first time, an illustrative list of qualified CRA activities included examples that would directly benefit LMI people with disabilities.

It is critical that, during this transition period, banks implementing CRA activities benefitting LMI people with disabilities that were part of the illustrative list in the OCC June 2020 Rule receive full CRA credit in bank performance reviews. The reconsideration of the June 2020 Rule must not impede the progress that is being made related to economic impact on LMI people with disabilities as a result of disability being a targeted population in the revised regulations.

OCC must continue to focus on the purpose of the CRA—to encourage banks to help meet the credit needs of their entire communities, including LMI neighborhoods, consistent with safe and sound operations, advance inclusive workforce and community development activities and support accessible and responsive financial products and services to this underserved and economically-vulnerable population.

We support the continued maintenance by OCC of the illustrative list of qualifying activities on its website as a reference for banks to determine whether activities that they conducted while the June 2020 Rule was in effect are eligible for CRA consideration. We strongly disagree that activities included in the illustrative list may not receive consideration if conducted after the effective date of the final rule. For people with disabilities, who have waited too long for specific inclusion in qualified CRA activities and were beginning to benefit from increased bank investment, lending and service activities, this is a step backwards at a time when the current administration is examining across the federal government ways each and every federal agency can promote equity for communities of color and historically, economically vulnerable populations inclusive of people with disabilities. For people at the intersection of disability, race and/or ethnicity, economic data reveals them to be the most vulnerable population, more likely to be unemployed and underemployed and least likely to have savings, assets and access to affordable credit as compared to people without disabilities.

The OCC should implement a community development activity confirmation process during the period between the rescission of the June 2020 Rule and the issuance of

prospective joint interagency rules. Such notice to all regulated banks should be intentional in the identification of LMI individuals with disabilities and those individuals at the intersection of disability, race and ethnicity as being deserving of CRA activity focus across all aspects of community development, including workforce development and small business startup and growth.

The disability community is ready and willing to help OCC continue to add to the list of inclusive qualifying CRA activities that are responsive to the challenges that are exacerbated by the continuing COVID health and financial crisis. As you work to develop a new set of rules in collaboration with FDIC and FRB, we appreciate your leadership to continue to elevate attention for banks to respond to disability community economic needs through CRA investment, lending and services.