



**GREATER ROCHESTER
COMMUNITY REINVESTMENT COALITION
1 WEST MAIN STREET, SUITE 200
ROCHESTER, NEW YORK 14614**

April 8, 2020

Joseph M. Otting
Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2018-0008
RIN 1557-AE34
Via portal: <https://www.regulations.gov/comment?D=OCC-2018-0008-1515>

Jelena McWilliams, Chair
Board of Governors
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
RIN 2064-AF22
Via email: Comments@fdic.gov

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

Dear Comptroller Otting and Chair McWilliams:

We are writing on behalf of the Greater Rochester Community Reinvestment Coalition to oppose the proposed changes to the Community Reinvestment Act (CRA) regulations. The proposal by the Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC) lessens the public accountability of banks to their communities by broadening the performance measures on CRA exams so that they do not accurately measure a bank's responsiveness to local needs. Contrary to the agencies' assertions that their changes would increase clarity and CRA activity, the result will be significantly fewer loans, investments and services to low-moderate income (LMI) communities.

GRCRC was launched in 1993 to generate and continue discussions about lending patterns in Rochester. Convened by Empire Justice Center, for over 25 years GRCRC has worked with area banks and their regulators to assure they meet their CRA obligations and serve the entire Rochester NY community, including its low-moderate income families and neighborhoods. We

have done this through data analyses related to bank CRA exams and mergers, meetings with banks and regulators, and dozens of data-driven comments to the appropriate state and federal regulators.

GRCRC, Empire Justice Center, and its predecessor organization, the Public Interest Law Office of Rochester, have released seventeen analyses of home mortgage lending, small business lending, and access to credit over the past 27 years (1993-2020). The organizations use data driven analyses to identify strengths and weaknesses in lending patterns and to generate discussions with the top financial depositories in the Rochester NY MSA.¹ In September 2018 Empire Justice Center released its most recent report, “Too Big to Fail... Too Poor to Bank: How Mainstream Financial Services Can Help Low-Income Working Families Succeed,” a review of traditional bank products and services, as well as those provided by alternative financial services, like check cashers. The report found that while banks in the Rochester NY area do offer checking and transaction accounts with affordable, consumer-friendly features, they are often not well-marketed, so consumers do not know about them.

As noted here by one of our coalition members, the strong CRA regulations are critical to bringing and keeping banks at the table to assure that our whole community is served.

Consumer Credit Counseling Service of Rochester (CCCS of Rochester) is a local nonprofit agency with a mission of helping individuals and families to achieve financial peace of mind. We achieve this mission through two primary channels – financial counseling and financial education. Our services are designed to be relevant and timely in providing interventions that support clients who are paying down debt, improving their credit, preparing for homeownership, or saving for the future. Accordingly, the service we provide to the community is instrumental in empowering residents to position themselves for financial success. Through better access to banking and credit, our clients bring crucial investment into their neighborhoods and communities. In partnership with various financial institutions who have worked to meet their obligations to the Community Reinvestment Act (CRA) we have been able to bolster our impact and service level. Due to the natural alignment between our mission, services, outcomes and the CRA, we have created new opportunities for consumers through new programs, services, and solutions. To this end, we believe that changes to the CRA will prove to be detrimental to these vital opportunities and diminish the impact that can be made for consumers in the areas of their lives that truly matter.

¹ The most recent analyses are “#AllTogetherNow: Improving Small Business Lending in the Rochester NY Community” (found at: <https://empirejustice.org/wp-content/uploads/2018/01/alltogethernow-s.pdf>) and “Too Big to Fail... Too Poor to Bank: How Mainstream Financial Services Can Help Low-Income Working Families Succeed” (found at: <https://empirejustice.org/wp-content/uploads/2018/09/Access-to-Credit-Report-2018-FINAL.pdf>).

The Rochester NY MSA, and particularly its major city, Rochester, face many challenges. The Community Reinvestment Act and its strong regulations have motivated area banks to reinvest in the community and support low-moderate income families and neighborhoods.

Research released by the Federal Reserve Bank of New York in the fall of 2019 showed that Upstate New York had still not fully recovered from the financial crisis of 2008.² These trends are exemplified in the post-industrial cities of Upstate New York. The city of Rochester has the highest concentration of children living in poverty compared to cities of similar size in the United States. In 2019, Rochester came in dead last in a list of the country's 50 hottest job markets published by the Wall Street Journal.³

In 2017, the Federal Reserve Bank of New York issued a report on the credit profile of city of Rochester residents.⁴ The 2017 report looked at data at the ZIP Code level in the city of Rochester. This report found that as of 2016 more than 50% of city of Rochester residents had subprime credit. In some ZIP Codes 50 -75% of city residents had subprime credit. These ZIP Codes are majority nonwhite.

