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STATEMENT OF

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COMPTROLLER OF THE CURRENCY

before the

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

UNITED STATES SENATE

May 12, 2020

Statement Required by 12 U.S.C. § 250:

The views expressed herein are those of the Office of the Comptroller of the Currency and do not necessarily represent the views of the President.

Chairman Crapo, Ranking Member Brown, and members of the Committee, thank you for this opportunity to update the Committee on the many activities underway at the Office of the Comptroller of the Currency (OCC). Over the last two months, the OCC has worked independently and together with the other federal banking agencies to respond quickly to the COVID-19 public health emergency. I am proud to work with employees and colleagues who understand the need to provide rapid clarity and guidance that encourages the banks and savings associations (banks) we supervise to work with consumers, businesses, and communities facing economic hardship from this pandemic, and I am proud of what we have accomplished in a short amount of time. We recognize that there is more to be done to ensure that banks remain safe and sound and able to serve the individuals, families and businesses in their communities throughout this pandemic.

My testimony discusses a wide range of actions the OCC has taken in response to COVID-19 to provide banks greater flexibility to meet the needs of the households and businesses that depend on them, to enhance the condition of the banking industry as it responds to the current economic and public health stresses, and to expand the range of activities underway or planned at the OCC as we continue with the important work necessary to fulfill our mission.

OCC Response to the Coronavirus

Since the initial days of the pandemic, the OCC has acted swiftly to provide information and guidance to our workforce and regulated institutions in response to the COVID-19 public health emergency. I have been impressed by our employees' resiliency and reassured by how effectively the federal financial regulatory agencies and state banking regulators have worked together to ensure a consistent message across the banking sector that encourages banks and savings associations to work with customers affected by COVID-19-related issues.

Internally, the OCC has placed a priority on the health and safety of its workforce and has taken steps to safeguard its employees while maintaining their ability to continue to fulfill our important mission of ensuring the safety, soundness, and fairness of the federal banking system. Since March 16, the agency has functioned at a maximum telework posture, with more than 90 percent of the agency's employees providing mission-critical services from their homes across the country. We limited non-essential travel and added several new workplace flexibilities to

support employees including offering additional leave for employees balancing home child or elder care responsibilities during this pandemic. We also communicate weekly with all OCC employees through agency wide conference calls to share information, answer employee questions, and ensure that our workforce has the opportunity for regular access to our Executive Committee members. As a result, the agency has continued to function at a high level, and our work to ensure the safety and soundness of the federal banking system through the duration of the pandemic continues without interruption.

During March and April, the OCC, often with other regulatory counterparts, published more than 25 separate issuances including bulletins, statements, press releases, and interim final rules to provide timely information to our examiners and the banking industry. Every issuance is accessible on the OCC's webpage under our COVID-19 heading and includes the following:

- On March 6, 2020, the Federal Financial Institutions Examination Council (FFIEC) issued the [*Interagency Statement on Pandemic Planning*](#) that identifies actions that financial institutions should take to minimize the potential adverse effects of a pandemic, recognizing that sound planning in advance of any imminent risk helps to reduce disruptions in services to consumers, businesses, and communities when such contingencies occur.¹
- On March 9, 2020, the federal bank regulators issued a [news release](#) encouraging financial institutions to work constructively with borrowers and other customers affected by COVID-19 related issues. The release stated that prudent efforts that are consistent with safe and sound lending practices should not be subject to examiner criticism.²
- On March 13, 2020, the OCC issued [guidance](#) recognizing the potential for COVID-19 related issues to affect the customers and operations of banks and providing further encouragement to banks to work with borrowers.³ The statement also emphasizes that prudent efforts to modify terms on existing loans such as deferring payments or extending payment due dates, will not be subject to examiner criticism.

¹ OCC Bulletin 2020-13, "Pandemic Planning: Updated FFIEC Guidance." March 6, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-13.html>).

² OCC News Release 2020-30, "Agencies Encourage Financial Institutions to Meet Financial Needs of Customers and Members Affected by Coronavirus." March 9, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-30.html>).

³ OCC Bulletin 2020-15, "Pandemic Planning: Working With Customers Affected by Coronavirus and Regulatory Assistance." March 13, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-15.html>).

- On March 16, 2020, federal bank regulators encouraged banks to use the Federal Reserve’s “[discount window](#)” so that they can continue supporting households and businesses.⁴
- On March 17, 2020, federal bank regulators published an [interim final rule](#) to phase in the automatic distribution restrictions gradually if a bank’s capital levels decline and a statement encouraging banks to use their resources to support households and businesses.⁵ Clarifying [questions and answers](#) were published on March 19, 2020.⁶
- On March 19, 2020, federal bank regulators announced an [interim final rule](#) to ensure that financial institutions will be able to effectively use the Money Market Mutual Fund Liquidity Facility established by the Federal Reserve Board.⁷
- On March 19, 2020, the federal bank regulators issued a [statement](#) encouraging financial institutions to work with affected customers and communities, particularly those that are low- and moderate-income, and clarifying that financial institutions will receive Community Reinvestment Act (CRA) consideration for qualifying community development activities.⁸
- On March 20, 2020, the OCC [encouraged](#) electronic submission of licensing filings to greater support remote processing while continuing to support the federal banking system’s orderly operations.⁹
- On March 22, 2020, the federal and state bank regulators issued [an interagency statement](#) encouraging financial institutions to work constructively with borrowers affected by

⁴ OCC News Release 2020-32, “Federal Banking Agencies Encourage Banks to Use Federal Reserve Discount Window.” March 16, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-32.html>).

