NCRC
OPENING DOORS TO
ECONOMIC OPPORTUNITY

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April 14, 2017

U.S. Senate Committee on Banking,
Housing & Urban Affairs
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

We are writing in response to your request for proposals that will help foster and promote economic growth. At the outset, we want to thank you both for inviting ideas from interested stakeholders. We are hopeful that this request, along with the President's Executive Order on financial regulations, will provide federal policymakers the opportunity to consider how to best to address some disturbing trends facing the nation's low- and moderate income families, including declining homeownership rates, growing income and racial wealth gaps, and a lack of economic development and investment in many underserved communities across the country.

To that end, we are attaching two proposals designed to increase the flow of private capital into traditionally underserved communities, to create more sustainable homeownership, and to level the playing field among financial institutions in terms of their affirmative obligations to serve low- and moderate income families and communities. Specifically, we propose to:

1. Expand requirements similar to those under the Community Reinvestment Act (CRA) to non-depositories and ensure affordable housing obligations for private label securitizers in the secondary mortgage market; and

2. Encourage broader adoption of home buyer and renter education and counseling.

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We have also attached excerpts from a 2013 paper on duties to serve in the nation's financial system, and a collection of federal and academic research and bipartisan voices on CRA and the affordable housing goals at Fannie Mae and Freddie Mac.

Thank you for your thoughtful consideration of these proposals. We welcome an opportunity to speak further about them.

Sincerely,

National Community Reinvestment Coalition (NCRC)
Center for Enterprise Development (CFED)
Accion Chicago
Advocates for Basic Legal Equality, Inc.
Affordable Housing Clearinghouse (AHC)
Association for Neighborhood and Housing Development (ANHD)
Baltimore Neighborhoods, Inc. (BNI)
California Reinvestment Coalition
Center for New Your City Neighborhoods
Chicago Community Loan Fund
Chicago Urban League
Coastal Enterprises, Inc.
Faith Based Economic Council, Inc.
Georgia ACT
Higher Lifestyle Corporation
HomesteadCS
Housing Education and Economic Development, Inc.
Nazareth Housing Development Corporation
Neighborhood Housing Services of South Florida
PathStone Enterprise Center
Scott County Housing Council
Spanish Coalition for Housing
Urban Economic Development Association of Wisconsin (UEDA)

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Western New York Law Center
White Wing Educational Community Development, Inc. (DBA Our Communities Our Children)
Woodstock Institute

Expansion of the Community Reinvestment Act

Brief Description of Proposal:

We propose applying Community Reinvestment Act (CRA)-like obligations to independent mortgage companies and financial technology ("fintech") companies. We also propose developing duty to serve and affordable housing obligations for entities in the private label securities market.

This bill would be valuable in leveling the playing field between depository and non-depository institutions. Banks comply with CRA but independent mortgage companies do not. Similarly, Fannie Mae and Freddie Mac have an affirmative obligation to facilitate affordable housing in their charters and comply with the affordable housing goals but entities in the private label securities market do not abide by any affordable housing obligations. Applying uniform rules across the financial industry ensure that the industry is efficient and equitable in its practices, and cannot take competitive advantage of gaps in legal and regulatory coverage.

Impact on Economic Growth:

Independent mortgage companies originated the great majority of risky and high cost loans that lead to the financial crisis. The spectacular failures of mortgage companies like Ameriquest, Countrywide, and New Century are just a few examples of how dangerous lending not only imperils consumers and communities but also can result in corporate bankruptcies.

That CRA statute requires safe and sound lending. Banks fail CRA exams if they fail to meet the credit needs in the communities in which they are chartered, including by engaging in discriminatory or illegal lending that endanger themselves or consumers. Research by Elizabeth

Laderman and Carolina Reid of the San Francisco Federal Reserve Bank documents that loans made by banks in their CRA geographical areas are about half as likely to default as loans issued by non CRA-covered mortgage companies.

Federal Reserve economists Neil Bhutta and Glenn Canner analyzed 2005–2006 data from the Home Mortgage Disclosure Act (HMDA) and revealed that only six percent of all higher-priced loans (which is used as a proxy for subprime loans) were "CRA-related"—that is, made by banks to either lower-income borrowers or lower-income neighborhoods in the banks' CRA geographical areas.

It is likely that the Federal Reserve researchers discovered that CRA lending is responsible because CRA exams demand it. CRA exams not only scrutinize retail lending activities but also look at the financial counseling and foreclosure prevention efforts of banks. Since independent mortgage companies did not have this oversight and examination, they were not accountable for abusive lending practices in the years preceding the financial crisis. Also, independent mortgage companies are not examined rigorously for corporate responsibility when they seek to acquire or be acquired unlike banks that must prove that their proposed mergers are in the public interest.

