CHARITY & SECURITY NETWORK

700 12th Street Suite 700
Washington, DC 20005
+1 (202) 481 6927

To: regs.comments@occ.treas.gov

Reforming the Community Reinvestment Act Regulatory Framework
Agency name: OCC
Docket ID: OCC—2018-0008

ANPR Comment submission: CRA Expansion Could Facilitate Financial Inclusion

Over the past decade, the way banks do business has changed dramatically. No longer must a customer walk into a local branch of a bank, or line up in the drive-through lane, to conduct business. Customers regularly make deposits, move funds between accounts, apply for loans, and make wire transfers from the convenience of their computers, or increasingly, from their smartphone apps. As was noted in the ANPR, some banks do not have physical branches at all; they serve customers only via telephone and online.

If a bank based in Boston has a customer in Andover, who is traveling in Los Angeles, and sends money to his or her college-aged child studying abroad in Geneva via a smartphone app, where is the bank's footprint? In today's banking environment, the answer is "globally." As such, limiting the interpretation of "community" to a bank's physical "footprint" (based on its brick-and-mortar or ATM locations) seems obsolete.

For banks that serve as correspondent institutions for international wire transfers, the notion of a global footprint takes on even more relevance. These institutions are key players in facilitating these transactions, and the decline in correspondent relationships is a stark reminder of their vital role.

Nonprofits and Financial Access

As the Office of the Comptroller of the Currency (OCC) is aware, the issue of financial access has come to the forefront in recent years. The plight of unbanked communities, the decline in correspondent banking relationships, and the struggle of NPOs, money service businesses and others to maintain bank accounts and transfer funds has been well-documented.[1] At the same time, the OCC has supported the expansion of financial access through the Community Reinvestment Act (CRA).[2]

[1] See *Humanitarian Assistance: USAID Should Improve Information Collection and Communication to Help Mitigate Implementers' Banking Challenges* (GAO-18-660; September 2018); *International Remittances: Money Laundering Risks and Views on Enhanced Customer Verification and Recordkeeping Requirements* (GAO-16-65; Feb 16, 2016); *FSB Publishes Report on Correspondent Banking, Makes Remittance Recommendations* (FinExtra, March 16, 2018); *Risk-averse Banks Cut Correspondent Relationships by 6%* (Reuters, July 4, 2017).

[2] According to the OCC's 2016 CRA Q&A guidance document, economic development includes improving access by low- or moderate-income persons to financial services, CRA Q&A guidance, 81 FR 48505, July 25, 2016, at www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf p. 48509. The OCC also notes that examiners evaluate the range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which those services are tailored to meet the needs of those geographies by assessing, among other things, actions undertaken by financial institutions to offer or expand access to financial services, Ibid at p. 48543.

Nonprofit organizations (NPOs) have suffered a lack of financial access in recent years. A 2017 empirical study found that two-thirds of U.S.-based NPOs face difficulties in accessing financial services.[3] The most common problem reported in the survey were wire transfer delays. In focus group sessions conducted for the report, NPO participants noted that delays typically lasted weeks or even months, severely impacting time-sensitive programming. For example, a U.S.-based NPO planned to carry out a winterization program in Afghanistan, but it was never implemented because by the time the funds were transferred, winter was over.[4] Another U.S.-based organization was prevented from sending immediate relief to the Rohingya minority in Myanmar in the midst of a dire humanitarian crisis.[5]

While the same study found smaller numbers of NPOs struggling with account closures or refusals to open accounts (15% in total[6]), the impact on NPO operations is significant. "You have 30 days to move your money" with no explanation or opportunity to correct perceived deficiencies is a daunting message to receive. NPOs faced with these situations must pull vital staff off of other projects to scramble for banking services.

"When programs are delayed or canceled because of the inability to transfer funds, peace is not brokered, children are not schooled, staff is not paid, hospitals lose power, the needs of refugees are not met and, in the worst cases, people die."[7] Because these programs provide humanitarian aid, health care, education, development and peacebuilding programs in areas hard-hit by famine, war and other disasters, a bank providing the accounts and necessary channels to send that payment serves the economic and community development needs of both the nonprofit based in the U.S. and the beneficiary community on the recipient end. These wire transfers are essential to ensuring program success overseas and meeting the needs of beneficiaries. If CRA credit is given to banks for providing these services, particularly to banks serving a correspondent function, banks are incentivized to meet the needs of underserved populations within their global community.

Many of these NPOs provide services both in the U.S. and abroad. One U.S.-based NPO that provides services for refugees leaving Syria and other war-torn countries, for example, also provides relief to hurricane victims in the U.S. The ability of banks to receive credit for providing financial access to these types of charities fulfills the nexus with both underserved domestic and international communities.

Broadening the Scope

We believe that, for purposes of the CRA, "community" should be interpreted as any area tied to the bank's overarching business operations, whether from a branch, ATM location or via its digital or electronic services. Defining a bank's community more broadly not only recognizes the reality of modern banking, it would better meet the needs of underserved communities, whether in the bank's geographic footprint locally or elsewhere, including outside the U.S. Thus, we urge the OCC to strongly consider broadening the term "community" to incorporate activities directed toward underserved communities abroad that fall within a bank's footprint.