⁵ OCC News Release 2020-34, “Federal Banking Agencies Provide Banks Additional Flexibility to Support Households and Businesses.” March 17, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-34.html>).

⁶ OCC Bulletin 2020-17, “Pandemic Planning: Joint Questions and Answers Regarding Statement About the Use of Capital and Liquidity Buffers.” March 19, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-17.html>).

⁷ OCC News Release 2020-36, “Federal Bank Regulatory Agencies Issue Interim Final Rule for Money Market Liquidity Facility.” March 19, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-36.html>).

⁸ OCC Bulletin 2020-19, “Pandemic Planning: Joint Statement on Community Reinvestment Act Consideration for Activities in Response to COVID-19.” March 19, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-19.html>).

⁹ OCC Bulletin 2020-20, “Licensing Filings: Use of Electronic Methods for Submission of Licensing Filings.” March 20, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-20.html>).

COVID-19 and providing additional information regarding loan modifications.¹⁰ The agencies encourage financial institutions to work with borrowers, will not criticize institutions for doing so in a safe and sound manner, and will not direct supervised institutions to automatically categorize loan modifications as troubled debt restructurings. The joint statement also provides supervisory views on past-due and nonaccrual regulatory reporting of loan modification programs.

- On March 22, 2020, the OCC [announced](#) an interim final rule to revise its short-term investment fund rule for national banks acting in a fiduciary capacity.¹¹ The rule allows the OCC to authorize banks to temporarily extend maturity limits of these funds because the financial markets are in a period of significant stress negatively affecting the ability of banks to operate in compliance with maturity limits identified in the rule.
- On March 25, the OCC published a [bulletin](#) notifying regulated institutions of relief for regulatory reporting for institutions affected by COVID-19.¹²
- On March 25, the OCC published a [bulletin](#) providing information for essential critical infrastructure workers during the COVID-19 emergency response.¹³
- On March 26, the federal bank regulators [encouraged](#) regulated financial institutions to support their customers by offering more responsible short-term small-dollar lending products.¹⁴ The OCC issued a [bulletin](#) emphasizing the statement for banks and thrifts.¹⁵
- On March 26, the OCC issued a [statement](#) describing the strength and resiliency of the federal banking system in light of COVID-19.¹⁶

¹⁰ OCC News Release 2020-39, “Agencies Provide Additional Information to Encourage Financial Institutions to Work with Borrowers Affected by COVID-19.” March 22, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-39.html>).

¹¹ News Release 2020-38, “OCC Revises Short-Term Investment Fund Rule.” March 22, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-38.html>).

¹² OCC Bulletin 2020-24, “Consolidated Reports of Condition and Income: 30-Day Grace Period for the March 31, 2020, Call Report Date.” March 25, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-24.html>).

¹³ OCC Bulletin 2020-23, “Pandemic Planning: Essential Critical Infrastructure Workers in the Financial Services Sector.” March 25, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-23.html>).

¹⁴ OCC News Release 2020-40, “Federal Agencies Encourage Banks, Savings Associations and Credit Unions to Offer Responsible Small-Dollar Loans to Consumers and Small Businesses Affected by COVID-19.” March 26, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-40.html>).

¹⁵ OCC Bulletin 2020-25, “Small-Dollar Lending: Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19.” March 26, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-25.html>).

¹⁶ OCC News Release 2020-41, “Statement of the Comptroller of the Currency on the Condition of the Federal Banking System and the Response to COVID-19.” March 26, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-41.html>).

- On March 27, the federal bank regulators issued [two interim final rules](#): the first involved the standardized approach for measuring counterparty credit risk, or SA-CCR, and the second addressed the "current expected credit loss," or CECL, accounting standard in bank regulatory capital.¹⁷
- On March 31, the federal bank regulators issued a [joint statement](#) on the interaction of the revised transition of the CECL method for allowances with section 4014 of the CARES Act.¹⁸
- On April 2, the OCC made banks and savings associations [aware](#) of the new and expanded small business relief programs administered by the U.S. Small Business Administration (SBA), included in the CARES Act.¹⁹
- On April 3, the federal bank regulators issued a [statement](#) providing needed regulatory flexibility to enable mortgage servicers to work with struggling consumers affected by COVID-19.²⁰
- On April 6, the federal bank regulators announced [two interim final rules](#) to implement Section 4012 of the CARES Act, which requires the agencies to temporarily lower the community bank leverage ratio to 8 percent.²¹
- On April 7, the federal bank regulators, in consultation with state regulators, issued a [revised interagency statement](#) to provide additional information to financial institutions that are working with borrowers affected by COVID-19 to provide loan modifications and mortgage relief.²²

¹⁷ OCC News Release 2020-42, "Agencies Announce Two Actions to Support Lending to Households and Businesses." March 27, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-42.html>).