Fintechs have been expanding rapidly. In its white paper, the OCC estimates that fintech companies in the United States and the United Kingdom increased to more than 4,000 and that investment in fintech companies has surpassed $24 billion worldwide. A recent survey of small businesses by several Federal Reserve Banks reveals that 20 percent of small businesses obtaining credit used on-line lenders. However, on-line lenders received low satisfaction scores. Only 15 percent of small businesses using on-line lenders were satisfied. Small businesses complained about lack of transparency and unfavorable repayment terms. Seventy percent of those unsatisfied complained about high interest rates. Applying CRA to fintechs is needed to ensure that this new market entrant is lending and serving communities in a responsible fashion.

Impact on the Ability of Consumers and Companies to Participate in the Economy:

Applying CRA to independent mortgage companies and fintechs would increase responsible lending and investing for underserved communities. Consider the following:

- Since 1996, CRA-covered banks issued more than 24 million small business loans in low- and moderate-income tracts, totaling more than $973 billion. NCRC research has corroborated other research demonstrating that small business lending increases at a county level as the number of bank branches increase on a county level.

- Since 1996, CRA-covered banks made more than $883 billion of community development loans. Community development loans support affordable housing and economic development projects benefiting low- and moderate-income communities.

- A Harvard University study, "The 25th Anniversary of the Community Reinvestment Act: Access to Capital in an Evolving Financial Services System," demonstrates that without CRA, home purchase lending to low- and moderate-income borrowers and communities would have decreased by 336,000 loans from 1993 through 2000.

- NCRC has also found that CRA-covered banks issue a higher percentage of their loans to low- and moderate-income and minority communities than non-CRA covered institutions. CRA-covered banks and thrifts issued 16.9 percent of their home purchase, refinance, and home improvement loans to low- and moderate-income borrowers during 2014, in contrast to 14.4 percent for independent mortgage companies and 16 percent for credit unions. When considering just home purchase loans, the figures are 18 percent for banks and thrifts compared to 16 percent each for independent mortgage companies and credit unions, according to NCRC's analysis of HMDA data.

Draft Legislative Language and Concepts

Section 1

(a) The Congress finds as follows:

(1) Because the Community Reinvestment Act of 1977 requires that community needs be met in a safe and sound manner, the Act must be updated and applied to nonbank financial institutions as well as depository institutions.

(2) The Community Reinvestment Act of 1977 promotes community development through financing activities including affordable housing (rental and homeowner), small businesses, and economic development.

(3) It is necessary to increase homeownership and small business ownership for low- and moderate-income borrowers and persons of color through safe and sound lending. It also is necessary to close the wealth gap in the United States.

(4) The Community Reinvestment Act of 1977 has been effective in increasing access to credit and capital because it imposes an affirmative and continual obligation on banks to meet the needs of the local communities in which they are chartered.

(5) The Community Reinvestment Act of 1977 has leveraged more than $6,000,000,000,000 in loans and investments for low- and moderate-income communities according to the National Community Reinvestment Coalition.

(6) Major studies, including those conducted by the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, and Harvard University, have found that the Community Reinvestment Act of 1977 increases home mortgage lending to minority and low- and moderate-income communities and that this lending is profitable.

(7) As recorded by data required by the Community Reinvestment Act of 1977, CRA-covered banks made more than $883 billion of community development loans to support affordable housing and economic development projects. Depository institutions also made 24 million small business loans totaling more than $973 billion in low- and moderate-income neighborhoods from 1996 through 2015.

(8) Yet, inequalities in access to credit and barriers to healthy product choice remain: the Board of Governors of the Federal Reserve System documents that lenders covered by the Community Reinvestment Act of 1977 are less likely to offer high-cost and risky loan products than lenders which are not subject to such Act.

(9) The disproportionate amount of high-cost lending in minority and working class communities would be reduced if the Community Reinvestment Act of 1977 were expanded to non-bank institutions currently not covered by the Act.

(10) Wealth inequalities are stark, and could be reduced in reinvestment requirements were extended to other segments of the financial industry.

(B) Therefore, the Congress determines that—

(1) regulated non-depository financial institutions are required by law to demonstrate that they serve the convenience and needs of the communities in which they are chartered to do business and/or serve;
(2) the convenience and needs of communities include the need for credit services and other financial services; and
(3) regulated non-depository financial institutions have a continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered and in which they originate loans

(b)

(1) It is the purpose of this chapter to require the Consumer Financial Projection Bureau to use its authority when examining regulated non-depository financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.
(2) The Consumer Financial Protection Bureau, the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall take into account the community reinvestment and fair lending record of the regulated non-depository financial institutions when these

institutions seeks to acquire or be acquired by insured depository institutions or other non-depository financial institutions.