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[3] Charity & Security Network, *Financial Access for U.S. Nonprofits*, www.charityandsecurity.org/FinAccessReport
[4] Ibid, pp. 81-82.
[5] Ibid, p. 50.
[6] Ibid, p. 40.
[7] Ibid, p. 94.

Retail banking and community development services are the two components of the service test and are both important in evaluating a large institution's performance.[8] "In evaluating retail banking services, examiners consider the availability and effectiveness of an institution's systems for delivering banking services, particularly in low- and moderate income geographies and to low- and moderate income individuals; the range of services provided in low-, moderate- , middle-, and upper-income geographies; and the degree to which the services are tailored to meet the needs of those geographies."[9]

LMI populations exist around the world. According to a 2016 CRA Q&A guidance document, the CRA currently serves some of these communities by giving credit under the Act for reasonably priced international remittance services. Remittances are listed as a retail banking service that improves access to financial services or decreases costs for low- or moderate-income individuals.[10] This service will also be considered by examiners when evaluating the provision of community development services by an intermediate small institution.[11] In some countries, remittances make up a significant percentage of the national economy. These services assist both U.S. diaspora populations sending money overseas and the LMI communities on the recipient end of the transaction, and banks are able to serve both communities with each transaction. However, facilitating these transactions is just a small part of what could be done to serve these populations via the CRA. Like remittances, facilitating international funds transfers for NPOs operating programs in areas of need abroad should also qualify as such a service.

Expanding CRA Credit for Assisting Nonprofit Organizations

As discussed above, banks that conduct international business have a global footprint, and our view is that such banks should receive CRA credit for services provided to underserved communities abroad. By providing services to NPOs, whether through accounts, wire transfers or other means, banks serve the beneficiary communities of these NPOs in traditionally underserved areas of the globe, while also serving those NPOs here in the U.S.

The CRA currently gives credit for certain bank services provided to certain types of NPOs. For example, the CRA's current regulatory framework has allowed banks to receive credit for providing technical assistance on financial matters to NPOs serving low and moderate-income housing or economic revitalization and development needs.[12] However, the CRA's regulatory framework as it relates to NPOs is incomplete in two respects. First, the types of NPOs that a bank can receive credit for working with is quite limited. Generally, these include those with a community development purpose or those "with a defined mission of serving low- and moderate-income persons."[13] Second, and perhaps more importantly, the types of services rendered to NPOs that may receive credit under the CRA are also limited. They include primarily investments, loans, provision of technical assistance on financial matters and financial counseling.[14]

We urge the OCC to broaden the types of financial services offered to NPOs for purposes of receiving credit under the CRA. Many of the same NPOs that provide services to local communities also provide

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[8] CRA Q&A guidance, 81 FR 48505, July 25, 2016, at www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf p. 48542.
[9] Ibid.
[10] Ibid, p. 48518.
[11] Ibid, p. 48546.
[12] CRA Q&A guidance, 81 FR 48505, July 25, 2016, at www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf p. 48530.
[13] Ibid, p. 48526.
[14] CRA Q&A guidance, 81 FR 48505, July 25, 2016, at www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf

services abroad to similar constituencies. Although the CRA gives credit for certain bank services provided to certain types of NPOs, these services are incomplete if NPOs lack the financial services necessary to carry out their important programs. Take, for example, a humanitarian aid organization trying to get funds to a development program overseas. Technical assistance to the NPO on financial matters is irrelevant if the NPO has to shut down programs abroad because it cannot successfully make the international wire transfers necessary to fund its programs. In this respect, the CRA credits currently provided for specified activities with certain types of NPOs is insufficient to allow banks to meet the needs of underserved communities. It is necessary to incentivize banks to provide the vital services to NPOs that enable them to do their work. The CRA offers such a vehicle.

Dual Approach

While the long-standing requirement for banks to serve LMI communities to which they are in physical proximity should remain intact, banks should also receive credit for assisting communities within their global footprint. In order to ensure that LMI communities near a bank's physical presence are not disregarded, a two-pronged or tiered approach could provide a framework for banks to meet the needs of both local and global communities. A new CRA framework could require banks to continue to provide services to local LMI communities in order to meet their CMA obligations, while at the same time incentivizing a wider reach of bank services by allowing credit for qualifying activities in areas beyond the bank's local LMI community.

By enabling consideration of CRA-qualifying activities conducted in areas beyond the local community, not only would the OCC's regulations capture how banks currently operate, but expanding the definition of "community" would allow for further incentives for banks to provide services to a wider range of underserved communities. Through this two-fold or tiered approach, when bank services are provided to destinations abroad, the recipient's locale becomes part of the correspondent bank's entire community and banks should be given credit for conducting CRA-qualifying activities in these areas.

Finally, incentivizing the expansion of financial services to LMI populations globally would serve other U.S. government interests, including national security and foreign assistance. It is in the U.S. government's best interest to expand the notion of community under the CRA so that the needs of LMI populations around the world can be met.

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If it would be helpful to discuss our specific or general views on the ANPR, please contact ahall@charityandsecurity.org. We appreciate your consideration and look forward to working with you on this important matter.

Sincerely,

Andrea S. Hall

Andrea Hall, Policy Counsel
Charity & Security Network