¹⁸ OCC Bulletin 2020-30, "Regulatory Capital: Joint Statement on the Interaction of the Revised Transition of the CECL Methodology for Allowances With Section 4014 of the CARES Act." March 31, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-30.html>).

¹⁹ OCC Bulletin 2020-31, "Small Business Administration Lending: New Programs for Small Business Relief." April 2, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-31.html>).

²⁰ OCC News Release 2020-48, "Federal Agencies Encourage Mortgage Servicers to Work With Struggling Homeowners Affected by COVID-19." April 3, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-48.html>).

²¹ OCC News Release, "Agencies Announce Changes to the Community Bank Leverage Ratio." April 6, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-49.html>).

²² OCC News Release, "Agencies Issue Revised Interagency Statement on Loan Modifications by Financial Institutions Working with Customers Affected by the Coronavirus." April 7, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-50.html>).

- On April 7, the OCC issued a [bulletin](#) in response to COVID-19 to support FinCEN’s regulatory relief and risk-based approach for financial institution compliance with the Bank Secrecy Act (BSA).²³
- On April 9, the federal bank regulators released an [interim final rule](#) regarding the capital treatment of loans related to the Paycheck Protection Program (PPP).²⁴
- On April 14, the OCC [announced](#) it would hold a series of listening sessions with banks and financial technology companies to discuss challenges and solutions to support the effective and efficient implementation of the PPP.²⁵
- On April 14, the federal bank regulators issued an [interim final rule](#) to temporarily defer real estate-related appraisals and evaluations under the agencies’ interagency appraisal regulations.²⁶ The agencies also issued a [statement](#) to address challenges relating to appraisals and evaluations for real estate-related financial transactions affected by COVID-19.²⁷
- April 20, 2020, the OCC published a [bulletin](#) providing awareness to banks about facilities and programs established or expanded by the Board of Governors of the Federal Reserve System to assist households and employers of all sizes and bolster the ability of state and local governments to deliver critical services during the COVID-19 emergency.
- April 24, 2020, the OCC published a [bulletin](#) recognizing that a wide range of stakeholders, including state and local officials, have an interest in the successful implementation of these programs, but reminding reminds banks that the has exclusive visitorial authority over them.
- April 27, 2020, the OCC released a [bulletin](#) to encourage banks providing loans under the Small Business Administration’s (SBA) Paycheck Protection Program (PPP) to

²³ OCC Bulletin 2020-34, “Bank Secrecy Act/Anti-Money Laundering: OCC Supports FinCEN’s Regulatory Relief and Risk-Based Approach for Financial Institution Compliance in Response to COVID-19.” April 7, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-34.html>).

²⁴ OCC News Release 2020-51, “Federal Bank Regulators Issue Interim Final Rule for Paycheck Protection Program Facility.” April 9, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-51.html>).

²⁵ OCC News Release 2020-53, “OCC Announces Paycheck Protection Program Listening Sessions.” April 14, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-occ-2020-53.html>).

²⁶ OCC News Release 2020-54, “Federal Banking Agencies to Defer Appraisals and Evaluations for Real Estate Transactions Affected by COVID-19.” April 14, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-54.html>).

²⁷ “Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus.” April 14, 2020 (<https://occ.gov/news-issuances/news-releases/2020/nr-ia-2020-54b.pdf>).

prudently document their implementation and lending decisions. Additionally, banks are encouraged to identify and track the PPP loans made to small business borrowers that have annual revenues of \$1 million or less and are located in low- to moderate-income areas.

- May 1, 2020, the OCC and the Federal Reserve Board published a [response](#) to a frequently asked question about the capital implication under the market risk capital rule in light of current market conditions.
- On May 5, the federal bank regulators [announced](#) an interim final rule to modify the agencies' Liquidity Coverage Ratio (LCR) rule to support banks' participation in the Federal Reserve's Money Market Mutual Fund Liquidity facility and the Paycheck Protection Program Liquidity Facility. The interim final rule neutralizes the LCR impact associated with the non-recourse funding provided by these facilities. The OCC will continue to monitor the consumer and economic impacts of the COVID-19 pandemic and will not hesitate to take additional action as necessary.

Condition of the Banking System and OCC Market Monitoring Efforts

The OCC supervises nearly 1,200 national banks, federal savings associations, and federal branches and agencies of foreign banks (banks) operating in the United States. These banks range in size and complexity from small community banks to the largest most globally active banks. The vast majority of national banks and federal savings associations, numbering approximately 920, have less than \$1 billion in assets, while more than 61 have more than \$10 billion in assets. Combined, these banks hold \$12.6 trillion or 69 percent of all assets of U.S. commercial banks.²⁸

OCC-supervised institutions manage more than \$60.5 trillion in assets held in custody or under fiduciary control, which amounts to 45 percent of all fiduciary and custodial assets in insured U.S. banks, savings associations, and uninsured national trust banks.²⁹ The federal banking system holds more than three-quarters of the credit card balances in the country, while servicing about a third of all first-lien residential mortgages. Through their products and services, most American families have at least one relationship with an OCC-regulated bank.

