**Template Language to the OCC and FDIC on Proposed Changes to CRA**

This template letter offers suggested language for stakeholders to submit to the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) in response to the [notice of proposed rulemaking (NPR) on the Community Reinvestment Act (CRA)](https://www.federalregister.gov/documents/2020/01/09/2019-27940/community-reinvestment-act-regulations).

When submitting a letter, please remember to:

* Write the letter on your organization’s letterhead, including a logo and contact information if available.
* Include the following identifying information in the letter:

Subject: Community Reinvestment Act Regulations

Docket Number: OCC-2018-0008

 RIN: 3064-AF22

* Include anecdotes and examples relevant to your organization and work.
* Submit the letter on the [Federal Register](https://www.federalregister.gov/documents/2020/01/09/2019-27940/community-reinvestment-act-regulations) by the due date – April 8, 2020.
1. **Introduction**

[Your name or name of organization] appreciates the opportunity to comment on Docket Number **OCC-2018-0008** a proposed rule to implement the Community Reinvestment Act (CRA) regulation.

[Insert information about your organization and work]

We are pleased that the agencies have turned their attention to the critical issue of updating CRA regulations to reflect the challenges and opportunities of our modern banking system. We do, however, have concerns about the proposed approach outlined in the NPR, especially as it relates to community development (CD). CRA has become one of the country’s most powerful CD tools and has introduced much-needed capital and financial services in low-income communities, communities of color and other underserved areas. CRA also has a serious racial equity impact given the law’s enactment to address redlining. The CRA also serves as one potential tool to deal with our growing natural disasters and can ensure that communities have greater resources to invest in climate-ready development. This current proposed rule makes it more difficult for residents to have a voice in community development and shifts bank activities to potentially less impactful investments.

We believe a more equitable CRA policy is needed to address the inequities and persistent disparities between communities. Patterns of disinvestment and gentrification have increased displacement in low-income and communities of color, which in turn increases housing instability and hinders economic stability and mobility. Innovative models to address these challenges are more important than ever.

1. **Concerns**

Evaluation Measure

* The NPR proposes a CRA evaluation measure and thresholds for each rating category, including a 2% threshold of CD activity in order to receive a passing rating. Because stakeholders do not have adequate data to determine how the agencies arrived at the proposed 2% CD threshold, it is difficult for the industry to evaluate how the proposed 2% CD threshold would compare to current investment levels. We oppose any changes that reduce the current amount of CRA CD activity undertaken by banks and urge the agencies to provide full data on current and proposed investment levels before issuing a final rule.
* Further, the NPR would lump both retail and community development activities together in the numerator of the evaluation measure, which has the potential to skew incentives for banks to engage in the largest, quickest community development activities without regard for the impact of the activity on the ground. This is contrary to the inclusive approach needed in community development, which needs to bring marginalized communities and residents to the center of the decision-making process and prioritize a community-driven model of development.

Eligible Activities

* A public list of CRA eligible activities provides clarity and certainty to banks and other stakeholders, but just because an activity is on a list does not mean it will be seen as an attractive investment option by a bank, especially when compared to a greatly expanded list of eligible CD activities. Mortgage-backed securities (MBS) as an eligible CD activity poses a problem because it is a relatively easy and liquid investment that banks can complete in large quantities, at the expense of more impactful community activities. An inclusive system that involves residents in the decision-making process is necessary if community development activities are going to be impactful and responsive to a community’s unique needs.

Geography

* Updating the geography in which banks have CRA obligations is important in ensuring that capital is responsive to areas that have the greatest need and is not artificially concentrated. The creation of new deposit-based AAs in areas where banks receive more than 5% of their deposits will likely be concentrated in areas that already have CRA obligations, like NYC and LA. This is a missed opportunity to provide more flexibility for CD activities in rural areas, persistent poverty counties, and other credit deserts.
* Banks should be required to serve all their AAs – or at least a vast majority – in order to receive a passing rating. The proposal that banks would only need to meet the credit needs in 50% of their AAs to get a passing rating is contradictory to CRA’s intent.

Data and Reporting

* There is no data publicly available to indicate how the OCC’s proposed thresholds compare to current levels of activity. The industry needs full data and information in order to evaluate and provide constructive feedback on the proposed changes. Until that data is publicly available the rulemaking process should not advance.
1. **Recommendations**
2. Create a separate, meaningful community development test.
* The agencies should create a separate CD test, in addition to the retail test, that acknowledges the distinct benefits and financing challenges associated with CD activities. The CD test should:
	+ Include all rating categories (outstanding, satisfactory, needs to improve, etc.) rather than a pass-fail test.
	+ Include quantitative and qualitative factors, as well as performance context.
	+ Consider news loans and investments, as well as activity retained from prior exam periods.
	+ Narrow the eligibility of CD activities to the truly impactful activities that meet CRA’s primary purpose.
	+ Require both debt and equity activities.
* Banks should also receive additional geographic flexibility when meeting CD obligations.
	+ The CD test should provide CRA credit for CD activities in any state where a bank has at least one assessment area. This more appropriately reflects variations in local markets as well as the disperse need and opportunities for CD investments.
1. Provide an opportunity for additional public comment prior to publishing a final rule.
* Given the additional data and information that stakeholders need in order to effectively evaluate the proposed rule’s potential impacts, we ask that the agencies make their data publicly available and provide an additional public comment period prior to implementing a final rule.
1. Ensure coordination among the three agencies on any final rule.
* A joint rulemaking process ensures the greatest chance for consistency and stability, two critical components in the federal regulatory process. We ask that the agencies only move forward on a final rule if there is consensus among all three agencies.

We strongly urge the Administration to reconsider its new proposed CRA rules given the negative impacts and consider the recommendations included above.

Sincerely,

[Name, Organization]