(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) the term "regulated non-depository financial institution" means a non-insured depository institution that is either a "mortgage bank" who does not accept deposits (as defined in section 3 of the Federal Deposit Insurance Act) and originates housing-related loans, or a financial technology company who does not accept deposits (as defined in section 3 of the Federal Deposit Insurance Act), pays checks via electronic means and/or originates a considerable number of loans via electronic means and originates housing-related loans, small business loans, and/or consumer-related loans.

(d) Program – The Consumer Financial Protection Bureau shall develop a program consisting of evaluations and ratings that assess the performance of regulated non-depository institutions. The program shall be similar to that developed by the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to evaluate banks' Community Reinvestment Act performance. Ratings and the evaluations of the Consumer Financial Protection Bureau shall be publicly available. The Consumer Financial Protection Bureau shall develop procedures to receive public input on the performance of regulated non-depository financial institutions during its evaluation process.

Section 2

(a) Duty to Serve & Affordable Housing Obligations in the Secondary Market--

In the case of securitization of any residential mortgage asset, the Federal banking agencies, the Securities and Exchange Commission, and the Federal Housing Finance Agency shall develop a duty to serve requirement for securitizers in the private label market that shall consist of an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families and communities consistent with safe and sound leveraged lending activities.

(1) The Federal Housing Finance Agency shall conduct research and analysis to determine how a requirement comparable to the annual housing goals that apply to the government-sponsored enterprises may apply to securitizers in the private label market.
(2) The Federal Housing Finance Agency shall develop an evaluation and rating program in consultation with interested stakeholders.

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Broader of Adoption of Home Buyer Education and Counseling

Brief description of the proposal:

We propose restoring some federal housing counseling programs, expanding existing federal programs and encouraging broader adoption of housing counseling as a tool to create sustainable homeownership opportunities for more low- and moderate-income homebuyers. Rental education and counseling are likewise important to help stabilize the financial condition of renters and to prepare those who want to buy homes to save and manage their finances.

Impact on Economic Growth:

Homeownership remains a key to empowering low- and moderate income families to build individual wealth. Homeownership rates have been on a decade-long decline to a near 50 year low. There have been numerous studies documenting a strong correlation between housing counseling and mortgage performance. According to a HUD report released in June 2016, home buyer education and counseling leads to improved mortgage literacy, greater appreciation for communication with lenders, and better underwriting qualifications. The report, *The First-Time Homebuyer Education and Counseling Demonstration: Early Insights,* is based on a study of 5,800 low, moderate, and middle-income first-time home buyers across 28 metropolitan areas in the country. The study's early findings suggest that homebuyer education and counseling could be a key component of successfully expanding homeownership opportunity and decreasing mortgage delinquency and foreclosures.

Impact on the Ability of Consumers and Companies to Participate in the Economy:

Pre-purchase housing counselors work to prepare families for responsible homeownership, and research consistently demonstrates that pre-purchase counseling works. Analysis by the Federal Reserve Bank of Philadelphia (2014) found that a two hour pre-purchase homeownership workshop and one-on-one pre-purchase counseling improved the participants' financial creditworthiness as they prepared to qualify for a home mortgage. Homeowners and prospective homeowners who receive counseling have higher credit scores, less overall debt, and lower delinquency rates. A 2013 study that looked at 75,000 mortgages found that borrowers who received pre-purchase counseling and education were one-third less likely to become seriously delinquent than similar borrowers who did not receive pre-purchase counseling and education.

Demand for default and delinquency counseling also remains high, with more than 446,000 households, or 46 percent of all counseling clients, seeking counseling to help resolve or prevent a mortgage delinquency or default in FY 2015. The National Foreclosure Mitigation Counseling (NFMC) program , for example, has a proven track record of helping distressed homeowners to reach positive outcomes. During the most recent reporting period it was found that the NFMC program assisted 2 million homeowners in all 50 states, the District of Columbia, and Puerto Rico. NFMC Program-counseled homeowners were 70 percent more likely to remain current on their mortgage after receiving a loan modification cure and those homeowners who received a modification achieved an average reduction in payment of $4,980 per year.

HUD approved housing counselors also provide assistance to about 80,000 tenants annually. This needs to expand because one half of low income renters pay more than 60 percent of their income for housing, an unaffordable housing cost burden.

Legislative Language and Concepts:

There are several examples of programs currently that can be restored, better funded and modeled and incentivized more broadly, including: HUD's Homeowners Armed with Knowledge (HAWK), the Housing Counseling Assistance program, and the National Foreclosure Mitigation Counseling (NFMC).