²⁸ Data current as of December 31, 2019.

²⁹ Data current as of December 31, 2019.

The condition of the federal banking system prior to the COVID-19 pandemic and related containment measures was in strong standing with ample capital, liquidity and sound credit quality. As of December 31, 2019, the overall federal banking system, including community banks with less than \$1 billion in total assets, held record high levels of capital as reflected in their leverage ratios as well as their tier 1 risk-based capital ratios. Tier 1 capital ratios for the federal banking system increased to 13.3 percent in 2019 and to 20.1 percent for banks with less than \$1 billion in total assets in 2019.

The industry's strength ensured that the federal banking system was well equipped to carry out the range of congressional policies advanced pursuant to the Coronavirus Aid, Relief and Economic Security Act (CARES Act), passed on March 27, 2020. The federal banking system has been the primary delivery mechanism to carry out the federal economic response to the virus, and to support programs such as the Paycheck Protection Program, the foreclosure relief programs, and the lending facilities established by the Federal Reserve. The banks supervised by the OCC have provided considerable relief to individual consumers, businesses and communities by serving as an important mechanism for citizens to receive their federal stimulus payments, providing new loans to small businesses to ensure they continue to keep employees on their payroll, and working with borrowers to provide mortgage and other credit forbearance programs.

Going forward, with large sectors of the economy dormant, the current downturn will likely challenge the federal banking system. The full extent of the economic and banking effects will greatly depend on the depth and duration of the current downturn. Following submission of call report data next month, we will have a better picture of the effect of the early stresses to the institutions we supervise. As mentioned above, on March 25, 2020, the OCC notified our regulated institutions of a 30-day grace period for their call report data submissions due on March 31, 2020³⁰ Despite this delay, recent public earnings releases by large banking firms provide some early indications of what to expect when all the first quarter performance data are in. The most notable effect is a considerable spike in credit loss provisions (and resultant drop in earnings) driven by the additional losses expected from the pandemic's economic consequences.

³⁰ OCC Bulletin 2020-24, "Consolidated Reports of Condition and Income: 30-Day Grace Period for the March 31, 2020, Call Report Date" issued March 25, 2020 (<https://www.occ.gov/news-issuances/bulletins/2020/bulletin-2020-24.html>).

The higher credit loss provisions also were due in part to a technical accounting change to the new Current Expected Credit Loss (CECL) treatment meant to reflect a through-the-cycle view of credit losses.

In late February, the OCC implemented enhanced market and credit monitoring activities that continue today. This effort ensures that we are aware of, and give attention to, any potential adverse effects on individual banks and the federal banking system resulting from the pandemic, and allows us to analyze current trends and to provide appropriate regulatory assistance to institutions as warranted. To date, the federal banking system's liquidity remains sound after the initial impact and response to the pandemic. Banks are experiencing increased operational risk due to an increased number of employees working from home, absenteeism, and increased call volumes. Additionally, there is an increase in cyber activity and fraud schemes with bad actors seeking to take advantage of the crisis situation. However, banks are now making plans to reopen branches within local guidelines.

As we move to the next phase of this pandemic crisis, we expect that bank earnings will continue to be under stress as interest rates decline and it becomes necessary for banks to increase provisions for expected loan losses. We are also starting to see stress on consumer and commercial borrowers due to the sharp drop in economic activity that may place earnings and capital at risk. We continue to encourage banks to work with their borrowers as individual circumstances warrant. We will continue to be creative and proactive to promote the continued health of the institutions we supervise throughout this public health emergency and to ensure the federal banking system remains a source of strength for the national economy, capable of serving consumers, businesses, and communities across the nation.

OCC Priorities and Objectives

Notwithstanding the high priority the OCC has placed on responding to the challenges presented by COVID-19, the OCC has continued to fulfill the full range of responsibilities required by our mission to ensure the safe, sound, and fair operation of the federal banking system. Since becoming Comptroller, I have sought to strengthen the federal banking system as an engine to promote economic growth and prosperity for consumers, businesses, and communities, including low- to moderate-income (LMI) communities, across the country. This work has included strengthening and modernizing the Community Reinvestment Act (CRA) to

increase lending, investment, and banking services where they are needed most, encouraging small-dollar lending, improving the efficiency and effectiveness of the BSA and Anti-Money Laundering (AML) compliance regime, as well as advancing other regulations, and responsible innovation including support for a special purpose national bank charter.

Strengthening and Modernizing Community Reinvestment Act Regulations

The OCC has continued to advance its efforts to strengthen and modernize the regulatory framework implementing the CRA. On December 12, 2019, the OCC and the FDIC jointly issued a proposal to update CRA regulations³¹ that was as published in the *Federal Register* on January 9, 2020.³² The proposal applies to all national banks, state banks that are not members of the Federal Reserve System, and federal and state savings associations. The OCC-supervised institutions covered by the proposal conduct upwards of 70 percent of all CRA activity in the country.