Below are just a few of the more recent times that GRCRC has meaningfully engaged banks and their regulators during CRA exams or bank mergers. This ongoing engagement has encouraged banks to support the work of community organizations to better meet the needs of our low and moderate income communities.

- In 2016, GRCRC was part of a national network of community reinvestment coalitions and housing, lending and consumer advocates that reached an agreement with KeyBank where the bank would invest \$16.5 billion in low and moderate communities within its footprint over the next five years. Based upon an analysis by Empire Justice Center, it looks like KeyBank is on target to meet the estimated Rochester MSA portion of its commitment in community development lending and investments, mortgage and small business lending and philanthropy. During KeyBank's acquisition of First Niagara Bank, the CRA and its regulations allowed the GRCRC and other advocates to provide meaningful community input to KeyBank and its regulators about the bank's CRA activities. This brought KeyBank and advocates to the table to assure future lending, investments and services would meet the unique needs of each community of the post-merger bank.

² <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/constraints-on-access-to-credit.pdf>

³ <https://www.democratandchronicle.com/story/news/2019/03/10/rochester-worst-job-marketcountry-wall-street-journal/3089794002/>

⁴ <https://www.newyorkfed.org/medialibrary/media/outreach-and-education/community-development/credit-conditions/City-of-Rochester-Credit-Profile-2016.pdf>

- GRCRC has been engaging with Canandaigua National Bank & Trust (CNB) since the early 2000s. The bank is now the 4th largest depository in the Rochester MSA market. In 2018, GRCRC provided input to the OCC and CNB during its periodic CRA exam on how the bank was meeting the needs of the Rochester community, including meeting with the bank and providing opportunity for the bank to respond to our comments, which we then incorporated into our comment letter.⁵ We noted that the bank was (and continues to be as of 2018) the top home purchase loan originator and one of the top small business lenders among the top 8 banks. Coalition members also commented that CNB provided loans to participants in their first time home buyer programs via the Federal Home Loan Bank of NY. The bank also provided capital to a microloan program of a local venture capital fund. GRCRC members also provided several suggestions for how the bank could better meet needs of the community. Today, CNB is at the forefront of providing relief to consumers and small businesses during the coronavirus pandemic, including participating in the SBA's Paycheck Protection Program and working with the City of Rochester and Empire Justice Center on how to best support the people and organizations most impacted. The current CRA regulations provide good incentives for CNB to stay at the table and engage with GRCRC and its member organizations.
- Empire Justice Center started engaging with Five Star Bank in 2016, and GRCRC started doing so in 2017 during the Federal Reserve Bank of NY's CRA exam of the bank. Since then, the coalition and Empire Justice Center have had several meetings with the bank, providing feedback on its lending, branching and consumer account and loan products. The coalition also engaged with Five Star during its 2019 CRA exam. In our comment letter, we noted that the bank had substantially increased its home purchase lending, saying that this was likely due to the bank hiring an experienced Spanish-speaking CRA loan officer. After discussions with coalition members, Five Star piloted a small dollar home improvement loan product. Coalition members shared that during the exam period Five Star invested in several programs and initiatives directly supporting low-moderate income families, including a funding pool for an acquisition-rehab-resale program, a below market-rate line of credit to support early-stage commercial predevelopment activities in low-moderate income commercial districts in the city of Rochester, and a program-related investment in a major nonprofit housing developer and service-provider. The bank's engagement with GRCRC members helped the bank learn about these CRA-related investment opportunities.
- In 2016, GRCRC provided input on the CRA performance of JPMorgan Chase (JPMC) during its CRA exam,⁶ one of a long series of meetings with the bank and comments about its performance since the early 1990s. At the time of the exam, JPMorgan Chase

⁵ https://empirejustice.org/resources_post/grcrc-comments-cnb-2011-2013-cra-performance-rochester/.

⁶ https://empirejustice.org/resources_post/grcrc-comments-on-jpmc-2011-2013-cra-performance-in-rochester/.

was the second largest depository in the Rochester MSA, with over 13% of the market. While GRCRC has a long-standing relationship with JPMC, its growth into one of the largest banks in the U.S. has shifted the bank's focus from smaller communities like Rochester NY. As of 2015, the bank's Rochester market was only 0.2% of its U.S. deposits.

We thank JPMC for the relationships it does have with many Rochester not-for-profits that work with low and moderate income communities and families, as well as its community development loans, investments and grants to GRCRC members. For example, the bank has been the lead investor in the funding pool for the Rochester Housing Development Fund Corporation to purchase, renovate and resale single-family homes.⁷ And since our 2016 comments, JPMC has given grants to the City of Rochester for financial empowerment and small business programs.

