the Network
Supportive Housing Network of NY

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Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Submitted electronically by email to regs.comments@occ.treas.gov

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

To the Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency:

The following comments are submitted on behalf of the Supportive Housing Network of New York (The Network) regarding the proposed rule published on September 9, 2018, "Reforming the Community Reinvestment Act Regulatory Framework." The Network appreciates the opportunity to comment on the advance notice of proposed rulemaking (ANPR) to solicit ideas for building a new framework to modernize the regulations that implement the Community Reinvestment Act of 1977 (CRA). The Network represents over 200 nonprofit members who operate 52,000 units of supportive housing statewide. Supportive housing is permanent affordable housing with embedded social services for vulnerable individuals and families, people who are homeless and living with disabilities and/or other barriers to maintaining stable housing. Our membership also includes tax credit syndicators, banks, and other financial institutions. Our primary concern is to ensure continued investment by financial institutions in supportive housing development in New York State and investment in mission-driven, community-based organizations with proven track records.

Supportive housing was created in New York in the 1970s and 1980s as a response to the modern homelessness crisis, which stemmed from poverty, shifting investment patterns in urban neighborhoods, and deinstitutionalization of people living with mental illness. Faith-based and community-based nonprofit organizations assembled financing from any available source, mostly small government subsidies, to create housing that improved communities and transformed lives.

Over time, the model was proven to end chronic homelessness[1] – it is embraced by the U.S. Department of Housing and Urban Development and the U.S. Interagency Council on Homelessness as a definitive strategy – and to improve property values in communities with high poverty rates.[2] Supportive housing evolved into a model where new residences now include a mix of supportive housing for formerly homeless people and affordable housing for low-income community residents. As the supportive housing industry became more sophisticated, bank lending, grants, and investment – driven by CRA requirements – were absolutely critical to its expansion. And while the 52,000 units created represent tremendous success, the need for supportive housing in New York persists. In New York City, approximately 63,000 people sleep in NYC shelters each night,[3] over 3,500 people are unsheltered and sleeping on the streets or subways,[4] and there is a deficit of over 500,000 homes that are affordable to low and extremely low income households.[5] Statewide, there are almost 90,000 homeless individuals, approximately 4,500 of which are unsheltered,[6] and there is a deficit of over 700,000 homes that are affordable to low and extremely low income households.[7]

<u>Background: CRA Encourages Investment in Supportive and Affordable Housing</u>

The CRA has historically channeled investment to mission-driven nonprofits and their affordable and supportive housing projects through the Low Income Housing Tax Credit (LIHTC) program. LIHTC is our nation's most productive tool for developing and preserving affordable and supportive housing, and its success is closely tied to CRA regulations. Since the early 1990s, banks have been the primary investors in supportive housing in New York State through their purchase of LIHTC. Because so many financial institutions have assessment areas in New York City, CRA activity has ensured that demand for LIHTC has remained strong, providing much needed equity for affordable and supportive housing development. The local need for affordable and supportive housing is filled by CRA-driven investment in tax credits, which allows the state and local governments to use public resources more efficiently and fund more projects. Without the continued investment by banks in supportive housing development, the housing and homelessness crises would be much more severe than they are currently. It is essential that whatever modifications

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[1] United States Interagency Council on Homelessness. *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness* (2015). https://www.usich.gov/resources/uploads/asset_library/USICH_OpeningDoors_Amendment2015_FINAL.pdf. Accessed 16 November 2018, p. 41.

[2] Furman Center for Real Estate and Urban Policy, New York University. *The Impact of Supportive Housing on Surrounding Neighborhoods: Evidence from New York City* (2008). https://shnny.org/uploads/Furman_Center_Policy_Brief.pdf. Accessed 16 November 2018.

[3] Coalition for the Homeless website. *Number of People in NYC Shelters Each Night.* http://www.coalitionforthehomeless.org/the-catastrophe-of-homelessness/facts-about-homelessness/. Accessed 16 November 2018.

[4] *NYC HOPE 2018 Results*. City of New York Website. https://www1.nyc.gov/assets/dhs/downloads/pdf/hope-2018-results.pdf. Accessed 16 November 2018.

[5] *NYC Housing: Problem.* City of New York website. https://www1.nyc.gov/site/housing/problem/problem.page. Accessed 16 November 2018.

[6] The U.S. Department of Housing and Urban Development. *The 2017 Annual Homeless Assessment Report (AHAR) to Congress*. https://www.hudexchange.info/resources/documents/2017-AHAR-Part-1.pdf. Accessed 16 November 2018, p. 88.

[7] National Low Income Housing Coalition. *The Gap: A Shortage of Affordable Homes* (2018). https://nlihc.org/sites/default/files/gap/Gap-Report_2018.pdf. Accessed 16 November 2018. Appendix A.

are considered for the CRA not decrease this investment in housing for the most vulnerable in New York.

<u>Qualified CRA Activities: Maintaining an Affordable Housing and Community Development Focus</u>

In response to "redlining," the CRA had a specific focus on promoting development in those communities that had been deprived of access to capital and credit, specifically Low and Moderate-Income (LMI) communities. It is essential that any changes to CRA emphasize quality investment in areas that truly furthers the original intended beneficiaries of the legislation, LMI communities. Questions 15-24 ask about the definition of community development (CD) and what changes could be beneficial. The Network does think there would be benefit in clarifying what services, projects, activities, loans, and investments should qualify for credit and which should be weighted more greatly. There should be specific standards for CD activities to receive consideration, especially including identified benefits to LMI individuals and lending to and investing in underserved communities.