On April 8, the public comment period on the proposal closed after 118 days. In total, more than 7,500 comments were submitted. The end of the comment period is another important milestone in a decade-long process that has included nationwide listening sessions,³³ a joint report to Congress from regulators identifying opportunities to improve CRA,³⁴ recommendations from the U.S. Treasury,³⁵ a report of feedback gathered by the Federal Reserve,³⁶ extensive stakeholder outreach, and a healthy and robust dialogue originating from an Advanced notice of Proposed Rulemaking in August 2018.³⁷

The OCC continues to carefully review the public comments it has received. The impact of COVID-19 crisis has made it even more clear that communities need additional access to lending, capital and services, especially in difficult times and, in crafting a final rule, the OCC

³¹ OCC News Release 2019-147, “FDIC and OCC Propose to Modernize Community Reinvestment Act Regulations.” December 12, 2019 (<https://occ.gov/news-issuances/news-releases/2019/nr-ia-2019-147.html>).

³² <https://www.federalregister.gov/documents/2020/01/09/2019-27940/community-reinvestment-act-regulations>.

³³ “CRA Public Hearings Held Summer 2010.” FFIEC. June-August 2010 (<https://www.ffiec.gov/cra/hearings.htm>).

³⁴ *Joint Report to Congress: Economic Growth and Regulatory Paperwork Reduction Act*. FFIEC. March 2017 (https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf).

³⁵ “Treasury Releases Community Reinvestment Act Modernization Recommendations.” U.S. Department of Treasury. April 3, 2018 (<https://home.treasury.gov/news/press-releases/sm0336>).

³⁶ *Perspectives from Main Street: Stakeholder Feedback on Modernizing the Community Reinvestment Act*. Board of Governors of the Federal Reserve System. June 2019 (<https://www.federalreserve.gov/publications/files/stakeholder-feedback-on-modernizing-the-community-reinvestment-act-201906.pdf>).

³⁷ OCC News Release 2018-87, “OCC Seeks Comments on Modernizing Community Reinvestment Act Regulations.” August 28, 2018 (<https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-87.html>).

will keep in mind the importance of encouraging banks to lend and invest more in the communities they serve, including low- and moderate-income neighborhoods. We seek to increase support to small businesses, small and family-owned farms, Indian country, and distressed areas. Recent news coverage demonstrating how failures to reinvest in basic infrastructure disproportionately affects the most vulnerable members of our communities, including rural and underserved areas and Indian country. The CRA proposal would make CRA regulations stronger by making four basic but important changes to the regulations.

First, the proposal would clarify what counts for CRA credit by articulating clear standards and requiring the agencies to publish an illustrative list of qualifying activities. Second, it would update how banks define their assessment areas by retaining areas surrounding branches and adding additional assessment areas where banks draw large amounts of their deposits outside of their physical branch network. This would maintain the importance of branches in meeting community needs and evaluate banks with large scale activities outside their facility-based network for their CRA performance in those communities from which they take a significant portion of their deposits. Third, the proposed rule would require examiners to evaluate CRA performance more objectively by assessing the distribution of retail lending as well as the impact of CRA activity. It would assess what portion (number of units) of a bank's retail lending in each of a bank's major product lines is targeted to LMI individuals and LMI areas as well as evaluate the impact of a bank's CRA-qualifying activities by comparing the dollar value of a bank's CRA-qualifying activity with its retail domestic deposits in each assessment area and at the overall bank level. Fourth, the proposal would improve the transparency and timeliness of reporting. Better reporting for banks subject to the new evaluation method would allow stakeholders and bankers to gauge CRA performance throughout the evaluation cycle, speed up regulatory decision making, and reduce the time necessary to produce Performance Evaluations at the conclusion of CRA examinations.

The agency is working to develop a final rule that would help achieve specific benefits and relief that stakeholders have expressed are important, such as:

- Removing uncertainty that discourages investment—Subjectivity and lack of transparency leave bankers and stakeholders guessing what qualifies for CRA credit and how much credit they will receive. This limits innovation and restricts the flow of capital to underserved areas. The proposal would fix this problem in

part by adopting clear criteria, publishing an illustrative list of qualifying activities, and establishing a clear process for confirming that activities are qualifying and adding the activities to that list.