However, based on our analysis of publicly available lending data and data provided by JPMC for our 2016 letter, its CRA lending, investments and grants do not measure up as a percentage of its deposits or when we compare JPMC to local and regional community banks. This is reflected in our comment letter, where: JPMC was closing a branch in low-moderate income majority non-white neighborhood, leaving a large swath of northeast Rochester without a mainstream bank;⁸ the bank's CRA-related investments in the Rochester MSA declined while its deposits and depository market share increased;⁹ the consistent decline in its small business lending during the exam period;¹⁰ the dramatic decline in its home purchase lending between 2013 and 2014, which as of 2018 has not yet recovered.¹¹ **GRCRC is concerned that many of changes proposed by the OCC and FDIC will encourage more banks to make decisions similar to those of JPMC to disinvest in mid-size communities, as well as rural areas.**

The purpose of CRA is to meet community credit needs in neighborhoods that were, and often continue to be, credit deserts. These communities were deliberately denied access to credit by government policies and actions that made it clear that neighborhoods with African American residents were deemed too unsafe to lend to.¹² Even with the passage of the Community Reinvestment Act (CRA) and the updates in the implementing regulations, CRA is still focused on low and moderate income families and neighborhoods and not on communities of color.

⁷ Ibid, p. 18.

⁸ Ibid, pp. 2-4.

⁹ Ibid, p. 12.

¹⁰ Ibid, p. 17.

¹¹ Ibid, p. 15 and Appendix.

¹² Richard Rothstein. 2017. [The Color of Law: A Forgotten History of How Our Government Segregated America.](#)

Reports on access to credit at the national, state and local level continue to describe the challenges faced by African American, Latinx and new American immigrant residents. These communities borrow predatory products and do not have access to safe and affordable credit. Auto loans for used cars to subprime borrowers are priced to result in default, particularly for borrowers of color. Borrowers have their credit destroyed.

Empire Justice Center released two separate reports that document how city of Rochester residents continue to live in credit deserts.¹³ Changes in the local, national and global economy have resulted in postindustrial cities ravaged by distressed neighborhoods.

It is within this context that **GRCRC urges strong CRA regulations that encourage banks to play a leadership role and be part of the solution to turn around urban and rural communities in upstate New York, and other areas of the country.** We need safe and affordable housing in the low-moderate income and majority nonwhite neighborhoods in the city of Rochester. Similarly we need our urban commercial corridors to have access to safe, affordable and patient capital so that local residents can own businesses in their neighborhoods and shop in the city.

As such, any final regulations governing the Community Reinvestment Act must meet the following criteria:

- The regulations must be aligned with the origins and purpose of the CRA. One of the later pieces of civil rights legislation of the 1960s and 1970s, the CRA was passed to address years of redlining and disinvestment that deprived communities of color and lower income areas of equitable access to credit. The law creates an affirmative and continuing obligation for banks to help meet the credit needs of the local communities in which they are chartered, including low-moderate income (LMI) neighborhoods, consistent with safety and soundness.
- As we modernize the regulations to bring them up-to-date with the transformations and technological changes in the financial services sector, the regulations need to continue to focus on local communities and LMI communities.
- Moreover, as it has been 25 years since the last major changes in the regulations governing CRA, we need to be very careful in the changes we are making. They need to

¹³ “#AllTogetherNow: Improving Small Business Lending in the Rochester NY Community” (found at: <https://empirejustice.org/wp-content/uploads/2018/01/alltogethernow-s.pdf>) and “Too Big to Fail...Too Poor to Bank: How Mainstream Financial Services Can Help Low-Income Working Families Succeed” (found at: <https://empirejustice.org/wp-content/uploads/2018/09/Access-to-Credit-Report-2018-FINAL.pdf>).

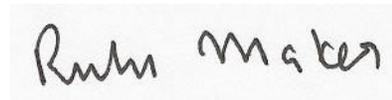
be driven by thoughtful and thorough data analysis that is shared with all stakeholders, including the public.

The proposal by the OCC and the FDIC does not meet these criteria. Instead, this deeply flawed proposal will very likely result in less lending, investing and services for communities that were the focus of Congressional passage of CRA in 1977. This backtracking violates the agencies' obligation under the statute to ensure that banks are continuing to affirmatively serve local community needs, including LMI neighborhoods. **We urge the FDIC and OCC to discard this proposal and to work with the Federal Reserve Board to write and propose an interagency rule that will augment the progress achieved under CRA instead of reversing it.**

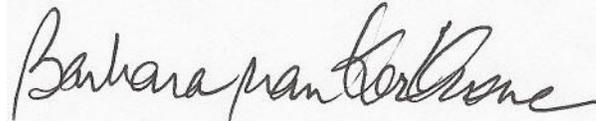
GRCRC supports the analysis and recommendations in Empire Justice Center's letter dated January 28, 2020. Please consider those as part of this letter.

Thank you for your thoughtful consideration of these comments.

Sincerely,



Ruhi Maker, Esq.
Senior Attorney



Barbara Van Kerkhove, Ph.D.
Researcher/Policy Analyst