Council for Affordable and Rural Housing
Serving the Affordable Housing Needs of Rural America

November 19, 2018

VIA EMAIL: regs.comments@occ.treas.gov

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Re: Docket ID OCC-2018-0008, Reforming the Community Reinvestment Act Regulatory Framework

Dear Sir/Madam:

The Council for Affordable and Rural Housing ("CARH") provides its comments to the Advance Notice of Proposed Rulemaking ("ANPR") entitled "Reforming the Community Reinvestment Act Regulatory Framework". This proposal seeks to revise and modernize the regulations that implement the Community Reinvestment Act (the "CRA").

CARH represents for-profit and non-profit companies providing affordable rural rental housing throughout America. For over 30 years, CARH has served as the nation's premier association for participants in the affordable rural housing profession, including builders, owners, developers, managers, non-profits, housing authorities, syndicators, accountants, architects, attorneys, bankers, and companies that supply goods and services to the industry. CARH is the only association that solely represents the needs of the entire rural affordable housing industry. CARH members regularly obtain loans or seek equity investments from financial institutions regulated under CRA.

The ANPR asks certain specific questions related to the current regulatory approach and certain potential modification. CARH provides comments to selected and consolidated questions below. Our comments are organized to correspond with the relevant question or questions as they are presented in the ANPR.

Response to Questions 1-3:

Like any regulatory framework, CRA regulations contain implicit complexity. We support efforts to clarify, and increase transparency of CRA regulations and its regulatory framework in general. We support doing so in a way that preserves incentives to invest in affordable housing in rural areas.

Response to Question 4:

The current regulatory framework encourages many eligible activities and investments that improve and develop communities, like the construction and preservation of affordable housing.

We support a flexible approach to designating rural areas. The approach should allow banks to include rural assessment areas even if the bank branch is remote. This will encourage further financial services to these communities. We also support widening assessment areas to include greater consideration of CRA-eligible activities and investments in rural areas without the presence of bank branches or facilities. In many cases, banks determine that it is not feasible to operate or maintain branches or facilities within rural communities, however, they may still provide many of their services within these communities. By allowing banks and investors to count their activities within these communities for CRA purposes, the regulatory framework would further serve low and moderate income ("LMI") populations in rural areas that depend on remote banking services.

Response to Questions 5-6:

Rural areas, particularly those with high needs, have traditionally struggled to attract private investment. Significantly, the regulatory framework encourages Low-Income Housing Tax Credit ("Housing Credit") investment in certain LMI rural areas because CRA designation typically increases Housing Credit equity pricing in designated areas, which makes the areas more desirable for investors.

Our members also report Housing Credit equity pricing in rural areas not covered by the CRA is presently about 10 cents per credit dollar below non-CRA non-rural areas. This unfortunate reality illustrates the importance and impact of the CRA regulatory framework and the assessment area designation in particular. It also illustrates the important stakes of rural communities that do not receive assessment areas designation. We reiterate our support for expanding assessment areas to include eligible activities in rural areas to help overcome and reduce the Housing Credit equity pricing gap between rural and non-rural areas.

Response to Questions 7-12:

We are concerned that using a single ratio to establish benchmarks for rating categories would reduce investment in affordable housing. Establishing a framework that aggregates total CRA activity to evaluate CRA performance, rather than accounting for the type of CRA activity engaged in, incentivizes bank to engage in activities based on ease rather than impact. We support the retention of a distinct investment test because investments in affordable housing in rural areas have tremendous positive impact within those communities. In particular, Housing Credit investments in rural communities assist developers acquire the much needed equity to preserve and maintain the affordable housing stock when existing rents are not sufficient to service debt. Investments in Housing Credits is crucial when the increases in rents needed to service debt are not feasible for low-income tenants, as is often the case in high-needs rural communities.

Response to Questions 13-15:

We support expanding and improving the consideration of CRA-qualifying activities beyond a bank's existing assessment area. When considering the goals of the CRA, it is important to note that the communities that banks serve are no longer anchored to the physical presence of the bank. As financial institutions continue to modernize their services, they increasingly reach communities outside of their physical geographic presence. To further advance the goals of the CRA, the Office of the Comptroller of the Currency (OCC) could expand assessment areas to include any Housing Credit property within the same state or states as the financial institution's current assessment area or areas. This would provide greater incentives to banks to invest in communities utilizing their services without the presence of a branch while also guaranteeing that investment benefits LMI populations, a primary beneficiary of Housing Credit properties.

Additionally, the OCC could expand assessment areas and the definition of "community and economic development" to include investments in Opportunity Zones within the same state or states as the financial institution's current assessment area or areas. Expanding assessment areas to include investments in Opportunity Zones would strengthen the goals of the CRA because Opportunity Zones, by definition, serve census tracts with high rates of poverty and below averages median family income. Expanding assessment areas to include Housing Credit properties and Opportunity Zones would allow the goals of the CRA to match the increasing regional and national reach of banking services, ensuring that LMI populations that utilize banking services without a physical banking presence benefit from community investment.

Response to Questions 16-21:

We support recognition of community development activities arising out of federal and State programs designed to benefit LMI populations. Housing Credits is such a program. USDA Rural Development rural rental housing loan and subsidy programs are designed to assist low income workers and retirees. These programs assist activities that have been vetted by government agencies already. Banks can efficiently meet CRA requirements by lending to or investing in such activities.

Response to Questions 22-28:

We support small business and consumer lending because those activities provide crucial opportunities for many rural families and communities. We also support the inclusion of loans for the construction and operation of small buildings, comprised of fifty (50) or fewer units, because these buildings often serve as valuable sources of affordable housing and community development in rural areas.

CRA has created incredible opportunities for growth in rural areas. We support the OCC's efforts to modernize and simplify CRA regulations, while expanding CRA in rural areas. Given the importance of affordable housing investment in rural areas, we reiterate our support of a distinct investment test and expanded consideration of Housing Credit investment activity.

We appreciate your time and attention to this matter.

Sincerely,

Colleen M. Fisher

Colleen M. Fisher
Executive Director