- **Aligning incentives to focus on LMI borrowers**—Current rules allow banks to receive credit for retail loans to wealthy borrowers in LMI areas, which can contribute to displacement and harmful gentrification. The proposal refocuses CRA credit on LMI borrowers by closing this loophole.
- **Reducing CRA deserts**—Current rules neglect rural needs and those of Indian country by focusing CRA evaluations on urban areas where branches are concentrated. The proposal would address this concern by clarifying that banks can receive credit outside their assessment areas and what specific activities serving rural and underserved areas would qualify for CRA credit. Requiring banks to designate additional assessment areas where they take large amounts of deposits also helps serve areas beyond the facility-based assessment areas.
- **Shortening gaps between performance evaluations and publication**—Today’s process results in Performance Evaluations that can be more than 1,000 pages long and take months or years to produce. More objective measures and standardized reporting would alleviate this problem.
- **Refocusing on long-term activity**—Today’s approach generally credits activity *initiated* within an evaluation period. The proposed rule instead would look at the sustained commitment of a bank to meet the credit needs within its communities and reward long-term investment that can help make more meaningful and lasting change.
- **Supporting America’s small farms and small businesses**—The eligible size for loans to receive CRA credit has not been updated in 25 years. Raising the eligible size would help create more jobs and economic opportunity and better support America’s small farms and small business.
- **Accommodating different bank sizes and business models**—The proposal would provide an opt-in for small banks to choose whether to be evaluated under existing performance standards or the revised framework based on their unique business model.

Modernizing CRA regulations as proposed in the NPR would require OCC-regulated banks to conduct and hold on their balance sheet \$500 billion to meet minimum satisfactory requirements and up to \$1 trillion to meet outstanding requirements in CRA qualified investments and loans. Modernization would bring valuable additional resources to communities across America that are currently underserved by the current regime and provide greater transparency to help ensure those dollars serve the communities they were intended to help. The OCC will work toward finalizing and issuing a rule during the first half of this year.

Promoting Small-Dollar Lending

Millions of Americans rely upon short-term small-dollar credit to make ends meet. Consumers need safe, affordable choices, and banks should be part of that solution. Banks are well-suited to offer affordable short-term small-dollar lending options that can help consumers find a path to more mainstream financial services without trapping them in cycles of debt.

To facilitate banks offering responsible short-term small-dollar installment loans to help meet the credit needs of their customers, the OCC published a bulletin in May 2018 setting out three core principles for banks that offer these products:

- All bank products should be consistent with safe and sound banking, treat customers fairly, and comply with applicable laws and regulations.
- Banks should effectively manage the risks associated with the products they offer, including credit, operational, compliance, and reputation risks.
- All credit products should be underwritten based on reasonable policies and practices, including guidelines governing the amounts borrowed, frequency of borrowing, and repayment requirements.

The agency's bulletin also highlighted reasonable policies and practices specific to short-term small-dollar installment lending. While banks initially may not have had the infrastructure to engage in such lending, banks are purchasing loans and loan pools from online lenders and are creating more liquidity for these lenders. Additionally, banks are exploring relationships with lenders offering small-dollar loans that align with the sound lending principles discussed in the bulletin. The agency's position on such alignment remains firm and is not at odds with our current rule-making efforts to establish greater regulatory certainty on the validity of interest rates on loans made by national banks and federal savings associations that are subsequently transferred to others.

Over the course of the past year, the OCC has had discussions with several banks that are considering new small-dollar products. The CFPB's proposal to amend its Payday Lending Rule, issued in February 2019, could accelerate interest in small-dollar products. However, as commenters noted in response to the FDIC's November 2018 request for information, regulatory uncertainty remains. The federal banking agencies are exploring principles-based options to address this uncertainty and to encourage banks to deliver safe, fair, and less expensive short-term credit products that support the long-term financial health of their customers.

Streamlining Bank Secrecy Act and Anti-Money Laundering

The BSA/AML laws and regulations protect our financial system from criminals who would exploit that system for their own illegal purposes or use that system to finance terrorism. While regulators and the industry share a commitment to fighting money laundering and other illegal activities, many processes and practices for complying with current BSA/AML laws and regulations have become inefficient and costly. To address today's threats and to better use the capabilities of modern technology to protect the financial system from illicit activity, it is critical that we update and enhance the BSA/AML regime.

The OCC has taken a leadership role in coordinating discussions with the federal financial regulatory agencies, Treasury's Office of Terrorism and Financial Intelligence, and the Financial Crimes Enforcement Network (FinCEN) to identify and implement ways to improve the efficiency and effectiveness of BSA/AML regulations, supervision, and examinations, while continuing to meet the legal requirements, support law enforcement, and reduce unnecessary BSA/AML compliance burden. Interagency staff meet weekly and principals continue to meet monthly to discuss ways to update the nearly 50-year-old BSA/AML regime to better counter today's criminal threats and promote the use of modern technology to protect the U.S. financial system from illicit activity.

The agencies have taken several steps toward this shared goal. In October 2018, the agencies issued a joint statement that clarifies the permissibility of sharing BSA resources among banks with a community focus, less complex operations, and with lower risk profiles for money laundering or terrorist financing.³⁸ In December 2018, the agencies issued a joint statement as

³⁸ OCC News Release 2018-107, "Federal Agencies Issue a Joint Statement on Banks and Credit Unions Sharing Resources to Improve Efficiency and Effectiveness of Bank Secrecy Act Compliance." October 3, 2018 (<https://occ.gov/news-issuances/news-releases/2018/nr-ia-2018-107.html>).

part of interagency efforts to encourage banks to consider the use of innovative technologies for achieving anti-money laundering compliance.³⁹ In July 2019, the agencies issued a joint statement to clarify and explain our existing risk-focused approach to examining for BSA/AML compliance programs.⁴⁰ This statement increases transparency in the existing supervisory approach and promotes the goal of improving the effectiveness of our examinations and compliance among our supervised financial institutions.

