

EXHIBIT A



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By Electronic Filing

January 14, 2020

Office of the Comptroller of the Currency
Disclosure Services
400 7th Street, SW
Suite 3E-218
Washington, DC 20219

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

The National Community Reinvestment Coalition (NCRC) requests that a copy of the records listed below, or all records containing the information encompassed by the requests below, be provided to NCRC, to my attention at the address or email address following my signature below. As the FOIA requires, you should release all reasonably segregable nonexempt portions of the documents. If a document contains both relevant and irrelevant information, please provide the entire document or those portions that are non-exempt. Records should be provided as they are located; it is not appropriate to delay disclosure until all responsive records are identified. Subject to the fee waiver request below, NCRC agrees to pay applicable fees. If you deny the fee waiver in whole or in part, please give me an estimate of the fees to be charged prior to undertaking work that will generate the fees.

NCRC is a national organization recognized as a 501(c)(3) tax exempt organization with over 600 grassroots organizations that create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fairness and end discrimination in lending, housing and business. NCRC does not seek this information for commercial purposes. The requested information is critical to NCRC's ability to respond fully to the Notice of Proposed Rulemaking published January 9, 2020 at 85 FR 1204, (CRA NPR) and is needed to inform the public about the underpinnings of the proposed rule. This is especially critical in light of proposed changes that, in NCRC's view, would undoubtedly have the effect of undermining the central purposes of the Community Reinvestment Act to facilitate retail lending, branching, economic development, affordable housing and support for small business in low- and moderate-income communities. The 60-day comment

period should be expanded well beyond the date of disclosure of all of the records to be provided to us.

Records Requested:

All requests concern the application of the Community Reinvestment Act to the OCC's proposed rule and assessment of financial institutions' level of success or failure in meeting the CRA's underlying statutory purposes of encouraging, requiring or expecting banks to serve communities, as referred to in the CRA NPR. See <https://www.govinfo.gov/content/pkg/FR-2020-01-09/pdf/2019-27940.pdf>. The time period of the requested records encompasses the period of OCC's preparation for of the Advance Notice of Proposed Rulemaking, Reforming the Community Reinvestment Act Regulatory Framework, Office of the Comptroller of the Currency, 83 Fed. Reg. 45053 (proposed September 5, 2018) (codified at 12 C.F.R. Pts. 25 and 195), although the underlying sources cited or used in the documents requested in this FOIA request may predate the above stated time period. The page numbers cited below are from the CRA NPR. The request follows:

Thresholds and Benchmarks – Are they based on meaningful data?

1. All records containing an analysis or explanation for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1222 and a list of the performance evaluations used in the sample referred to in the footnote.
2. All records containing an analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. All records, data analysis, and reports containing an analysis of or information about the empirical benchmarks used for the CRA performance measure in Section 25.12 of the CRA NPR, page 1240.
4. All records, data analysis, reports containing an analysis of or information about the proposed "Retail Lending Distribution Tests" described in Section 25.11 at pages 1245-46. Records with analysis of or information about the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests, pages 1219-21.
5. All records containing an analysis of or information about the threshold concept referred to on pages 1217-18 and 1219 regarding a bank receiving a satisfactory or an outstanding presumptive bank-level rating if it receives that rating in just "more than 50 percent of its assessment areas, and in those areas where it holds a significant amount of deposits."
6. All records, data and analyses containing information about the 50% minimum threshold for determining "deposit-based" assessment areas in proposed Section 25.08(c), page 1244.
7. All records containing an analysis of or information about the 5% minimum threshold that deposit-based assessment areas should consist of geographical areas containing 5% or more of the bank's deposits.

Expansion of What Counts for CRA Credit – Will the new service areas and newly credited activity really help LMI communities?