- **The Network believes that qualifying investments should be in assets that have a demonstrated positive impact for community and economic development.** Supportive housing has been proven in numerous studies to be an effective tool to end chronic homelessness and stabilize the lives of the most vulnerable in LMI communities. Investment in supportive housing and other proven community development projects should be presumed to receive credit and should have more weight.

- **Loans, services, and investments that support organizations with a mission of community or economic development, and with proven track records, should be emphasized and given more weight.** Supportive housing has historically been developed, owned and operated by nonprofits. For decades, these organizations have abided by their missions to provide housing and social services to the most vulnerable, no matter the challenges or changing housing market conditions. The outcome-oriented operation of supportive housing by nonprofits ensures that individuals and families that have experienced poverty, trauma and episodes of homelessness maintain their housing over the long term. By supporting and empowering nonprofit organizations, CRA activities are more likely to support lasting, beneficial products and services for low-income communities. Continued investment in the projects of mission-driven nonprofits with strong track records of success and proven outcomes for LMI communities should be strongly encouraged.

- **Financial institutions should be incentivized to form meaningful relationships with community-based organizations**. Working with community-based organizations ensures that qualifying investments and services are those that the community has helped to identify to fulfill its needs. Additionally, grants that help community-based organizations to fulfill their missions of community and/or economic development and serving LMI individuals should continue to qualify under CRA.

In summary, the Network recommends that the CD activities that qualify be narrowed to specify demonstrated positive impact for LMI and underserved communities and to emphasize investment in and lending and grants to mission-based projects and organizations.

<u>Clarity in Defining Assessment Areas</u>

Presently, Assessment Areas are identified as the geographic area surrounding an institution's depository locations. This definition leaves much discretion to the financial institutions and leads to somewhat arbitrary geographic boundaries. In NYC, assessment areas are typically defined by County or borough. New York City has benefited greatly from the concentration of banks. The assessment Areas in NYC have encouraged investment in LIHTC in supportive housing projects. Because of this investment, nonprofits have been able to create homes for the most vulnerable New Yorkers, while banks are able to confidently fulfill the requirements of CRA within their assessment areas.

Though technology and the growth of many banks in geographic reach have radically altered the way that many access banking services, tying assessment to historically underserved geographic areas is still of the utmost importance, especially in an economically diverse city like NYC. While a modernization of assessment areas is important to capture the influence of institutions that primarily operate online, losing the local focus would have a negative impact on CD activities in LMI communities. The housing, community development, and economic development needs in NYC are great and are not likely to abate any time soon. **New York is currently in the midst of dual homelessness and housing crises; assessment areas must continue to require CD investments in NYC.**

Assessment areas should encourage a local focus without drawing arbitrary boundaries of banks' service, investment, and lending areas. A local focus requires banks to assess local community needs and be responsive to those needs, which is essential to impactful community and economic development. The Network believes that removing the emphasis of CRA requirements from bank activities in the LMI geographies surrounding branches and deposit-taking ATMs, or in other targeted geographic areas, would be problematic and result in those areas no longer receiving appropriate focus from banks. Moreover, the Network supports the extension of assessment areas in New York City to the entirety of the City, so as to avoid the arbitrary lack of investment, services, and loans in some boroughs that have great CD needs.

Additionally, in supportive housing, many residents have special needs, have led challenging lives marked by episodes of homelessness, and have never lived in areas of opportunity. Many residents remain unbanked, and therefore are disproportionately burdened by fees and limited access to credit. **Requiring financial institutions to provide services in LMI areas and having branches open in LMI areas near supportive housing residences can help formerly homeless residents and very low-income tenants further stabilize their lives and finally gain access to economic resources of which they have deprived for most or all of their lives.** The Network strongly urges that the OCC maintain geographic assessment areas tied to physical presence and extend assessment areas in New York to include the entirety of the City.

<u>Metrics-Based Assessments</u>

In Questions 29-31, the OCC solicits feedback on changing the reporting requirements of CRA. One suggestion that has been offered is to simplify assessments to a single "simple ratio" by comparing a bank's total CRA-qualified investments against a measure of the bank's capacity to lend. **The Network does not support a single-ratio approach; we believe it overly simplifies what is an extremely nuanced question: are banks effectively meeting the CD needs of LMI and underserved communities?**

The Network believes that the current three-part exam structure – lending, services and investments – and the explicit investment test should be maintained. All three categories, lending, investment and services are key to promoting opportunity for LMI communities and to community development. Proposals to combine these activities into a single measure will sacrifice the nuance and likely the effectiveness of CD activities of financial institutions. The single ratio approach does not adequately distinguish between different activities, such as loans and investments. Debt and equity products differ in both their complexity and their benefits for communities. Weighting these activities equally would not be practical and might result in a lack of one or more types of activities.

The current investment test includes a number of critical affordable and supportive housing and community development activities, such as grants to nonprofit organizations, investments in LIHTC and services to those who reside and work in LMI communities. Without an explicit investment test, banks may no longer look toward these investments as a primary means of fulfilling CRA obligations but may instead turn toward less complex and quicker alternatives, which have fewer long-term benefits for the community or are less impactful. Since supportive housing development is a uniquely complex but essential investment, the Network fears that a simple ratio would especially be harmful to supportive housing development. **Again, the Network urges that the three-part exam structure be maintained in order to ensure a balanced focus on services, loans, and investment.**

Thank you for the opportunity to comment on the advanced notice of proposed rulemaking.

Sincerely,

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