In 2019, the OCC also published an interpretive letter setting forth our conclusion that a bank's automated filing proposal for suspicious activity reports (SARs) involving certain structuring transactions is permissible, subject to the conditions outlined in the letter and representations made by the bank.⁴¹ In 2018, the agencies also issued an order, for the first time in the nearly 20 year history of the CIP rule requirements of the USA PATRIOT Act, granting an exemption from those requirements for certain insurance premium finance loans, finding that the exemption was consistent with the purposes of the BSA and safe and sound banking.

Most recently, in April 2020, the OCC joined with the other FFIEC agencies in issuing updates and revisions to the BSA/AML examination manual. The manual is used by bank examiners to evaluate compliance with the BSA/AML requirements, and these updates offer further transparency into the examination process, as well as incorporating recent regulatory changes. The revisions increase transparency by emphasizing the Agencies' risk-focused approach to BSA/AML supervision, and ensuring that mandatory regulatory requirements were clearly distinguished from supervisory expectations set forth in guidance. The agencies are continuing to collaborate with law enforcement on informational needs to support the fight against criminal activities, as well as working on additional guidance for industry and updates to other sections of the FFIEC manual.

The OCC also supports legislative changes that would increase the effectiveness and efficiency of BSA/AML regulation and compliance programs. The OCC generally supports changes that would reduce unnecessary industry burden and compliance costs and allow for

³⁹ OCC News Release 2018-130, "Agencies Issue a Joint Statement on Innovative Industry Approaches." December 3, 2018 (<https://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-130.html>).

⁴⁰ OCC News Release, "Federal Bank Regulatory Agencies and FinCEN Improve Transparency of Risk-Focused BSA/AML Supervision." July 22, 2019 (<https://occ.gov/news-issuances/news-releases/2019/nr-ia-2019-81.html>).

⁴¹ OCC Interpretive Letter 116, "Request for interpretive letter to streamline SARs for potential structuring activity." September 27, 2019 (<https://occ.gov/topics/charters-and-licensing/interpretations-and-actions/2019/int1166.pdf>).

better information sharing related to illicit finance. These changes also could require a regular review of BSA/AML regulations to identify ways to further to reduce unnecessary burden. The OCC applauds the work of several bipartisan members of the Senate Banking Committee to support needed BSA/AML reforms. We look forward to continuing to work with members to bring these legislative reforms to a positive conclusion.

Other OCC Regulatory Activity Underway

Permissible interest on transferred loans. On November 21, 2019, the OCC published a proposed rule to clarify that when a national bank or savings association sells, assigns, or otherwise transfers a loan, the interest rate permissible prior to the transfer continues to be permissible following the transfer.⁴² This proposal would expressly codify the OCC's and banking industry's longstanding and well-established legal understanding and thereby address confusion stemming from a 2015 decision from the U.S. Court of Appeals for the Second Circuit. In doing so, the proposal would promote safety and soundness by facilitating loan sales, which enable the orderly functioning of the secondary markets and the ability of institutions to manage their liquidity risk. Despite criticism to the contrary, the proposal has no effect on the OCC's historical opposition to rent-a-charter relationships that facilitate predatory lending. As recently as 2018, the OCC publicly reiterated its position that it views such relationships unfavorably, and it maintains this posture today. The FDIC issued a similar proposed rule, which applies to state non-member banks. The comment period on the proposal closed January 21, 2020, and the OCC is reviewing the comments received.

Licensing Amendments. On March 6, 2020, the OCC published an NPR requesting comment on a proposal to update and clarify the OCC's regulations relating to the licensing policies and procedures for corporate activities and transactions involving national banks and federal savings associations.⁴³ Comments on the NPR were due by May 4, 2020.

Activities and Operations of National Banks and Federal Savings Associations. In the first half of 2020, the OCC plans to issue an NPR proposing to revise and reorganize the OCC's rules for activities and operations of national banks and federal savings associations. This proposal will clarify and codify recent OCC interpretations, integrate certain regulations for

⁴² OCC News Release, "OCC Proposes Rule to Clarify "Valid When Made" Doctrine." November 18, 2019 (<https://occ.gov/news-issuances/news-releases/2019/nr-occ-2019-132.html>).

⁴³ OCC Bulletin, "Licensing Amendments: Notice of Proposed Rulemaking." March 6, 2020 (<https://occ.gov/news-issuances/bulletins/2020/bulletin-2020-12.html>).

national banks and federal savings associations, and update or eliminate outdated regulatory requirements. As a companion to the NPR, the OCC also plans to issue an advanced notice of public rulemaking (ANPR) that would request comment on revising the OCC's rules on electronic banking activities

Supporting Responsible Innovation

In these challenging times, the OCC continues to support responsible innovation in the federal banking system. Innovation supported by the OCC in recent years is helping to meet the needs of consumers, businesses, and communities during the COVID-19 event and beyond through increased contactless and digital payment mechanisms, personal financial management tools, and efficient and effective access to prudent lending and short-term liquidity products. Recent technology and process developments are also enhancing bank operations and enabling financial institutions—including small and rural banks—to quickly and more effectively meet the needs of their customers and communities. Moreover, responsible innovation is continuing to help expand services to unbanked and underbanked consumers and promote financial inclusion.