8. Any record that describes or estimates how many small banks and how many large banks would be required to add new assessment areas based upon the changes addressed on page 1215, and in proposed Section 25.08, pages 1244-45.
9. Any record that contains an analysis of or information about the proposed definitions of distressed and underserved census tracts, as discussed on pages 1209-10, and defined in Section 25.03 at page 1254 (“distressed area”) and page 1242 (“underserved area”).
10. Any record containing an analysis of or information about the identification of and/or how many areas would be “high-cost areas” as proposed in proposed Section 25.03 at page 1242.
11. All records containing an analysis of or information about the proposed definition of “small business” including the increase in revenue size in Section 25.03 at page 1255 and all records containing an analysis of or information about the definition of a “small farm,” including the increase in revenue size.
12. All records containing an analysis of or information about the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms at page 1207.
13. All records containing an analysis of or information about the change to the current regulatory definition of “community development” that includes “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” to the CRA NPR description of “community development” that does not include the reference to “revitalize or stabilize” at page 1213. All records containing an analysis of or information about the change in the regulatory definition of community development that excluded “economic development,” and included “essential infrastructure” at page 1213.
14. All records containing an analysis of or information about the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 25.04(c)(1)(i)(D) and (E), page 1242-43.
15. All records containing an analysis of or information about ““Community development investment means a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the [Call Report, Schedule RC-L](#)...” including information about the impact of this definition on projected levels of investment in LMI communities.

Fee Waiver Request

NCRC requests a waiver of fees under 5 U.S.C. 552(a)(4)(A)(iii) because the requested information is in the public interest and will contribute significantly to the public understanding of government operations, including the Office of the Comptroller of the Currency (OCC) “Joint Notice of Proposed Rulemaking, Community Reinvestment Act Regulations,” Docket ID OCC-2018-0008 & RIN 1557-AE3, published January 9, 2020 at 85 FR 1204. NCRC has a robust public distribution outlet through its website at ncrc.org and is known for its research and analysis. See, e.g., <https://ncrc.org/research/> and <https://ncrc.org/category/press/> (contents incorporated herein as examples of analysis, publication and reach). NCRC will share with the public significant findings from the requested information.

In the alternative, NCRC would be entitled to a fee waiver as a “a representative of the news media,” which “means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience... ‘news’ means information that is about current events or that would be of current interest to the public.” 5 U.S.C. 552(a)(4)(A)(ii). NCRC’s full analysis of the proposed rule on CRA will rely upon the underpinnings of that rule, as sought in this

FOIA request. The information is of current interest to the public because the proposed rule is subject to a 60-day comment period that commenced upon the publication of the Notice of Proposed Rulemaking in the *Federal Register* on January 9, 2020. Without the information, NCRC, its members and the public will not have access to the basis for OCC’s CRA evaluation framework, applicable to financial institutions throughout the nation. NCRC will publish its work using the records obtained.

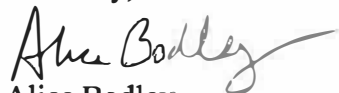
In sum, the requested disclosure is likely to contribute significantly to the public understanding of operations or activities of government and will not be used by NCRC for any commercial interest. NCRC will pay fees that are lawfully charged, but as noted above, a fee waiver is appropriate to cover the entirety of this request. Please inform me if you have a different assessment. In the alternative, a waiver of fees is appropriate because NCRC fits within the definition of a representative of the news media.

NCRC looks forward to your response within 20 working days of the date of your receipt of this request. NCRC would like copies of the requested records in readable electronic form. Access to databases may also be an acceptable format for delivery of the records. Please contact me regarding questions that you may have about appropriate formats.

NCRC seeks expedited review of this FOIA request because of the complexity of the CRA NPR and the short period of time for comment on the complex issues presented in the CRA NPR. If a prompt disclosure of the documents is likely to be delayed for any reason, or if you have any questions about the meaning or scope of the request, please contact me to discuss the matter. I can be reached at the address, email address and phone numbers below my signature.

Thank you for your consideration of this request.

Sincerely,



Alice Bodley

General Counsel

National Community Reinvestment Coalition

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