Over the past several years, the OCC has been a leader in supporting the development of prudent, safe and sound, and fair innovative products and services through several programs and activities.⁴⁴ Most recently, the OCC's Office of Innovation held a series of listening sessions⁴⁵ around the Paycheck Protection Program (PPP) in response to feedback from banks and trade associations regarding several technology and other challenges they identified. The OCC facilitated a discussion between banks and financial technology companies about possible technology solutions⁴⁶ available to assist banks in overcoming the challenges identified and to scale up participation in the PPP quickly to serve the needs of small businesses. Nearly 200 banks, nonbanks and other industry stakeholders attended each of these calls. The OCC has made the summaries of the calls available on its public website. Given the response to these listening sessions, the OCC anticipates holding other similar sessions on emerging topics and trends on a more frequent basis.

⁴⁴ See testimony of Beth Knickerbocker, OCC Chief Innovation Officer, before the Task Force on Fintech, June 25, 2019, for the full scope of OCC's innovation activities (<https://www.occ.gov/news-issuances/congressional-testimony/2019/ct-2019-70-written.pdf>).

⁴⁵ Listening sessions are used to inform the OCC and participants about emerging topics, issues, or concerns of stakeholders such as banks and nonbanks, including financial technology companies. The goal of listening sessions is to encourage an open dialogue between participants. Listening sessions are not intended to result in a group consensus on recommendations to guide OCC policy or regulation.

⁴⁶ The OCC does not endorse any particular solutions, companies, or technologies.

The OCC also continues to develop its Innovation Pilot Program. In 2019, the OCC proposed a voluntary innovation pilot program to support bank testing of innovative activities that could significantly benefit consumers, businesses, and communities, including those that promote financial inclusion. The program is designed to assist banks in those situations where regulatory or supervisory uncertainty may be a barrier to deploying a new product, service, or process, and where early regulatory involvement may promote a clearer understanding of risks and related issues. The OCC received several comments from the public and is nearing completion of updates to its proposal. It anticipates announcing a final program shortly.

The Office of Innovation will continue to expand its activities in support of responsible innovation in the federal banking system. Currently, the Office is exploring additional ways to bring banks and fintechs together to share experiences and to further encourage safe and sound collaboration through bank fintech partnerships as well as more traditional vendor relationships. In addition, it continues to work with business units throughout the OCC to improve the awareness and understanding of OCC staff on emerging trends and technological innovations.

Finally, the number of fintech companies such as marketplace lenders, payment processors, and custody service providers that offer products and services that historically have been offered by banks continues to increase and several of these companies continue to explore various options to conduct their business on a national scale, including through becoming national banks. The OCC strongly supports the dual banking system and believes that fintech companies engaged in the business of banking should have the option to conduct their businesses through a national bank charter when it makes sense for their business model and they meet the rigorous and high standards and criteria for becoming a national bank, whether that charter provides a broad range of services or involves a more limited range of banking activities.

On December 19, 2019, the OCC appealed a decision by the U.S. District Court for the Southern District of New York that blocks the agency's issuance of special purpose national bank charters to businesses engaged in banking but that do not take deposits. In appealing the court's decision, the OCC is defending long standing authority granted by the National Bank Act to charter national banks, including special purpose national banks that engage in at least one of the core banking functions—paying checks or lending money or taking deposits. The OCC's brief in the case was filed on April 23, 2020. I expect litigation challenging the OCC's authority

to provide a special purpose national bank charter for fintechs will be favorably resolved ultimately so that this additional option will be available to fintechs.

America's federal banking system plays a critical role in meeting the credit needs of consumers, businesses, and communities across the country. To continue serving as a major source of strength for the economy, including in troubling times like today, the federal banking system must evolve and adapt to the changing needs of the nation and the marketplace, just as it has for more than 150 years. The efforts and activities of the OCC in support of the responsible innovation will ensure the federal banking system will remain a strong and vibrant system capable of effectively responding to needs of the consumers, businesses and communities for years to come.

Conclusion

The OCC is engaged in extensive regulatory efforts to ensure our nation's banks and federal savings associations continue to function in a safe, sound, and fair manner throughout the COVID-19 public health emergency. The actions taken by the OCC and fellow state and federal regulators responsibly provide flexibility to banks and savings associations to serve their customers, while maintaining essential safeguards. The OCC will continue to work with other agencies as well as the institutions we oversee to be responsive to our nation's banking needs.

At the same time, our work must continue to ensure federal banks and savings associations operate consistent with our mission after the crisis recedes and throughout the economic recovery. I am proud of the women and men of the OCC who work tirelessly to ensure the banks remain capable of meeting the needs of consumers, business, and communities across the nation.

I look forward to continuing to discuss these issues with members of the Committee.